United Nations CCPR/C/125/D/2345/2014

International Covenant on Civil and Political Rights

Distr.: General
2 April 2019

Original: English

Advance unedited version

Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2345/2014*,**

Communication submitted by:	M.M. (represented by counsel, Niels-Erik Hansen)
Alleged victim:	The author
State party:	Denmark
Date of communication:	7 February 2014 (initial submission)
Document references:	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 11 February 2014 (not issued in document form)
Date of adoption of Views:	14 March 2019
Subject matter:	Deportation to Afghanistan
Procedural issue:	Insufficient substantiation of claims
Substantive issues:	Right to life; torture, cruel, inhuman or degrading treatment or punishment; non-refoulement; protections of aliens against arbitrary expulsion; right to a fair and public hearing by a competent, independent and impartial tribunal; right to freedom of religion or belief; right to the equal protection of the law
Articles of the Covenant:	6, 7, 13, 14, 18 and 26
Article of the Optional Protocol:	2

* Adopted by the Committee at its 125th session (4–29 March 2019).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Christopher Arif Bulkan, Ahmed Amin Fathalla, Shuichi Furuya, Christof Heyns, Bamariam Koita, Marcia V. J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.

Please recycle

1.1 The author of the communication is M.M., an Afghan national born in 1993. His request for asylum in Denmark was rejected and, at the time of submission of the communication, he was in detention awaiting deportation to Afghanistan. At that time, the author claimed that, by forcibly deporting him to Afghanistan, Denmark would violate his rights under articles 6, 7, 14, 18 and 26 of the Covenant. In the subsequent submission of 30 November 2015, the Committee was informed that the author was claiming a violation of article 13 instead of article 14 of the Covenant. The Optional Protocol entered into force for the State party on 23 March 1976. The author is represented by counsel.

1.2 When submitting the communication, on 7 February 2014, the author requested that, pursuant to rule 92 of its rules of procedure, the Committee request the State party to refrain from deporting him to Afghanistan while his case was being considered by the Committee. On 11 February 2014, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided not to accede to the request. The author was forcibly returned to Afghanistan on [redacted] February 2014.

Factual background[1]

2.1 The author is an ethnic Hazara of the Shia Muslim faith from Mazar-e-Sharif in Afghanistan, where he lived with his parents and sister. When he was about nine years old, his mother had died. When the author was about ten years old, his father had been kidnapped by the Taliban. Subsequently, he and his sister had moved in with his maternal uncle in Mazar-e-Sharif, where he had stayed for about two months before fleeing to Kabul. The author had gone to school for a few years and had subsequently worked as a tailor and carpenter apprentice in Kabul. He has not been a member of any political or religious associations or organisations or been politically active in any other way. On an unspecified date, the author left Afghanistan in order to seek asylum in Sweden, because he wanted "a peaceful life and an education".

2.2 The author entered Denmark on [redacted] February 2011 without any valid travel documents. The same day, he was stopped by the police in Denmark for illegal residence and applied for asylum. As his initial asylum ground, the author referred to his fear of the reaction of his maternal uncle and his uncle's spouse if he returned to Afghanistan, because, on an unspecified date, at least six years prior to his arrival in Denmark, he had apparently hit the uncle's son and had thrown a stone at his head.[2] On [redacted] May 2011, the Danish Immigration Service rejected the author's asylum application pursuant to section 7 of the Danish Aliens Act.

2.3 For the purpose of counsel's brief of [redacted] January 2012 in connection with the hearing of the case before the Refugee Appeals Board, the author stated to his counsel that he had been forced to be a slave and dancing boy in Kabul. First – for about two to three months – by a person called As., a brother of the author's employer, and later – for approximately the same period of time – by a person called An., who was a pimp. In this context, the author stated that he had been held in captivity and had been forced to take part in sexual activities by order of originally As. and later An. until he had managed to escape after having stabbed An. in the throat with a knife. A fight between him and An. was apparently seen by another dancing boy,[3] who was brought into An.'s house from As. at the same time as the author.

2.4 On [redacted] January 2012, the Board upheld the refusal of the Danish Immigration Service to grant asylum. The Board accepted the author's original statements to the Danish Immigration Service (see, para. 2.2 above) as facts. The Board found, though, that this ground for asylum could not justify asylum or protection status pursuant to section 7 of the Aliens Act. However, the Board could not accept as facts the author's statements about the ground

[1] The facts on which the present communication is based have been reconstructed on the basis of the author's own incomplete account, the decisions of the Refugee Appeals Board of [redacted] January 2012 and [redacted] February 2014, as well as other supporting documents available on file.

[2] This initial asylum ground is recorded in the author's asylum registration report and his application form of [redacted] February 2011, the report of the asylum interview conducted by the Danish Immigration Service on [redacted] May 2011 and the report of the author's statement at the Refugee Appeals Board hearing on [redacted] January 2012.

[3] First name is available on file.

for asylum invoked during the Board hearing that he had been a dancing boy in Kabul (see, para. 2.3 above). The Board thus found that the author had failed to substantiate his grounds for asylum and it did not accept his statements as facts. Moreover, the Board took into consideration that the author had given noncommittal, evasive and vague replies – even to simple and uncomplicated questions – during the Board hearing. The Board observed in that connection that it appeared unlikely that the author would have been held in some sort of captivity for several months with another dancing boy without having any knowledge of the other boy's background, including ethnicity, and the Board also considered it unlikely that the author had been unable to free himself from his involuntary stays with As. and An., respectively. Accordingly, the Board found that the statement could not be considered self-experienced and appeared as having been fabricated for the occasion.

2.5 The Board thus found that the author would not be at a specific and individual risk of persecution falling within section 7 (1) of the Aliens Act or at a real risk of inhuman treatment or other matters falling within section 7 (2) of the Aliens Act in case of his return to Afghanistan.

2.6 By letters of [redacted] August 2012 and [redacted] August 2012, the author submitted a request to the Board for the reopening of his asylum proceedings. In his request for reopening of [redacted] August 2012, the author referred to the conflict with his maternal uncle as a consequence of the incident with his uncle's son. The author again accounted for his stay in Kabul as a dancing boy with As. and An., respectively, and about his flight from An. he stated that he had always searched for a way to escape, but that there had been no possibilities. After having stabbed An. in the throat and escaped through the open door, the author decided to flee from Afghanistan because An. had power and weapons and could quickly kill him. By letter received by the Board on [redacted] August 2012, the author again requested it to reopen his case. According to the request for reopening, he had not stated that he had been a dancing boy at his first interview for cultural reasons and because of shame.

2.7 On [redacted] July 2013, the author applied to the Danish Immigration Service for financial support for an assisted voluntary return to his country of origin. Also on [redacted] July 2013, the author signed a declaration of waiver, waiving his application for asylum, including his request for the reopening of his asylum proceedings by the Board. On [redacted] August 2013, the Danish Immigration Service approved the author's application for financial support for his assisted voluntary return.

2.8 By a letter received by the Board on [redacted] August 2013, the author again requested the reopening of his asylum proceedings, thereby revoking his previous waiver. According to the letter, the police had forced him to confirm by his signature that he was willing to depart voluntarily from Denmark. The author further stated that his problems in Afghanistan were dangerous for him and that he would be unable to survive there. The author stated in that connection that one of his close friends,[4] who had been staying in the same asylum centre, had returned to Kabul about two months ago, that his friend had contacted the author on [redacted] August 2013 and told him that his life was in danger because of the author, that he had been kidnapped by three persons who had subjected him to torture for 24 hours, that the persons had got all the information about the author, and that the author's enemies were pursuing the author. His friend had also said that they had found him and the author through Facebook, that his identity on Facebook was the name M.M., and that it was his mistake of using his real name on Facebook that had revealed his whereabouts.

2.9 On [redacted] August 2013, the Danish Immigration Service was informed by the Board that the author had submitted a request for the reopening of his asylum proceedings. By letter of [redacted] August 2013, the Danish Immigration Service requested the author to submit any comments to the information from the Board and further informed him that the Danish Immigration Service considered the request for the reopening of the asylum proceedings to indicate that the author no longer wanted to cooperate in his departure. The Danish Immigration Service received no comments from the author on that occasion.

2.10 On [redacted] September 2013, the National Aliens Division of the National Police informed the Board that the author had failed to appear for his assisted voluntary return to Afghanistan

[4] Name is available on file.

on . – August 2013 arranged by the International Organization for Migration and that he had been reported on the same date as having failed to appear at the asylum centre where he was accommodated. On . – August 2013, the Danish Immigration Service revoked its approval of the financial support for assisted voluntary return.

2.11 On – November 2013, the Board refused to examine the author's request for the reopening of his asylum proceedings as provided by section 33 (8) of the Aliens Act because the author had failed to appear.

2.12 By letter of . – December 2013, the Danish Refugee Council requested the Board to reopen the author's asylum proceedings. In that connection, the Danish Refugee Council referred to the author's conversion to Christianity after the Board's dismissal of his appeal. According to the Danish Refugee Council, the author stated when interviewed by them on – December 2013 that he had experienced that the Christian culture in Denmark was very different from the Islamic culture in Afghanistan. The author further stated that his interest in Christianity had arisen during his stay in Turkey, where his friend had had a Bible, that his friend had told the author about Christianity and replied to questions about it, and that he had also said that he had himself converted to Christianity. The author had started going to church six months after his arrival in Denmark. In June 2013, the author had started attending services regularly at the . ——— Church ——— and he had been baptised in that church on – October 2013. The author further stated that he now went to church every Sunday, that he would pray alone or with friends and that he read the Bible in Farsi every day. The author explained that he feared being killed upon his return to Afghanistan because he had converted to Christianity. He added that he and his friend[5] had experienced religious harassment at the asylum centre and had been called infidels by other asylum-seekers. At the asylum centre, the author had also been subjected to physical violence committed by a Chechen and an Afghan.[6]

2.13 A certificate of baptism and a memorandum prepared by a minister of the Church ——— were enclosed with the request for reopening from the Danish Refugee Council. The Danish Refugee Council further submitted that in its opinion the author met the conditions for being granted a residence permit under section 7 (1) of the Aliens Act. In that respect, the Danish Refugee Council referred to the Board's previous decisions in cases concerning Christian converts from Afghanistan, stating that, although it had not yet been established at that time whether the Afghan authorities had learned about the author's conversion, it could not be ruled out that there was a risk that the Afghan authorities would learn about the author's conversion in case of his return to Afghanistan. According to the Danish Refugee Council, it would be difficult for the author, having converted, to conceal his new affiliation in case of his return to Afghanistan, and because he would return from a European country, his behaviour would attract more focus among the local population, which meant that even the smallest non-compliance with religions norms and principles would leave the author in a particularly vulnerable situation. The Danish Refugee Council additionally submitted that, according to previous decisions made by the Board in cases involving Christian converts, the author could not be required to hide or conceal his religious beliefs to avoid problems in his country of origin.

2.14 In its decision of –February 2014, the Board stated on the basis of the above that the Board did not find any grounds for reopening the case, nor any grounds for extending the time limit for the author's departure. In that connection, the Board took into consideration that no substantial new information or views beyond the information available at the original hearing by the Board had been submitted.

2.15 The Board also found that, in case of his return to Afghanistan, the author would not be at any risk of persecution as referred to in section 7 (1) of the Aliens Act due to his conversion because the Board could not accept as a fact that the author's conversion was genuine. The Board observed in this respect that during the original asylum proceedings the author had not disclosed his interest in Christianity – which had arisen already during his stay in Turkey prior to his entry into Denmark according to the request for the reopening of the

[5] First name is available on file.

[6] No further details provided by the author.

case – whether to the police, the Danish Immigration Service, his legal counsel or the Board. In its assessment of the information on the author's conversion, the Board has also taken into account, as appears from the reasoning of its decision of —January 2012, that during the asylum proceedings the author had given elaborating and inconsistent statements on his grounds for seeking asylum, and he had also given non-committal, evasive and vague replies even to simple and uncomplicated questions. The Board further observed that the author had also failed to draw attention to his interest in Christianity in his reopening requests received by the Board on— August 2012 and —August 2013.

2.16 Upon an overall assessment, the Board found that it had not been substantiated that the author would risk persecution justifying asylum under section 7 (1) of the Aliens Act or matters falling within section 7 (2) of the Aliens Act in case of his return to Afghanistan.

The complaint

3.1 The author claims that his deportation from Denmark to Afghanistan would constitute a violation of his rights under articles 6, 7, 14, 18 and 26 of the Covenant. In that connection, the author has submitted, inter alia, that he did not mention anything about his Christian faith during the original asylum proceedings because he was not a Christian at that time, that as proof of his conversion to Christianity he has produced a certificate of baptism, that the credibility assessment of the author's conversion should be made by the Board, and that the argument about the author's lack of credibility during the original asylum proceedings cannot be applied to the asylum ground of conversion.

3.2 In support of his submission, the author refers to the *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-seekers from Afghanistan*, published by the Office of the United Nations High Commissioner for Refugees (UNHCR) on 6 August 2013, according to which individuals with, inter alia, the following profiles may be in need of international protection: individuals associated with, or perceived as supportive of the Government of Afghanistan and the international community, including the international military forces; men and boys of fighting age; individuals perceived as contravening the Taliban's interpretation of Islamic principles, norms and values; and members of (minority) ethnic groups. He explains that, owing to his travel to Europe, if he were returned to Afghanistan, he would certainly be perceived as having contravened Islamic rules and as being supportive of the Government and/or the international community. Moreover, the author has converted to Christianity. He further claims that, given his age, he risks being forced to fight for either the Government or the Taliban, and that he also risks being sexually abused.[7] That author adds that he can not seek protection with his family, and that he belongs to an ethnic minority group, the Hazara, from Mazar-e-Sharif.

3.3 The author also claims that, pursuant to the aforementioned Eligibility Guidelines and contrary to the assessment made by the Board in its decisions of —January 2012 and — February 2014, he certainly needs international protection as a young ethnic Hazara from Mazar-e-Sharif. Furthermore, the Eligibility Guidelines make it clear that numerous factors should be taken into account in the evaluation of the availability of internal flight or relocation alternatives in Afghanistan. In this connection, the author submits that the failure of the Board to take those factors into consideration in taking its decisions of —January 2012 and —February 2014 and in maintaining the initial order, obliging the author to leave Denmark, constitutes a violation of articles 6 and 7 of the Covenant.

3.4 The author further submits that his rights under article 14 of the Covenant have been violated, since a decision on his asylum application taken by the Board under the administrative procedure could not be appealed to a judicial body.[8] For him, this also raises the question of discrimination under article 26 of the Covenant, since under the State party's law, decisions of a great number of administrative boards, which have same composition as the Refugee Appeals Board, can be invoked in front of the ordinary courts. The author also argues that his new *sur place* asylum ground, i.e. his conversion to Christianity in Denmark,

[7] The author does not provide further details on this matter.

[8] The author refers to the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/DEN/CO/17), para. 13.

was only examined and dismissed by a person who was part of the Board's Secretariat, with the approval of the Board's chairman. Therefore, it was not the Board as such that made the decision to reject the request of the Danish Refugee Council to reopen the author's asylum proceedings.

3.5 The author also submits that, despite several requests from the Danish Refugee Council for a rapid decision due to the imminent forcible return, the Board did not make its decision until shortly before the forcible return.[9]

3.6 In his subsequent submission of 30 November 2015, counsel informed the Committee that the author was claiming a violation of article 13 instead of article 14 of the Covenant. He argued, in particular, that the author's risk of persecution and suffering of irreparable harm upon return to Afghanistan had not been assessed in accordance with the procedural guarantees of this article, since he was unable to appeal the decisions of the Board to a judicial body.

State party's observations on admissibility and the merits

4.1 On 11 August 2014, the State party recalls the facts on which the present communication is based and the author's claims, and submits that the communication should be declared inadmissible. Should the Committee declare the communication admissible, the State party submits that no violation of the provisions of the Covenant will occur if the author is deported to Afghanistan.

4.2 The State party describes the structure, composition and functioning of the Board, which it considers to be an independent and quasi-judicial body,[10] and the legal basis of its decisions.[11]

4.3 As to the admissibility of the communication, the State party argues that the author has failed to establish a prima facie case for the purpose of admissibility with respect to the alleged violation of articles 6 and 7 of the Covenant, since it has not been established that there are substantial grounds for believing that his life will be in danger or that he will be in danger of being subjected to torture if returned to Afghanistan. The communication is therefore manifestly ill-founded and should be declared inadmissible.

4.4 The State party further recalls that article 14 of the Covenant lays down the principle of due process, including the right to have access to the courts in the determination of a person's rights and obligations in a suit at law. It follows from the Committee's jurisprudence that proceedings relating to the expulsion of an alien do not fall within the ambit of a determination of "rights and obligations in a suit of law" within the meaning of article 14 (1), but are governed by article 13 of the Covenant.[12] Against this background, the State party submits that asylum proceedings fall outside the scope of article 14 of the Covenant, and that this part of the communication should therefore be considered inadmissible *ratione materiae* pursuant to article 3 of the Optional Protocol.

4.5 On the merits, the State party submits that the author has not sufficiently established that his return to Afghanistan would constitute a violation of articles 6 and 7 of the Covenant. The State party recalls in this regard that its obligations under articles 6 and 7 of the Covenant are reflected in section 7 (2) of the Aliens Act, under which a residence permit will be issued to an alien upon application if the alien risks the death penalty or being subjected to torture or cruel, inhuman or degrading treatment or punishment if he or she returned to his or her country of origin.

4.6 As far as the assessment of the author's credibility is concerned, the State party refers to findings made by the Board in its decision of [redacted] January 2012 (see, paras. 2.4 and 2.5 above). The State party submits that the Board's decision under section 7 (1) and (2) of the Aliens Act was made on the basis of a specific and individual assessment of the author's asylum grounds combined with its background knowledge on the general situation in

[9] Reference is made to *A.E. v. Denmark* (CCPR/C/115/D/2320/2013) and *M.A. v. Denmark* (CCPR/C/119/D/2240/2013).

[10] See *Ahmed et al. v. Denmark* (CCPR/C/117/D/2379/2014), paras. 4.1–4.3.

[11] The State party refers to sections 7 (1), 7 (2), 31 (1) and 31 (2) of the Aliens Act.

[12] Reference is made to *X v. Denmark* (CCPR/C/110/D/2007/2010), para. 8.5.

Afghanistan and the specific details of the case. Therefore, there are no grounds for doubting the Board's assessment that the author has failed to substantiate his grounds for asylum and that the author's additional ground for asylum, i.e. that he had been a dancing boy in Kabul, was fabricated for the occasion.

4.7 The State party observes in this regard that it was not until the consultation with his counsel for the purpose of counsel's brief of – January 2012 to be submitted for the Board hearing that the author, following a consultation with the staff at his asylum centre, provided the information that he had allegedly been kept captive as a dancing boy for a total of four months by two different persons. The statement about this was thus produced a whole year after the author's arrival in Denmark and after the author had had three opportunities to give evidence about his grounds for asylum, first to the police at his entry, then when interviewed for the asylum registration report and at the asylum interview conducted by the Danish Immigration Service, and the author himself had also had the opportunity to account for his asylum grounds in the asylum application form. Moreover, at the asylum interview conducted by the Danish Immigration Service on – May 2011, the author stated when directly asked that he had had no conflicts prior to his departure other than those that he had already accounted for at that time.

4.8 The State party further observes that it is to be expected that the author, who is not illiterate and has had some years of schooling, would have been able to give a precise and specific reply to the questions asked, which were simple and uncomplicated, if he had himself experienced the incidents constituting his ground for asylum. Moreover, the author's explanations of why the information was only produced at such a late stage in the asylum proceedings appear inconsistent. According to counsel's brief of – January 2012, the author provided information about his additional ground for asylum following a consultation with an employee at the asylum centre, whereas the author stated at the Board hearing on January 2012 that he had told a doctor about it.

4.9 As to the author's reference to the Eligibility Guidelines (see, para. 3.2 above), the State party submits that the fact that the author is a young man of Hazara ethnicity cannot in itself justify asylum. The State party further observes that, according to the report of the Immigration Service,[13] nothing indicates that the Taliban is forcibly recruiting young people since many volunteers join the Taliban. It is equally unlikely that the Taliban will attempt to forcibly recruit ethnic Hazaras, considering that these two groups do not trust each other, and that the Taliban will therefore not trust Hazaras as soldiers.[14] The State party submits, therefore, that the author has failed to substantiate that the Taliban will attempt to forcibly recruit him upon his return to Afghanistan. Moreover, the author is a young unmarried male of working age with no health problems. The author stated when interviewed by the Danish Immigration Service on – May 2011 that he was not involved in politics. The author has further stated that he has never experienced any problems with the Afghan authorities. In that connection, the State party observes that the author has not so far during the asylum proceedings in Denmark referred to his ethnicity as justifying asylum.

4.10 The State further observes that, since the author does not appear to have been conspicuous in any way, there is no basis for revising the Board's assessment that the author will not be at a specific and individual risk of matters falling with section 7 (1) or (2) of the Aliens Act committed by the Afghan authorities, the Taliban or others in Afghanistan, solely as a result of his age and ethnicity.

4.11 In the light of the foregoing, the State party concludes that there is no basis for doubting, let alone setting aside the assessment made by the Board in its decisions of – January 2012 and – February 2014, that the author has failed to substantiate that his return to Afghanistan would put him at risk of being subjected to persecution or abuse justifying asylum, and thus that returning the author would not constitute a violation of either article 6 or article 7 of the Covenant.

[13] Reference is made to Danish Immigration Service, *Afghanistan: Country of Origin Information for Use in the Asylum Determination Process, Report from Danish Immigration Service's fact-finding mission to Kabul, Afghanistan, 25 February to 4 March 2012* (Copenhagen, 2012), pp. 26–28.

[14] Ibid., p. 28. In addition, according to the report, the Taliban mainly recruit ethnic Pashtuns.

4.12 Regarding the author's submission that the Board has failed to decide on the issue of an internal flight alternative (see, para. 3.3 above), the State party observes that this is deemed not to be relevant, considering that the Board has found in its two decisions in the case – and continues to find – that the author will not be at a specific and individual risk of matters falling within section 7 (1) or (2) of the Aliens Act upon his return to Afghanistan.

4.13 With regard to the risk faced by the author upon his return to Afghanistan due to conversion to Christianity (see, para. 3.1 above), the State party observes that even though the author cannot be required to hide or keep secret his religious beliefs in order to avoid problems in his country of origin as a consequence of his religious beliefs, it still remains crucial to the matter of granting or not granting asylum to the author whether he has a well-founded fear of persecution by authorities or private individuals in Afghanistan as a consequence of his religious beliefs.

4.14 The State party submits in that connection that the Board took into account in its refusal of February 2014 to reopen the author's case that he had not at any time during the initial asylum proceedings disclosed his interest in Christianity (see, para. 2.15 above). Moreover, it further appears from the request for reopening that the author started going to church in Denmark half a year after his arrival in Denmark and more than half a year before the hearing before the Board, at which the author gave evidence before the Board aided by counsel and an interpreter. Additionally, it appears from the memorandum prepared by the minister of the Church that the author had attended church services regularly since 2013.

4.15 The State party argues that it follows from section 40 of the Aliens Act that asylum-seekers must substantiate their grounds for seeking asylum. This entails an obligation for the relevant asylum-seeker to provide information on all matters relevant under asylum law, such as an interest in Christianity leading to church attendance. The State party notes in that connection that it must be assumed to be common knowledge among Danish immigration lawyers and asylum-seekers in particular that conversion from Islam to Christianity is a valid and relevant ground for seeking asylum. Moreover, the author has been asked about his religious affiliation several times in connection with the examination of his application for asylum in Denmark and has stated each time that he was a Muslim; and he has also been told several times that it is important that he discloses all matters that may be relevant for the determination of his application for asylum.

4.16 The State party further observes in that connection that the author saw reason to disclose his second additional asylum ground of being a dancing boy at the oral Board hearing on – January 2012, which argues against his ignorance about the importance of providing all relevant information under asylum law. Hence, the author had the opportunity to tell about his interest in Christianity and his dissociation with Islam at the Board hearing, but he chose not to do so. The State party adds that the author chose to disclose to the Board only in mid-December 2013 – at a point in time when the forced return of the author was about to be effected – that he had converted to Christianity. In that connection, the State party observes that no explanation has been given as to why the author did not choose to disclose that he is a Christian until almost two years after the Board's decision in the original asylum proceedings.

4.17 The State party does not consider credible the author's explanations in his initial submission of – February 2014 to the Committee that he had not mentioned anything about his Christian faith during the original examination of his asylum application because he was not a Christian at that time, not least in view of the fact that the author has stated himself, according to the case information, that he had become interested in Christianity already in Turkey and that he had started going to church half a year before the Board hearing on – January 2012. Additionally, the author has himself requested the reopening of his asylum case by letters received by the Board on –August 2012, –August 2012 and –August 2013 – the last-mentioned at a time when the author attended church regularly – without disclosing his Christian affiliation.

4.18 In the light of the foregoing, the State party finds no reason to revise the Board's assessment that the author's conversion to Christianity was not genuine. The State party

submits, therefore, that there are no grounds for establishing that the return of the author to Afghanistan would constitute a breach of article 18 of the Covenant.

4.19 As to the author's claims under articles 14 and 26 of the Covenant (see, para. 3.4 above), the State party submits that it follows from section 48 of the Rules of Procedure for the Refugee Appeals Board[15] that the chairman of the individual board, i.e., a legal judge, will decide on the matter of reopening of an asylum case when, according to the contents of the request for reopening, there is no reason to assume that the Board will change its decision. Accordingly, it was the chairman of the Board which first heard the case who approved the relevant decision and not the staff member who formally signed it.

4.20 The State party observes in this connection that the author has been treated no differently from any other person applying for asylum in terms of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Since he has not elaborated any further on the circumstances on which this part of the communication is based, the State party submits that the author has failed to establish a prima facie case for the purpose of admissibility with respect to the alleged violation of article 26 of the Covenant, because it has not been established that there are substantial grounds for believing that the author has been subjected to discrimination. Thus, this part of the communication should be declared inadmissible.

Author's comments on the State party's observations

5.1 On 30 November 2015, counsel informed the Committee that despite the author's forcible return to Afghanistan, he would continue to represent the author before the Committee, since the power of attorney given by him to counsel remained in force. He also stated that the author was claiming a violation of article 13 instead of article 14 of the Covenant, in that he has only been allowed an administrative procedure to assess his asylum grounds and denied access to the courts to appeal the Refugee Appeals Board's rejection of his request for reopening of the asylum proceedings.

5.2 Counsel submits that he does not have any comments in relation to the assessment of the author's initial asylum ground by the Danish Immigration Service and the Board.

5.3 Counsel further recalls that the author's new *sur place* asylum ground, i.e. his conversion to Christianity in Denmark, was only examined and dismissed by a person who was part of the Board's legal staff, with the approval of the Board's chairman. Therefore, it was not the Board as such that made the decision to reject the request of the Danish Refugee Council to reopen the author's asylum proceedings on the ground that it could not be accepted as a fact that the author's conversion was genuine. He argues in this connection that the author should have benefitted from a new oral hearing before the Danish Immigration Service,[16] which would have allowed him to explain his new *sur place* asylum ground, and then have access to the Board as the second instance which would have taken a decision on the matter. Counsel argues, therefore, that a lack of possibility for the author to prove in the framework of a new oral hearing before the Board that his conversion to Christianity was genuine, constitutes a separate violation of article 13 of the Covenant.

5.4 Counsel further argues that a lack of possibility for the author to appeal against the rejection of his new *sur place* asylum ground also amounts to discrimination proscribed under article 26 of the Covenant. He submits, in particular, that in the entire Danish administrative system only new *sur place* asylum grounds are examined by the Board as the first and only instance of the asylum proceeding and that the Board's negative decisions could only be appealed to the UN Committees or to the European Court of Human Rights.

5.5 Counsel submits that the security situation in Afghanistan is extremely dangerous. He recalls in this regard the author's references to the Eligibility Guidelines (see, paras. 3.2 and 3.3 above). In addition, counsel refers to the interview with the Minister for Refugees and

[15] Reference is made to the Executive Order No. 1651 of 27 December 2013 on Rules of Procedure for the Refugee Appeals Board.

[16] According to counsel, as of 12 January 2012, the Danish Immigration Service is precluded from receiving requests for reopening of the asylum proceedings after the decision of the Refugee Appeals Board.

Repatriation of Afghanistan, Sayed Hussain Alimi Balkhi, published on 21 February 2015.[17] In that interview, the Minister appealed to Norway and all other European countries to "halt deportations to Afghanistan", especially of women and children. He specifically stated that "[these countries] should not deport anyone because we can not take care of them here". The Minister explained that memorandums of understanding signed by Afghanistan with some European countries back in 2011 "clearly stated that those refugees who [were] coming from dangerous provinces [would] not be returned". It was also agreed in these memorandums that women and children would not be returned back to Afghanistan. "The situation in Afghanistan has changed now. Most of those who are being returned are coming from the provinces that are very dangerous and those who are being returned can not go back to their provinces." The Minister argued in the interview that 7 millions of Afghans who are living in exile could not be resettled in Kabul, which is considered to be safe by the deporting countries.

5.6 Counsel argues in that connection that the persecution of the so-called non-believers takes place even in Kabul and refers to a killing of a young woman accused of blasphemy by a mob, without the local Afghan police stepping in and trying to protect her.[18] Furthermore, author, who comes from the unsafe area of Mazar-e-Sharif, can no longer expect to be resettled to Kabul due to a great number of Afghan returnees taking up residence in that city. Therefore, the author's life is constantly in danger due to his conversion to Christianity and the decision of the Danish asylum authorities not to reopen his asylum proceedings constitutes a violation of articles 6 and 7 of the Covenant.

5.7 Counsel further submits that, at the beginning of March 2015, the Afghan authorities officially communicated to the Danish authorities their request to stop deportations to Afghanistan and to renegotiate the tripartite memorandum of understanding between the Islamic Transitional State of Afghanistan, the Government of Denmark and UNHCR of 18 October 2004.[19] Nevertheless, the Danish authorities continued to deport failed asylum-seekers to Afghanistan.

5.8 With regard to the State party's observations on the admissibility of the communication, counsel submits that the author's claims under articles 6, 7, 13, 18 and 26 of the Covenant should be declared admissible, because he did not get a fair trial with regard to his conversion to Christianity and his fear of persecution due to this new *sur place* asylum ground. Since the author could not appeal the Board's decision of - February 2014 to any other body in Denmark, it constitutes a violation of articles 13 and 26 of the Covenant. As to the State party's observations on the merits, counsel is of the opinion that the Board's decision of - February 2014 as such has resulted in a violation of the author's rights under articles 6 and 7 of the Covenant, i.e. the prohibition of refoulement, and a violation of his right under article 18 of the Covenant to manifest his religion, since it is not possible in Afghanistan.

State party's additional observations

6.1 On 28 February 2016, the State provided additional observations to the Committee and submitted that counsel's submission of 30 November 2015 did not provide any essential new and specific information on the author's situation. The State party therefore generally refers to its observations of 11 August 2014.

6.2 The State party further observes that, in his initial submission to the Committee, the author claimed that Denmark had also violated article 14 of the Covenant. In this respect, the State party submitted in its observations of 11 August 2014 that asylum proceedings fell outside the scope of that article. The State party notes that the author's counsel has subsequently invoked a violation of article 13 of the Covenant, due to the impossibility of appealing the Refugee Appeals Board's rejection of the request for reopening of the author's asylum proceedings before a court. In response to this claim, the State party refers to the

[17] Available at https://kabulblogs.wordpress.com/2015/02/21/afghan-minister-for-refugees-and-repatriation-stop-deportation-to-afghanistan/.

[18] No further details provided by counsel.

[19] Available at www.unhcr.org/subsites/afghancrisis/430d7bcc2/tripartite-memorandum-understanding-mou-islamic-transitional-state-afghanistan.html.

Committee's jurisprudence, which states that article 13 offers some of the guarantees afforded by article 14 (1) of the Covenant, but not the right to appeal[20] or the right to a court hearing.[21] Since the author has not elaborated any further on the circumstances on which this part of the communication is based, the State party submits that he has failed to establish a prima facie case for the purpose of admissibility of his claims under article 13 of the Covenant, as required by rule 96 (b) of the Committee's rules of procedure. This part of the communication is therefore manifestly ill-founded and should be declared inadmissible.

6.3 As regards the reopening of asylum proceedings, the State party generally observes that, when the Board has decided a case, the asylum-seeker may request the Board to reopen the asylum proceedings. The power to decide on the reopening of an asylum case is vested in the chairman of the panel, who is always a judge, which made the original decision in the case when, according to the contents of the request for reopening, there is no reason to assume that the Board will change its decision, or the conditions for being granted asylum must be deemed evidently satisfied.[22] The chairman may also decide to reopen a case and remit it to the Danish Immigration Service relying on his powers as chairman. The chairman may further decide that the panel which previously decided the case is to decide on the reopening of the case either at a hearing or by deliberations in writing, that the case is to be reopened and considered at a new oral hearing by the panel which previously decided the case, and with all parties to the case present, or that the case is to be reopened and considered at a hearing by a new panel.[23] If a basis is found for reopening a case, the time limit for departure will be suspended pending the re-hearing of the case. The Board will also assign counsel to represent the asylum-seeker.

6.4 The Board's Secretariat assists the Executive Committee in drafting decisions, which become final when endorsed by the Board's chairman. Subsequently, the decision is signed by an employee of the Secretariat and delivered to the asylum-seeker. Accordingly, both formally and in practice, decisions on reopening requests are made by the chairman of the relevant panel. The circumstance that a decision is signed by an employee of the Secretariat does not alter this fact. The legislation on the consideration of requests for reopening of asylum cases is thus clear and leaves no doubt about the competence of the Board. Consequently, there is no basis for claiming that decisions refusing requests for reopening are made by the Board's Secretariat. Therefore, the author has failed to establish a prima facie case for the purpose of admissibility of his claim under article 26 of the Covenant, as it has not been established that there are substantial grounds for believing that the author has been subjected to discrimination. This part of the communication should therefore be declared inadmissible.

6.5 With regard to the author's alleged conversion to Christianity, the State party recalls that in its decision of 4 February 2014, the Board could not consider as a fact that the author's conversion from Islam to Christianity was genuine. As regards the assessment of evidence made by the Board on the author's alleged conversion and his other grounds for asylum, the State party refers to its observations of 11 August 2014 in their entirety.

6.6 The State party also draws the Committee's attention to the fact that public debate in Denmark in general and among asylum seekers in particular has focused considerably on the significance of conversion, typically from Islam to Christianity, to the outcome of an asylum case. It is therefore common knowledge among asylum-seekers and other parties within the field of asylum that information on conversion is considered grounds for asylum that may, depending on the circumstances, result in the grant of residence if the conversion is genuine and if it is accepted as a fact that the asylum-seeker will practise his new faith upon return to his country of origin and therefore will be at such risk of persecution in that country as to justify asylum.

[20] The State party refers to *X and X v. Denmark* (CCPR/C/112/D/2186/2012), para. 6.3.

[21] The State party refers to *Maroufidou v. Sweden* (CCPR/C/12/D/58/1979). In this communication, the Committee did not dispute the assertion that a mere administrative review of a decision expelling an alien from Sweden did not amount to a violation of article 13 of the Covenant.

[22] Reference is made to section 53 10 and (12) of the Aliens Act and rule 48 of the Rules of Procedure of the Refugee Appeals Board.

[23] Reference is made to rule 48(2) of the Rules of Procedure of the Refugee Appeals Board.

6.7 Furthermore, the attention of the Committee is drawn to *Afghanistan: The Situation of Christians and Converts*, a report published by Landinfo on 4 September 2013 on 'converts of convenience'. It appears from page 22 of the report that several sources have stated that, even if it becomes known in the country of origin that the relevant person has indicated conversion as his grounds for seeking asylum in another country, this does not mean that the relevant person will become vulnerable upon his return since Afghans have great understanding for compatriots who try everything to obtain residence in Europe. The State party adds that paragraph 36 of the *UNHCR Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees* of 28 April 2004 states, *inter alia*, that "[s]o-called 'self-serving' activities do not create a well-founded fear of persecution on a Convention ground in the claimant's country of origin, if the opportunistic nature of such activities will be apparent to all, including the authorities there, and serious adverse consequences would not result if the person were returned."[24]

6.8 With reference to its observations of 11 August 2014, the State party reiterates its position that, in case of his return to Afghanistan, the author would not risk abuse contrary to article 7 of the Covenant because he has no family and because of his age and ethnicity. It is observed in this respect that the author is an ethnic Hazara from Mazar-e Sharif in the Balkh province, in which ethnic Hazaras make up 10 per cent of the population. Moreover, the southern part of the Balkh province is located in an area in which the city of Bamian is the largest city and in which Hazara is the dominant ethnicity. Accordingly, the State party finds that the general situation in Afghanistan, including in Kabul, is not in itself of such nature that, for that reason alone, the author meets the conditions for being granted asylum.[25]

6.9 The State party also observes that the author was forcibly returned to Afghanistan on [illegible] February 2014 and that the Afghan authorities accepted to take him back (see also, para. 5.5 above).

6.10 In conclusion, the State party submits that, when rendering its decisions, the Board made a thorough assessment of the author's specific circumstances and the background information available. In the State party's opinion, the author's communication merely reflects that the author disagrees in the assessment of his specific circumstances and the background information made by the Board. In his communication, the author also failed to identify any irregularity in the decision-making process or any risk factors that the Board failed to take properly into account. He is trying to use the Committee as an appellate body to have the factual circumstances advocated in support of his claim for asylum reassessed by the Committee. However, the Committee must give considerable weight to the findings of facts made by the Board, which is better placed to assess the factual circumstances in the author's case. There is no basis for doubting, let alone setting aside, the assessments made by the Board, according to which the author has failed to establish that there are substantial grounds for believing that he would be in danger of being killed or subjected to torture or to cruel, inhuman or degrading treatment or punishment in case of his return to Afghanistan. Against this background, the return of the author to Afghanistan would not constitute a violation of articles 6, 7 and 18 of the Covenant.

Issues and proceedings before the Committee

Consideration of admissibility

7.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

[24] See also, *X. v. Norway* (CCPR/C/115/D/2474/2014), para. 7.6.

[25] Reference is made to the judgments delivered by the European Court of Human Rights on 12 January 2016 in *A.G.R. v. the Netherlands* (application No. 13442/08), para. 59, *M.R.A. and Others v. the Netherlands* (application No. 46856/07), para. 112; *S.D.M. and Others v. the Netherlands* (application No. 8161/07), para. 79; *S.S. v. the Netherlands* (application No. 39575/06), para. 66; and *A.W.Q. and D.H. v. the Netherlands* (application No. 25077/06), para. 71.

7.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

7.3 The Committee notes the author's claim that he has exhausted all domestic remedies available to him. In the absence of any objection by the State party in that connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

7.4 As to the State party's argument that the author's claim under article 6 of the Covenant should be declared inadmissible owing to insufficient substantiation, the Committee notes that the information submitted to it does not provide sufficient grounds to believe that the author's forcible return to Afghanistan would expose him to a real risk of a violation of his right to life. The author's contentions in this respect are general allegations mentioning the risk of being killed because of his conversion to Christianity, without advancing however any arguments in support of his claim. In these circumstances, the Committee considers that the author has not sufficiently substantiated his claims under article 6 of the Covenant and therefore declares this part of the communication inadmissible pursuant to article 2 of the Optional Protocol.

7.5 The Committee notes the author's claim under article 13 of the Covenant that he was unable to appeal the negative decisions of the Board to a judicial body. In that regard, the Committee refers to its jurisprudence, according to which this provision offers asylum seekers some of the protection afforded under article 14 of the Covenant, but not the right of appeal to judicial bodies.[26] The Committee therefore concludes that the author has failed to sufficiently substantiate this particular claim under article 13 of the Covenant, and declares this part of the communication inadmissible under article 2 of the Optional Protocol.

7.6 The Committee further notes that the author also claimed a violation of articles 13 and 26 of the Covenant, since the decision of [redacted] February 2014 refusing to reopen his asylum proceedings was made by the Board's Secretariat with the approval of the Board's chairman and not by the Board. The Committee also takes note of the State party's arguments that the author's asylum proceedings, including his request that his case be reopened, were conducted in conformity with Danish law and that he had been treated no differently than any other person applying for asylum. The Committee observes that the author had the opportunity to submit and challenge evidence concerning his forcible return to Afghanistan and had his asylum application examined by the Danish Immigration Service and reviewed by the Board, and by the Board's chairman, who inter alia examined the new *sur place* asylum ground and evidence submitted by the author. The Committee considers, consequently, that the author has not sufficiently substantiated his claims concerning the procedure before the Board, under articles 13 and 26 of the Covenant for purposes of admissibility and that this part of the communication must therefore be declared inadmissible in accordance with article 2 of the Optional Protocol.

7.7 Finally, the Committee notes the State party's argument that the author's claims with respect to articles 7 and 18 of the Covenant should be declared inadmissible, owing to insufficient substantiation. However, the Committee considers that, for the purposes of admissibility, the author has adequately explained the reasons why he fears that his forcible return to Afghanistan would result in a risk of treatment contrary to article 7 of the Covenant based on his conversion from Islam to Christianity and therefore finds the author's claim under article 7 admissible. In this context, the Committee notes that the other grounds for seeking asylum presented by the author to the State party's authorities at different stages of the asylum proceedings, namely his fear of the reaction of his maternal uncle and his uncle's spouse upon return to Afghanistan, as well as his fear of the retaliation by a pimp whom he allegedly stabbed in the throat with a knife, are not part of the present communication to the Committee (see, para. 5.2. above). As for the allegations concerning a violation of article 18, the Committee considers that they cannot be dissociated from the author's allegations under

[26] See, for example, *Omo-Amenaghawon v. Denmark* (CCPR/C/114/D/2288/2013), para. 6.4; and *S.Z. v. Denmark* (CCPR/C/120/D/2625/2015), para. 7.12. See also, the Committee's general comment No. 32, paras. 17 and 62.

article 7, with regard to the risk of harm that he faces in Afghanistan as a result of his conversion from Islam to Christianity, which must be determined on the merits.[27]

7.8 Therefore, the Committee declares the communication admissible, insofar as it raises issues under articles 7 and 18 of the Covenant, based on the author's conversion from Islam to Christianity, and proceeds to its consideration of the merits.

Consideration of the merits

8.1 The Committee has considered the present communication in the light of all the information made available to it by the parties, as required under article 5 (1) of the Optional Protocol.

8.2 The Committee notes the author's claim that his forcible return to Afghanistan would result in a risk of treatment contrary to article 7 of the Covenant based on his conversion from Islam to Christianity.

8.3 The Committee recalls its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant (para. 12). The Committee has also indicated that the risk must be personal[28] and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.[29] Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.[30]

8.4 The Committee recalls that it is generally for the organs of States parties to examine the facts and evidence of the case in question in order to determine whether such a risk exists,[31] unless it can be established that the assessment was clearly arbitrary or amounted to a manifest error or denial of justice.[32]

8.5 The Committee notes that it is uncontested in the present communication that the author was baptised on [redacted] October 2013 and regularly attended church services in Denmark between June 2013 and his forcible return to Afghanistan in February 2014. The Committee notes the finding of the Refugee Appeals Board that it could not accept as a fact that the author's conversion to Christianity was genuine, despite the existence of a certificate of baptism and a memorandum prepared by a minister of the Church [redacted]. The Board specifically observed in this respect that during the original asylum proceedings the author had not disclosed his interest in Christianity – which had arisen already during his stay in Turkey prior to his entry into Denmark according to the request for the reopening of the case – whether to the police, the Danish Immigration Service, his legal counsel or the Board. In its assessment of the information on the author's conversion, the Board has also taken into account, as appears from the reasoning of its decision of [redacted] January 2012, that during the asylum proceedings the author had given elaborating and inconsistent statements on his grounds for seeking asylum, and he had also given non-committal, evasive and vague replies even to simple and uncomplicated questions. The Board further observed that the author had also failed to draw attention to his interest in Christianity in his reopening requests received by the Board on [redacted] August 2012 and [redacted] August 2013.

8.6 In this regard, the Committee considers that when an asylum seeker submits that he or she has converted to another religion after his or her initial asylum request has been dismissed in the country of asylum, it may be reasonable for the States Parties to conduct an

[27] See, e.g., *X v. Denmark* (CCPR/C/110/D/2007/2010), para. 8.4.

[28] *K. v. Denmark* (CCPR/C/114/D/2393/2014), para. 7.3; *P.T. v. Denmark* (CCPR/C/113/D/2272/2013), para. 7.2; and *X v. Denmark*, para. 9.2.

[29] *X v. Sweden* (CCPR/C/103/D/1833/2008), para. 5.18.

[30] Ibid. See also *X v. Denmark*, para. 9.2.

[31] *Pillai et al. v. Canada* (CCPR/C/101/D/1763/2008), para. 11.4; and *Lin v. Australia* (CCPR/C/107/D/1957/2010), para. 9.3.

[32] See, for example, *K. v. Denmark*, para. 7.4.

in-depth examination of the circumstances of the conversion.[33] However, the test for the Committee remains whether, regardless of the sincerity of the conversion, there are substantial grounds for believing that such conversion may have serious adverse consequences in the country of origin so as to create a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant. Therefore, even when it is found that the reported conversion is not genuine, the authorities should proceed to assess whether, in the circumstances of the case, the asylum-seeker's behaviour and activities in connection with, or to justify, his or her conversion, such as attending a church, being baptised or participating in proselytizing activities, could have serious adverse consequences in the country of origin so as to put him or her at risk of irreparable harm.[34]

8.7 In the present case, the Committee notes the State party's reference to the 2013 report by Landinfo on the situation of Christians and converts in Afghanistan in support of its argument that, even if it becomes known in the country of origin that the author has indicated conversion as his grounds for seeking asylum in another country, it does not mean that he will become vulnerable upon his return, since there is a wide-spread understanding among Afghans for compatriots who try everything to obtain residence in Europe. Furthermore, according to the *2004 UNHCR Guidelines on International Protection*, the so-called 'self-serving' activities do not create a well-founded fear of persecution in one's country of origin, if the opportunistic nature of such activities will be apparent to all, including the authorities there, and serious adverse consequences would not result if the person were returned (see, para. 6.7 above).

8.8 The Committee further notes that, although the author generally contests the assessment and findings of the Danish authorities as to the risk of harm he faces in Afghanistan, he has not presented any evidence to substantiate his allegations under articles 7 and 18 of the Covenant. The Committee also considers that the information at its disposal demonstrates that the State party took into account all the elements available when evaluating the risk of irreparable harm faced by the author upon his return to Afghanistan and that the author has not identified any irregularity in the decision-making process. The Committee also considers that, while the author disagrees with the factual conclusions of the State party's authorities and with their decision not to reopen his case, he has not shown that the Board's decision of 7 February 2014 was arbitrary or manifestly erroneous, or amounted to a denial of justice.

8.9 While not underestimating the concerns that may legitimately be expressed with respect to the general human rights situation in Afghanistan, the Committee considers that the evidence and circumstances invoked by the author have not adduced sufficient grounds for demonstrating that his forcible return to Afghanistan was contrary to articles 7 and 18 of the Covenant.

9. The Human Rights Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the author's forcible return to Afghanistan did not violate his rights under articles 7 and 18 of the Covenant.

---

[33] Office of the United Nations High Commissioner for Refugees, "Guidelines on international protection: religion-based refugee claims under article 1 A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees", para. 34. Available at www.unhcr.org/afr/40d8427a4.pdf.

[34] *S.A.H. v. Denmark* (CCPR/C/121/D/2419/2014), para. 11.8.