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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2494/2014*, **

Submitted by:	S.F. (represented by counsel, Mr. Niels-Erik Hansen)
Alleged victim:	The author
State party:	Denmark
Date of communication:	28 July 2014 (initial submission)
Document references:	Decision taken pursuant to rule 97 of the Committee's rules of procedure transmitted to the State party on 9 December 2014 (not issued in document form)
Date of adoption of Views:	14 March 2019
Subject matter:	Deportation to the Islamic Republic of Iran
Procedural issues:	*Rationae materie*; level of substantiation of claims
Substantive issues:	Risk of torture, cruel, inhuman or degrading treatment or punishment; non-refoulement
Articles of the Covenant:	2, 6, 7, 13, 14, 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 Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.

1.1 The author of the communication is S.F., a national of the Islamic Republic of Iran born on 7 January 1960. At the time of submission, he was subject to deportation to the Islamic Republic of Iran following the Danish authorities' rejection of his application for refugee status. He claimed that by forcibly deporting him to the Islamic Republic of Iran, Denmark would violate his rights under articles 6 and 7 of the Covenant. He further claimed that his rights under articles 2, 13, 14 and 26 of the Covenant had been violated in connection with the hearing of his asylum case by the Danish authorities. The Optional Protocol entered into force for the State party on 23 March 1976. The author is represented by counsel.

1.2 On 30 July 2014, pursuant to rule 92 of the Committee's rules of procedure, the Special Rapporteur on new communications and interim measures decided not to issue a request for interim measures.

The facts as submitted by the author

2.1 The author fled the Islamic Republic of Iran in 1998[1] and entered Denmark on 23 April 1998 without valid travel documents. He applied for asylum the following day. On 6 November 1998, the Danish Immigration Service dismissed his application.

2.2 On 26 January 1999, the Refugee Appeals Board rejected the author's appeal arguing that his statements seemed fabricated and lacked any logic and coherence on certain points. The Board considered that the author was not under risk of persecution if returned to Iran. The author however did not comply with the order to leave the country and stayed in Denmark.

2.3 Between 2000 and 2005, the author requested five times the reopening of his asylum case, but the Refugee Appeals Board rejected all his requests.[2] In the summer of 2006, he participated in a hunger strike with other asylum seekers whose requests had also been denied. This attracted a lot of media attention. The author was shown on a national news broadcast on Danish television, given that he was one of the refused Iranian asylum-seekers who had been in Denmark for the longest time. Based on this media coverage of his case, the author requested again the reopening of his asylum case on 12 February 2007, claiming that he was certainly registered by representatives of the Iranian Embassy in Denmark. On 28 March 2007, the Refugee Appeals Board accepted to reopen the case.

[1] The author does not provide any information on the reasons for fleeing the Islamic Republic of Iran. According to the facts presented by the author in the context of national proceedings and contained in the decision of 26 January 1999 of the Refugee Appeals Board, the author worked as a bus driver between the Islamic Republic of Iran and Syria, and in that capacity, he was also delivering parcels and mail to the Iranian Embassy in Damascus. Prior to his last delivery to the Embassy, he was told not to share any information as to a parcel's place of delivery because it contained weapons and flyers. On 8 March 1998 he was arrested by the Syrian police in connection with the parcels and was put in detention for 25 days, during which he was subjected to torture – beaten, kicked in stomach and genitals. He had permanent injuries from the blows that he received: pain in his legs and back. Two days after his arrest, the author was contacted by a representative of the Iranian Embassy, who asked him to declare that the parcels belonged to him, otherwise "it would cost him dearly if he returned to Iran." He was then admitted to a hospital in Syria for 6 days. Following these events, the author was afraid to return to the Islamic Republic of Iran. Therefore, he escaped from the hospital and travelled with an agent to Denmark, passing through Istanbul and Hamburg.

[2] In support of his request, the author produced an alleged summon dated 31 December 1998 and issued by the Iranian Ministry of Justice. According to that summons, the author was supposed to appear on 5 January 1999 before the Ministry, in order to declare on his participation in illegal weapons transportation. The summons was served on the author's wife on 2 January 1999. The Refugee Appeals Board consulted with the Ministry of Foreign Affairs, which requested verification of the authenticity of that document, and then replied on 22 March 2000 by questioning the authenticity on several grounds. The Board subsequently dismissed his requests to reopen proceedings on 3 July 2000, 6 December 2000, 5 January 2001, 8 September 2004 and 30 November 2005.

2.4 On 30 August 2007, the Refugee Appeals Board found no reason to change its assessment of 26 January 1999.[3] New evidence produced by the author in the form of a summons dated 24 August 2005, according to which the author's spouse had been summoned to appear in court in connection with a case of complicity in forgery, could not be interpreted as proof that the Iranian authorities were persecuting the author.[4] Participating in a TV programme where his name and nationality appeared could not justify the granting of asylum in Denmark.[5] The assumption that the Iranian authorities must be aware that the author was applying for asylum in Denmark could not independently justify residence.[6] The Board also noted that the author was not involved in any political party. It therefore decided that the author had to leave the country or he would be forcibly deported. However, the authorities were not able to deport him.[7]

2.5 On 23 November 2012, the author was baptised, and then was issued a certificate of baptism on 6 June 2013. On 25 July 2014, he was informed that his deportation was scheduled for 30 July 2014. On 27 May 2014, the author sought to reopen his asylum case based on his conversion to Christianity.

2.6 On 28 July 2014, the Refugee Appeals Board refused to reopen his case. The Board considered that the certificate of baptism failed to render it probable that the author's conversion into Christianity was authentic. On 30 July 2014, the author was forcibly returned to the Islamic Republic of Iran.

The complaint

3.1 In his initial submission, the author argues that if returned to the Islamic Republic of Iran, he would risk persecution on account of his conversion to Christianity – against the Sharia law – in violation of articles 6 and 7 of the Covenant. Being away from the Islamic Republic of Iran for 15 years, the Iranian authorities will ask him questions about his stay in Europe and his reasons for having fled the country. The author's wife cannot return to the Islamic Republic of Iran because she is a refugee in Denmark, with a residence permit, hence the couple will be separated forever if the author is deported.

3.2 The author invokes a violation of article 14 of the Covenant for having had access only to an administrative procedure, and not to courts. In its response to the concluding observations of the Committee on the Elimination of Racial Discrimination, the State party justified the denial of access to courts on the grounds that the Refugee Appeals Board is a court-like organ.[8]

[3] The author continued to claim that he was wanted by the Iranian authorities for smuggling of weapons to the Iranian embassy in Damascus – see footnote 2 above – and added the fact that he had appeared on TV in relation to the hunger strike of asylum seekers.

[4] The Board further observed that the author had declared that his wife had been issued with a false passport. Against this background, the Board found no reasons to grant the author's request for adjourning the case pending a procedure in which the Ministry of Foreign Affairs has the authenticity of summons verified and investigates whether a case was pending against the author.

[5] The Board emphasized that the TV programme dealt with the conditions of refused asylum seekers who had stayed for a long time in Denmark and that the author had merely talked about his own health conditions and the length of his stay in Denmark. Thus, the author had not talked about conditions in Iran and had not levelled any criticism at the Iranian authorities.

[6] The Board referred to the existing background information, including the *Country of Origin Information* published by the British Home Office on 4 May 2007, according to which refused asylum seekers do not face significant problems upon their return except in the case of high-profile individuals (para 28.13).

[7] No further details are provided.

[8] Para. 12 of the Information provided by the Government of Denmark on the implementation of the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/DEN/CO/17/Add.1), 7 December 2007, reads as follows: "Decisions by the Refugee Board are final, which means that it is not possible to appeal the Board's decisions. This is stated by law and confirmed by a Supreme Court decision of 16 June 1997. The Supreme Court attached importance to the

But that Committee expressed concerns "that decisions by the Refugee Board on asylum requests are final and may not be appealed before a court", and recommended that "asylum-seekers be granted the right to appeal against the Refugee Board's decisions".[9]

3.3 The author also claims a violation of articles 13 and 14, in conjunction with articles 2 and 26 of the Covenant, on the grounds that no other person in Denmark would be denied the right to have a totally new issue – conversion – considered by a competent administrative body and/or be allowed to appeal a negative decision before a court. The Danish authorities rejected his right to a new hearing on behalf of the five members of the Refugee Appeals Board. His right to a fair trial has thus been violated in a discriminatory manner by the decision of 28 July 2014 because that was not a decision of the Refugee Appeals Board as a Board, but only the decision of a staff member with the consent of a Chairperson/Judge. Some other asylum seekers have converted after receiving a negative decision by the Refugee Appeals Board and had consequently their cases reopened with positive decisions. The author should have had the same opportunity to be allowed a new hearing where he could have presented all the evidence related to his conversion and thus allow all the five members of the Refugee Appeals Board to make an assessment.

3.4 Finally, whether or not he showed an interest in Christianity after the first decision by the Danish Immigration Service and by the Refugee Appeals Board cannot be used as a factor in assessing the author's religious convictions only in written proceedings and in the absence of a hearing by the Board. Had he wanted to fake his religious conviction, he could have declared that he was a converted Christian when entering Denmark. The author therefore feels offended by this indirect allegation and considers the decision as a violation of his right to change religion, given that the decision will have great consequences for him if deported to the Islamic Republic of Iran.

State party's observations on admissibility and the merits

4.1 On 9 June 2014, the State party submitted its observations on admissibility and merits. The communication should be declared inadmissible. Should the Committee declare it admissible, the Covenant will not be violated if the author is returned to the Islamic Republic of Iran, and articles 2, 13, 14 and 26 of the Covenant have not been violated in connection with the hearing of the author's asylum case by the Danish authorities.

4.2 The State party describes the structure, composition and functioning of the Refugee Appeals Board,[10] as well as the legislation applying to asylum proceedings.[11] It then submits that the author has failed to establish a *prima facie* case for the purpose of admissibility under articles 2, 6, 7, 13 and 26 of the Covenant, in the absence of substantial grounds for believing that he is in danger of being deprived of his life or subjected to inhuman or degrading treatment if returned to Iran or that those provisions have been violated in connection with the consideration of his case by the Danish authorities. These parts of the communication are therefore manifestly unfounded and should be declared inadmissible.

4.3 The Committee's practice under article 14 of the Covenant is 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 at law" within the meaning of article 14(1), but are governed by article 13

fact that the Refugee Board is an expert board of court-like character. The Supreme Court has since repeated this position in several other judgements (…)".

[9] Concluding observations of the Committee on the Elimination of Racial Discrimination, Denmark (CERD/C/DEN/CO/17), 19 October 2006, para. 13.

[10] *Obah Hussein Ahmed v. Denmark* (CCPR/C/117/D/2379/2014), paras. 4.1-4.3.

[11] Sections 7(1) − (3) and 31(1) and (2) of the Aliens Act.

of the Covenant.[12] Against this background, this part of the communication should be declared inadmissible *ratione materiae* pursuant to article 3 of the Optional Protocol.

4.4 On the merits, the author has failed to establish that his return to the Islamic Republic of Iran would violate articles 6 and 7 of the Covenant, and that articles 2, 13 or 26 have been violated in connection with the hearing of his asylum case. The Committee's General Comment No. 6 on the right to life discussed both negative and positive components of the right to life – that is, the right of a person not to be deprived of his life arbitrarily or unlawfully by the State or its agents, as well as the obligation of the State party to adopt measures that are conducive to protecting life. Under the Committee's jurisprudence, States parties are under an obligation not to extradite, deport, expel or otherwise remove a person from their territory where the necessary and foreseeable consequence of the deportation would be a real risk of irreparable harm, such as that contemplated by article 7 of the Covenant, whether in the country to which removal is to be effected or in any country to which the person may subsequently be removed. The Committee has also indicated that the risk must be personal and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.[13] The State party's obligations under articles 6 and 7 of the Covenant are reflected in section 7(1) and (2) of the Aliens Act, according to which a residence permit will be issued to an alien if he or she risks the death penalty or being subjected to torture or ill-treatment if returned to his or her country of origin.

4.5 The author has failed to state his previous asylum grounds in his complaint to the Committee, referring merely to his alleged conversion from Islam to Christianity. As rightly observed by the Refugee Appeals Board – based on his previous asylum grounds – the author has failed to render it probable that he will risk persecution justifying asylum in the event of his return to the Islamic Republic of Iran. It has been incumbent upon the author to leave Denmark voluntarily since 1999, except for a brief period in 2007 when the Refugee Appeals Board had extended the time limit for his departure. In practice, it has been possible for the author to return, but he has not been willing to meet his obligation to return voluntarily. During that time, it was not possible to forcibly return Iranian nationals to the Islamic Republic of Iran because the Iranian authorities were not willing to facilitate the entry into Iran of its own nationals who did not wish to enter voluntarily. Thus, it rests exclusively with the author's own situation that his stay in Denmark has extended over such a long period of time after the Refugee Appeals Board originally refused to grant him asylum.

4.6 In its decision of 28 July 2014, the Board considered that the author had failed to establish that his conversion to Christianity was genuine, despite a certificate of baptism. No information was produced on how and when the author's interest in Christianity had arisen and how the author practices his faith. The Board further found it strange that the author only provided information on his baptism shortly before a planned return, while his baptism took place in the autumn of 2012 and the certificate of baptism was dated 6 June 2013. The Board therefore could not accept as a fact that the author's conversion from Islam to Christianity was genuine. Any asylum seeker has the duty to substantiate that the conditions for grant of asylum are met. The author's only statement was that he converted and that he had been baptised. He had not elaborated on whatever circumstances linked to his conversion, neither before the Refugee Appeals Board nor to the Committee.

4.7 Moreover, the author relied on this new asylum ground only when he requested the reopening of his case on 27 May 2014, even if he was baptised on 23 November 2012, that is, one and a half years after his baptism and shortly before a planned deportation from Denmark. It also appears from the information provided by the author that the document confirming his baptism was not issued until 6 June 2013, that is, six months after his baptism. Thus, taking into

[12] *X. v. Denmark* (CCPR/C/110/D/2007/2010), para. 8.5, and *Mr. X and Ms. X v. Denmark* (CCPR/C/112/D/2186/2012), para. 6.3.

[13] *A.A.I. and A.H.A. v. Denmark* (CCPR/C/116/D/2402/2014), para. 6.5, and *X. v. Denmark*, para. 9.2.

account the author's conduct, including the fact that he has relied on new asylum grounds on an ongoing basis since 1998 – grounds which have been refused by the Refugee Appeals Board – and that he has consistently refused to comply with the Danish authorities' decision to leave the country, the author has been well aware of the possible significance of conversion from Islam to Christianity to his asylum case. Thus, his conversion fails to express a genuine and deep conviction.

4.8 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, for 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 a ground for asylum, but the issue must be assessed on a case-by-case basis. The Refugee Appeals Board has granted asylum in many cases in which it accepted that conversion was genuine and that the asylum seeker would practise his new faith on return to his country of origin and therefore would be at risk of persecution. It did so not only when the asylum seeker had converted before the Board made its decision, but also when the conversion took place after the decision was made – where the Board found a basis for reopening the proceedings and granted residence based on a specific and individual assessment of the new information in each case.[14]

4.9 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." In *X v. Denmark*, the Committee observed that the author's claim mainly relied on his "mere membership of a particular Christian church" and thus considered that the author's claims under the Covenant were insufficiently substantiated for the purposes of admissibility.[15] The author in the present communication has provided even less information about his alleged conversion than the author in *X v. Denmark* – he has only submitted a document confirming his baptism and has simply stated that he has converted from Islam to Christianity. Therefore, the author in the present communication has failed to establish a *prima facie* case simply based on his certificate of baptism. His return to Iran will not constitute a violation of articles 6 or 7 of the Covenant as a consequence of his alleged conversion to Christianity.

4.10 As to the author's claim that, on return, he will be arrested and questioned by the Iranian authorities because he has been away for 15 years, the Refugee Appeals Board has not found any risk of persecution or abuse. The author does not appear to have been profiled in any way by the Iranian authorities, and his claim that he allegedly risked being subjected to abuse in connection with his entry into the Islamic Republic of Iran appears to be completely unsubstantiated. The circumstance that the author's spouse has already been granted asylum in Denmark – and if he is returned to Iraq, they cannot live together as a family – cannot lead to a different assessment of his eligibility for asylum.

4.11 Regarding the author's allegation that he did not benefit from a new hearing in violation of articles 2, 13 and 26 of the Covenant, the State party first observes that article 13 does not confer a right to a court hearing. In *Maroufidou v. Sweden*, the Committee did not dispute that a mere administrative "review" of the expulsion order in question was compatible with article 13.[16] When the Refugee Appeals Board has decided a case, the asylum seeker may request the Board to reopen the asylum proceedings. If the asylum seeker claims that essential new

[14] Asylum proceedings have also been reopened following a specific and individual assessment of new information provided about an asylum seeker's conversion in connection with a complaint to the Committee.

[15] *X v. Denmark* (CCPR/C/113/D/2515/2014), para. 4.3.

[16] *Maroufidou v. Sweden* (CCPR/C/12/D/58/1979).

information has come to light as compared with the information available when the Board made its original decision and that this new information may result in a different decision, the Board will make an assessment of whether this new information may give rise to the reopening of the proceedings for reconsideration of the case. In the author's case, the Board assessed the credibility of the information on conversion and found that no new information had been produced which could lead to a different decision. Based on the assessment of the new information produced by the author, it considered that the author's conversion was not genuine. Therefore, in the absence of essential new information that could lead to a different assessment of the author's asylum case, there was no basis for reopening the asylum proceedings, including remitting the case to the Danish Immigration Service for reconsideration.

4.12 Finally, 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. He has not provided any evidence to substantiate a violation of articles 2 and 26. As regards the author's submission that he has had no right to appeal to a Danish court, it is not possible for an asylum seeker in Denmark to appeal a decision on an asylum application to a Danish court because the decisions of the Refugee Appeals Board are final.

Author's comments on the State party's observations on admissibility and merits

5.1 In his comments of 15 April 2016, the author alleges a violation of articles 2, 6, 7, 13 and 26 of the Covenant.[17] After the Special Rapporteur on new communications and interim measures decided not to issue a request for interim measures, the author was "deported and imprisoned in Iran," but "is today still alive." He then welcomes a decision by the European Court of Human Rights in *F.G. v. Sweden*, where it was made clear that due to the absolute nature of the non-refoulement principle, Member States cannot deny reopening asylum cases when they are informed about a new *sur place* motive.[18] In *F.G.*, Swedish authorities refused to reopen the applicant's asylum case because there were no new relevant information, even though the applicant had informed the authorities that he converted to Christianity and thus feared persecution if returned to Iran. The Court found that, by ignoring this new information about his new asylum motive, Sweden violated article 3 of the European Convention on Human Rights. For the author, his situation is similar to that of *F.G.*

5.2 The author then insists that the decision of 28 July 2014 of the Refugee Appeals Board was not made by the five members of the Board, but was signed by a person who was part of the Board's legal staff. The "draft decision" was reviewed by the Chairperson and accepted before it was transmitted to the author. Therefore, it was not the Board as such who made the decision to reject the author's new *sur place* motive. The author should have benefitted from a new oral hearing which would have allowed him to explain his new faith and reply to questions from the five Board members before they would have decided on his asylum request.

5.3 The Board's decision not to reopen proceedings is thus in violation of articles 6 and 7 of the Covenant. The author's conversion has never been examined by the Immigration Service, hence the Board's decision on his *sur place* motive was not a decision on appeal, because the Board was the first and also the last domestic authority which decided on his right to have his case reopened.

5.4 The author's right under article 13 of the Covenant has been violated because he has only been entitled to an administrative procedure, without any possibility to appeal the Board's decision before the Danish courts. Also, he did not have a chance to argue his case in front of the Board's five members. Moreover, since all other decisions by any board under Danish law can be appealed within the Danish judicial system, the author has been subjected to

[17] No further mention of article 14.
[18] European Court of Human Rights, *F.G. v. Sweden* [GC], no. 43611/11, 23 March 2016.

discrimination under articles 2 and 26 of the Covenant. According to section 63 of the Constitution of Denmark, all administrative decisions – including Board decisions – can be appealed before the courts.

5.5 Finally, the author refers to a number of cases before the Committee where the State party decided to reopen the case and granted asylum,[19] and concludes that the Board's decision of 28 July 2014 is manifestly unreasonable and arbitrary.

Additional submission from the State party

6.1 On 2 September 2016, the State party provided further observations to the Committee. It first observes that the author claimed that he had been imprisoned in the Islamic Republic of Iran after his deportation, but that this information appears to be entirely unsubstantiated in the absence of any additional information on the time of the alleged imprisonment or any other details of such circumstances. Therefore, the State party finds no reason to consider this matter.

6.2 The State party reiterates that the author has not submitted any new information on his personal situation. In its decision of 28 July 2014, the Refugee Appeals Board could not consider as a fact that the author's conversion was genuine. The Board found that the conversion reflected grounds for asylum that had been fabricated for the occasion. In its decision, the Board made a specific and individual assessment of the information available on the author's alleged conversion and exposure, including the information provided by the author on his conversion, and took into account the certificate confirming his baptism. However, the circumstance that a person claiming to have converted has been baptised does not independently render it probable that such person has in actual fact converted. The Refugee Appeals Board makes an overall assessment of all the circumstances of a case when a person claims to have converted.[20]

6.3 The reference to the European Court's judgment in *F.G. v. Sweden* cannot lead to a different assessment because the author did not render it probable that he was risking persecution justifying asylum in case of return to the Islamic Republic of Iran. The Refugee Appeals Board has not accepted the author's conversion as a fact. Moreover, in its decision of 28 July 2014, the Board made an assessment of the consequences of the author's alleged conversion in the event of his return to the Islamic Republic of Iran. And in any event, the European Court's reasoning in the case of *F.G.* does not impose a general obligation on the Refugee Appeals Board to reopen asylum cases whenever it is made aware of a new *sur place* claim.

6.4 The power to decide on the reopening of an asylum case is vested in the chairman of the panel which originally decided the appeal when, according to the contents of the request for reopening, there is no reason to assume that the Refugee Appeals Board will change its decision.[21] The chairman must be a judge, who is also a member of the Executive Committee of the Board. The Secretariat of the Refugee Appeals Board assists the Executive Committee in drafting decisions, and after the chairman of the original hearing panel has made a decision, 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 always made by the chairman of the original hearing panel – or, in certain cases, by the entire original hearing 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 Refugee Appeals Board, and therefore there is no basis for claiming that decisions refusing requests for reopening are made

[19] The author's counsel refers to other similar cases that he has brought against Denmark, which were submitted to the Committee and were subsequently discontinued.

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

[21] Section 53(12) of the Aliens Act and rule 48 of the Rules of Procedure of the Refugee Appeals Board.

by the Secretariat of the Refugee Appeals Board. Accordingly, it is not correct to assume – as submitted by the author – that 'the issue of the new *sur place* asylum motive is only handled by a staff member – not Board members – who acting "on behalf of the Board" denies the request'.

6.5 The Danish Refugee Appeals Board has reopened other cases when essential new information has come to light after the initial Board hearing. The author's communication to the Committee has not brought to light any essential new information. The author has also not identified any similarities between the cases that he cited and his own case, nor has he pointed to any errors or omissions in the examination of his case or in the assessment of evidence by the Refugee Appeals Board.

6.6 When rendering its decision, the Danish Refugee Appeals Board took into account all relevant information. According to the Committee's established jurisprudence,[22] considerable weight should be given to the assessment conducted by the State party, and it is generally for States parties to review and evaluate facts and evidence, unless it is found that the evaluation was clearly arbitrary or amounted to a denial of justice. In the present case, the author 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. The author has also failed to identify any irregularity in the decision-making process or any risk factors that the Board failed to take properly into account. Against this background, the return of the author to the Islamic Republic of Iran would not constitute a violation of article 6 or 7 of the Covenant.

Issues and proceedings before the Committee

Consideration of admissibility

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

7.2 The Committee has ascertained, as required by 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 effective domestic remedies available to him. In the absence of any objection by the State party in that connection, the Committee considers that it is not precluded from examining the communication under article 5(2)(b) of the Optional Protocol.

7.4 The Committee takes note of the author's claim that he suffered discrimination as an asylum seeker because the decisions of the Danish Refugee Appeals Board are the only decisions that become final without the possibility of being appealed against in courts, and that the State party has thus violated articles 2, 13, 14 and 26 of the Covenant. In that regard, the Committee refers to its jurisprudence that proceedings relating to the expulsion of aliens do not fall within the ambit of a determination of "rights and obligations in a suit at law" within the meaning of article 14, but are governed by article 13, of the Covenant.[23] Article 13 of the Covenant offers some of the protection afforded under article 14 of the Covenant, but does not itself protect the right of appeal to judicial courts.[24] The Committee considers that this part of

[22] *P.T. v. Denmark* (CCPR/C/113/D/2272/2013), para. 7.3; *N. v. Denmark* (CCPR/C/114/D/2426/2014), para. 6.6; *K. v. Denmark* (CCPR/C/114/D/2393/2014), paras. 7.4 and 7.5; *Mr. X and Ms. X v. Denmark*, para. 7.5; and *Z v. Denmark* (CCPR/C/114/D/2329/2014), para. 7.4.

[23] See *P.K. v. Canada* (CCPR/C/89/D/1234/2003), paras. 7.4 and 7.5.

[24] See *Omo-Amenaghawon v. Denmark* (CCPR/C/114/D/2288/2013), para. 6.4; and the Committee's general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, paras. 17 and 62.

the communication is insufficiently substantiated for the purposes of admissibility and declares it inadmissible under article 2 of the Optional Protocol.[25]

7.5 The Committee further notes the author's claim that the Board's decision not to reopen proceedings is in violation of articles 6 and 7 of the Covenant (paras. 5.2 and 5.3) because the decision was adopted by the chairperson of the panel that considered the appeal – who is a member of the Secretariat – and without hearing the author. However, the Committee considers that the author has failed to justify how this in itself affected his rights under the relevant provisions. Therefore, the Committee considers that this claim is insufficiently substantiated for the purposes of admissibility and declares it inadmissible under article 2 of the Optional Protocol.

7.6 Finally, the Committee notes the State party's challenge to admissibility on the grounds that the author's claim under articles 6 and 7 of the Covenant and based on an alleged risk for his life and integrity is unsubstantiated. 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 the Islamic Republic of Iran would result in a risk of treatment contrary to articles 6 and 7 of the Covenant based on his conversion into Christianity. Therefore, the Committee declares the communication admissible insofar as it raises issues under articles 6 and 7 and proceeds to its consideration of the merits.

Consideration of the merits

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

8.2 The Committee notes the author's initial claim that returning him to the Islamic Republic of Iran would expose him to a risk of irreparable harm, in violation of articles 6 and 7 of the Covenant. He alleged that he would face persecution by the Iranian authorities because he converted from Islam to Christianity. However, the Committee notes that, after his deportation to Iran on 30 July 2014, the author has not provided any further information as to any violation of the Covenant arising precisely after and due to his deportation. Moreover, given that the author's complaint before the Committee revolves around his conversion, the Committee will not examine the author's allegations before the Danish authorities in connection with his alleged activities in Syria.

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[26] and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.[27] Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.[28]

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,[29]

[25] *K.H. v. Denmark* (CCPR/C/123/D/2423/2014), para. 7.5.
[26] See *K. v. Denmark*, para. 7.3; *P.T. v. Denmark*, para. 7.2; and *X v. Denmark*, para. 9.2.
[27] See *X v. Sweden* (CCPR/C/103/D/1833/2008), para. 5.18.
[28] Ibid. See also *X v. Denmark*, para. 9.2.
[29] *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.

unless it can be established that the assessment was clearly arbitrary or amounted to a manifest error or denial of justice.[30]

8.5 The Committee notes the finding of the Refugee Appeals Board that the author failed to substantiate that his conversion was genuine, despite the existence of a certificate of baptism. In this connection, the Committee observes the finding of the State party that, other than his certificate of baptism, the author has not provided any information or evidence – neither to the Danish authorities, nor to the Committee – to substantiate that his conversion was genuine. The Committee also notes that, based on this limited information, the Refugee Appeals Board refused to reopen the author's asylum case.

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 in-depth examination of the circumstances of the conversion.[31] 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 sincere, 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 baptized 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.[32]

8.7 In the present case, the Committee observes that the only information produced by the author in support of his conversion was a certificate of baptism dated 6 June 2013, which referred to his baptism having taken place on 23 November 2012. However, the author has not explained what has caused such a lapse of time between these two dates. In the absence of further details, the Refugee Appeals Board has refused to reopen the author's asylum case, considering that the author failed to establish that his conversion was genuine. Therefore, the Board found that the author will not be at a risk of persecution falling within section 7 of the Aliens Act if returned to the Islamic Republic of Iran.

8.8 The Committee further notes that although the author contests the assessment and findings of the Danish authorities as to the risk of harm he would have faced in the Islamic Republic of Iran because of his conversion, he has not presented any evidence to substantiate his allegations under articles 6 and 7 of the Covenant. The author also failed to provide any pertinent information to the Committee to justify that his alleged conversion is indeed known to the Iranian authorities, that he is practising Christianity in the Islamic Republic of Iran or that he has been targeted by the Iranian authorities on the basis of his conversion.

8.9 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 faced by the author 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 decision of the State party's authorities not to reopen his case, he has not shown that the decision of 28 July 2014 was arbitrary or manifestly erroneous, or amounted to a denial of justice. Consequently, the Committee considers that the evidence and circumstances invoked by the author have not adduced sufficient grounds for demonstrating that, following his deportation, he ran a real and

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

[31] Office of the United Nations High Commissioner for Refugees, "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", para. 34. Available at www.unhcr.org/afr/40d8427a4.pdf.

[32] See *S.A.H. v. Denmark* (CCPR/C/121/D/2419/2014), para. 11.8. Also *F.G. v. Sweden*, para. 156.

personal risk of being subjected to treatment contrary to articles 6 and 7 of the Covenant. In view thereof, the Committee is not able to conclude that the information before it shows that the author's rights under articles 6 and 7 of the Covenant have been violated because of his removal to the Islamic Republic of Iran.

9. The Human Rights Committee, acting under article 5(4) of the Optional Protocol, is of the view that the facts before it do not permit it to conclude that the author's expulsion to the Islamic Republic of Iran has violated his rights under articles 6(1) and 7 of the Covenant.