



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Communication No. 61/2013**

**Decision on admissibility adopted by the Committee at its  
sixty-fifth session (24 October-18 November 2016)**

<i>Submitted by:</i>	P.H.A. (represented by counsel, Niels-Erik Hansen)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Denmark
<i>Date of communication:</i>	11 September 2013 (initial submission)
<i>References:</i>	Transmitted to the State party on 13 September 2013 (not issued in document form)
<i>Date of adoption of decision:</i>	7 November 2016



## Annex

### **Decision of the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (sixty-fourth session)**

concerning

#### **Communication No. 61/2013\***

*Submitted by:* P.H.A. (represented by counsel, Niels-Erik Hansen)

*Alleged victim:* The author

*State party:* Denmark

*Date of communication:* 11 September 2013 (initial submission)

*The Committee on the Elimination of Discrimination against Women*, established under article 17 of the Convention on the Elimination of All Forms of Discrimination against Women,

*Meeting on 7 November 2016,*

*Adopts the following:*

#### **Decision on admissibility**

1.1 The author of the communication is P.H.A., a national of the Islamic Republic of Iran born in 1975 who faces deportation to that country, as her asylum application in Denmark has been rejected. She claims that her deportation would constitute a violation by Denmark of articles 1, 2 (c) and (d), 3, 12 and 15 of the Convention on the Elimination of All Forms of Discrimination against Women and of the Committee's general recommendations No. 12 (1989) and No. 19 (1992) on violence against women. The author is represented by counsel. The Convention and the Optional Protocol thereto entered into force for the State party on 21 May 1983 and 22 December 2000, respectively.

1.2 When registering the communication on 13 September 2013, pursuant to article 5 (1) of the Optional Protocol and rule 63 of its rules of procedure, the Committee, acting through its Working Group on Communications under the Optional Protocol, requested the State party not to deport the author pending the

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\* The following members of the Committee took part in the consideration of the present communication: Gladys Acosta Vargas, Magalys Arocha Dominguez, Barbara Bailey, Niklas Bruun, Louiza Chalal, Hilary Gbedemah, Ruth Halperin-Kaddari, Yoko Hayashi, Dalia Leinarte, Lia Nadaraia, Theodora Nwankwo, Pramila Patten, Silvia Pimentel, Biancamaria Pomeranzi and Xiaoqiao Zou.

examination of her case. On 13 March 2014, the State party informed the Committee that, on 16 September 2013, the Refugee Appeals Board had stayed the deportation of the author, her spouse and their child. The State party also requested the Committee to first examine the admissibility of the communication. The author's counsel provided comments thereon on 8 April 2014. On 5 May 2014, in compliance with rule 66 of its rules of procedure, the Committee, acting through its Working Group on Communications under the Optional Protocol, decided to examine the admissibility of the communication separately from its merits.

#### **Facts as submitted by the author**

2.1 The author grew up in Tehran. After graduation from high school, she worked as an administrative assistant in a private company for two years. In 2006, she married M.F. and they had a son, S., born in December 2008 in the Islamic Republic of Iran.

2.2 In 2007,<sup>1</sup> during a birthday party for the author's brother-in-law, the police raided the party at 10 p.m., arrested all the guests and brought them to a prison. They were forced to undergo an alcohol test, and people who tested positive for alcohol were separated from the others. The author's test was positive. All women who had consumed alcohol were sentenced to 25 lashes. The author had dark blue lines on her body as a result of her punishment, but those marks are no longer visible. She was forced to sign a document to the effect that she would not participate in parties where men were present and would never again consume alcohol. She was detained from 10 p.m. until 5 a.m. the next day.

2.3 The author has not been politically active, but her husband participated in the Iranian Green Movement demonstrations. He was detained for one week in 2009 by the authorities, during which time the author did not know his whereabouts.<sup>2</sup> In her asylum claim, the author stated that her husband had been tortured in prison and that he had returned home covered in blood, with a swollen face and a bruised body. He explained to her that he had been arrested during a demonstration, blindfolded and beaten with cables during an interrogation while in prison and forced to agree to cease his political activities. Subsequently, the couple's house was raided on several occasions by the authorities. During one search, security officers threatened the author and her son with weapons. They confiscated a hard drive, CDs and books. The author's husband stated in his asylum interview that the police had confiscated flyers that he had prepared with the aim of distributing them. On another occasion, the author was apprehended by security officers on the street because part of her hair was outside her headscarf. The author was violently placed in the officers' car and verbally abused. She was taken to a police station and forced to sign a pledge in order to be set free.

<sup>1</sup> The exact date was not provided.

<sup>2</sup> The author did state in her interview that she had made several telephone calls and attempted to find her husband.

2.4 The author's husband worked at a bank and participated in nightly political meetings with his colleagues.<sup>3</sup> After a meeting in February 2012, those colleagues started being arrested one by one. Afraid of being arrested, too, the author's husband decided that they needed to flee the Islamic Republic of Iran. The authorities looked for the author's husband and searched the family home one day in February 2012. The husband was at a shop during that time and was warned by a neighbour. He went into hiding and asked his wife not to remain at home but to stay with relatives. On 19 February 2012, the author and her husband met at the Embassy of Austria in Tehran and received a visa that was valid until 29 February 2012.

2.5 The author, her husband and her son fled by plane from Tehran to Vienna on 23 February 2012.<sup>4</sup> The family used passports that they had allegedly arranged with a third person, whom they refer to as their agent, and the author did not know whether the passports had been issued with their correct names, as they had been requested by the agent not to examine them. The agent travelled with the family to Austria and took their passports from them there. They were then driven to Denmark by another man, with the agent accompanying them. In Denmark, they were brought to a house where they stayed for one month. The agent demanded around 300 million rials from the family to let them leave the house. Once the money was paid, the family immediately applied for asylum.

2.6 A police report, issued by the East Jutland police office, confirms that the family sought asylum at the Aarhus police headquarters on 23 March 2012. In their initial explanation to the police, the family stated that they had arrived in Denmark directly from the Islamic Republic of Iran. The author subsequently explained in her asylum interview that the agent had instructed her not to mention that they had come via Austria, and that she had not told the truth because she was afraid. The family had been unable to seek asylum in Austria, because the agent had immediately transported them to Denmark. The author's husband had immediately informed the Danish police about his imprisonment and torture in the Islamic Republic of Iran. The author explained to the police that she feared for her husband's life, as he was wanted because of his involvement in the Iranian Green Movement. The author explained that her reason for fleeing the Islamic Republic of Iran was her husband's problems with the authorities and that he would be arrested and killed in that country. Family members of the author in the Islamic Republic of Iran had informed her that, following the couple's departure from that country, they had been visited several times by people enquiring about her husband.

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<sup>3</sup> According to the material on file, on 5 February 2012 the author's husband discussed politics with one of his colleagues after having left a number of leaflets in the toilets at the bank. Another colleague listened to their conversation and at some point told them that he disagreed with their views. The next day, the author's husband was asked to go to an office in the bank where the intelligence services worked, and a person reminded him of his undertaking not to be involved in politics, which he had given in 2009. The author's husband was told by his employer that the bank temporarily did not need his services, and that he would be contacted soon. Later that same day, the authorities searched for him in his house, but he was not at home and had gone into hiding.

<sup>4</sup> In their initial interviews, the author and her husband claimed that they had arrived in Denmark by plane directly from Tehran on passports provided to them by the agent, who had collected the passports once they had passed through border control. Allegedly, the agent had asked them not to look in the passports. Later on, they admitted that that was untrue, but that they had repeated what the agent had advised them to say.

2.7 The author added that, together with her husband, she had converted to Christianity in 2012 in Denmark. She had provided a copy of her certificate of baptism, dated 8 May 2012, to the Danish authorities.<sup>5</sup> She attended church in Denmark and communicated via Skype with a priest who spoke Farsi. Her interest in Christianity had begun in Denmark.

2.8 On 19 April 2013, the Danish Immigration Service rejected the author's request for asylum and the decision was referred to the Refugee Appeals Board. The decision of the Board of 3 September 2013 joined the author's and her son's case to that of her husband.

2.9 The Board found that the author's explanation in relation to her husband's political persecution was inconsistent and unreliable. The Board noted that the family initially had explained to the Danish police that they had travelled directly to Denmark and then subsequently had changed their story to admit that they had arrived first in Austria. It also expressed doubts regarding the explanation that the author's husband had started planning to flee only after the incident in February 2012, but had been in contact with the authorities regarding exit papers before December 2011.

2.10 On 3 September 2013, the Board concluded that it was not probable that the author would be subject to persecution in the Islamic Republic of Iran based on the alleged incident in February 2012. The Board also found that the fact that the author had been baptized less than two months after taking an interest in Christianity meant that her conversion did not appear credible.<sup>6</sup> The Board was thus not satisfied that the author had genuinely converted to Christianity. It rejected her asylum request and held that she and her son must leave Denmark within 15 days from the date of the decision, i.e. by 18 September 2013.

2.11 The author affirms that she has exhausted all domestic remedies, as a decision by the Board is final.

### **Complaint**

3.1 The author claims that, by deporting her to the Islamic Republic of Iran, Denmark would breach its obligations under articles 1, 2 (c) and (d), 3, 12 and 15 of the Convention. She claims that, if deported to the Islamic Republic of Iran, she

<sup>5</sup> The certificate is issued by the First International Baptist Church in Copenhagen. The author adds that religion was part of the suppression of women in society and the family in the Islamic Republic of Iran, and for that reason she wished to convert in Denmark. At the same time, however, before the immigration authorities, she had affirmed that she had become interested in Christianity in Denmark.

<sup>6</sup> The author claims that she feared that her case would be treated as an annex to her husband's asylum case. In substantiation, she claims that, in its decision regarding her asylum claim, the Refugee Appeals Board quoted its reasoning reached in her husband's case when concluding that his conversion was not genuine, as it had been made two months after having taken an interest in Christianity and given that he had continued to elaborate on his statement about his commitment to Christianity during the consideration of his case by the immigration authorities. In substantiation, the author claims that the Refugee Appeals Board asked her whether she had converted because her husband had decided to do so. The same day, the Board also rejected the author's husband's asylum claim, finding his story regarding his involvement in politics lacking in credibility and casting doubts on the genuineness of his conversion to Christianity. The husband was also asked to leave Denmark.

would be at risk of execution and/or torture or gender-based violence given that her husband is sought by the authorities of that country for involvement in the Iranian Green Movement. She also fears being executed because of her conversion to Christianity.

3.2 The author argues that she has been a victim of a violation of articles 1, 2, 3 and 15 of the Convention, as her case was never examined and decided on an equal footing with cases brought by men. She alleges that she suffered discrimination because her right to equal treatment was violated by the Refugee Appeals Board. She claims that in Denmark her case has been considered as only “an annex” to her husband’s case, and her own asylum application has been reduced to the question of whether her husband should be granted asylum. She contends that her case was decided on the same day as her husband’s and that therefore her asylum request was never taken seriously and she was reduced to being merely a wife of a male asylum seeker.

3.3 The author claims that she will be a victim of a violation of article 12 of the Convention if returned to the Islamic Republic of Iran, as she has already suffered gender-specific violence there and fears execution as a result of her conversion.<sup>7</sup> If not sentenced to death, she fears forced conversion back to Islam and a forced marriage to a Muslim man, since her marriage is no longer valid as a result of her conversion. In addition, from the date of her husband’s conversion to Christianity, having sex with her spouse has constituted a sexual activity outside of marriage, which is punishable by law in the Islamic Republic of Iran.

#### **State party’s observations on admissibility and merits**

4.1 By a note verbale of 13 March 2014, the State party presented its observations on admissibility and merits. It contends that the communication should be declared inadmissible and asks the Committee to lift its request for interim measures. It also observes that, should the communication be declared admissible, no violation of the author’s rights under the Convention would occur in the event of her deportation to the Islamic Republic of Iran.

4.2 The State party recalls the facts of the case. The author is a citizen of the Islamic Republic of Iran born in 1975 who entered Denmark on 23 March 2012 on a valid Iranian passport with her spouse and their child, who was born in 2008. That same day, the author and her spouse applied for asylum to the East Jutland police office. On 19 April 2013, the Danish Immigration Service, rejected the author’s application for asylum. That decision was appealed to the Refugee Appeals Board.

4.3 On 3 September 2013, the Board upheld the rejection by the Service of the author’s application for asylum. On the same day, the Board confirmed the rejection by the Service of her husband’s application for asylum.

4.4 The State party notes that, during the proceedings before the Board on 3 September 2013, the author’s asylum application was examined jointly with the application of her husband. As to her asylum grounds, the author referred to her fear

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<sup>7</sup> United States Department of State, 2010 report on the Islamic Republic of Iran, p. 3 (available from [www.state.gov/documents/organization/171734.pdf](http://www.state.gov/documents/organization/171734.pdf)), where it is stated that conversion from Islam is punishable by death in the Islamic Republic of Iran.

in the Islamic Republic of Iran of being killed by the authorities because of the accusation that her husband was an opponent to the regime. In addition, she claimed that she had converted to Christianity in Denmark, that she had “found belief in Jesus”, that “Christians were sweet and loving towards each other as opposed to Muslims” and that she was aware that conversion could be punished by execution in the Islamic Republic of Iran. She also claimed that she could never wear her cross openly in the Islamic Republic of Iran as that would prevent her from living normally, but that she could not return to the Muslim faith “and that, in the circumstances, she would have converted on her own even if her spouse [had] not converted”.

4.5 Regarding the part of the author’s grounds for asylum that were linked to her husband’s political activities, the Board referred to its decision regarding her husband, in which a majority of the Board had found that part of the husband’s statement concerning his political activities had been rejected as inconsistent and lacking in credibility. Based on that, the majority of the Board had decided that the author had failed to prove the likelihood that her husband would be persecuted in the Islamic Republic of Iran.

4.6 As regards the author’s claim regarding her conversion to Christianity, the majority of the Board, giving the same reasons as in their decision concerning her husband, found that the author’s conversion was not genuine and that therefore she would not be at risk of persecution in the Islamic Republic of Iran on that ground. In its decision in her husband’s case, the majority of the Board found that his claim that he was at risk of persecution owing to his conversion could not be taken as fact. The Board took into account the above finding about the husband’s general credibility and the fact that he had been baptized less than two months after having taken an interest in Christianity and had continued to elaborate on his statement about his Christian commitment during the consideration of his case by the immigration authorities. As a result, it was considered that the husband had failed to substantiate that he had made a genuine conversion that put him at risk of persecution in the Islamic Republic of Iran. On those grounds, the majority of the Board found that the author had failed to “render probable that her conversion to Christianity [was] genuine”.

4.7 The State party further provided an extensive description of its process and legal basis for applying for refugee status and the composition, prerogatives and functioning of the Refugee Appeals Board.<sup>8</sup>

4.8 The State party recalls that the author claims before the Committee that she fears persecution and execution in the Islamic Republic of Iran as a result of the accusations against her husband that he is an opponent of the regime and because of her conversion. She also claims that the immigration authorities have committed gender-based discrimination, as the decision in her case referred to the decision in her husband’s asylum case. Lastly, she claims that she fears being subjected to gender-based violence, as she was subjected to such violence in the past. The State party believes that the case is inadmissible as manifestly ill founded and insufficiently substantiated and for non-exhaustion of domestic remedies.

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<sup>8</sup> See, for example, communication No. 57/2013, *V. v. Denmark*, decision of inadmissibility adopted on 11 July 2016, para. 4.7.

4.9 The State party recalls that, under the Committee's jurisprudence, the Convention has extraterritorial effect only when the woman to be returned will be exposed to a real, personal and foreseeable risk of serious forms of gender-based violence.<sup>9</sup> The State party believes that this means that acts of States parties that may have an indirect effect on a person's rights under the Convention in other States can entail responsibility for the acting State party (extraterritorial effect) only under exceptional circumstances in which the person to be returned is at risk of being deprived of the right to life or of being exposed to torture or other inhuman or degrading treatment, as those rights are protected under, among other instruments, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights (arts. 6 and 7) and the Convention for the Protection of Human Rights and Fundamental Freedoms (arts. 2 and 3).

4.10 The State party notes that the author has stated as grounds for her asylum claim before the Danish Immigration Service and the Refugee Appeals Board that, if returned to the Islamic Republic of Iran, she fears being killed because her spouse has been accused of being an opponent of the regime. For a long time, this was the only ground invoked by the author in her asylum application.

4.11 Both the author's and her husband's statements to the immigration authorities regarding their departure for Denmark have been inconsistent on various points, such as the actual date of departure, the manner and moment of their entry into Denmark, whether any visa was used for the trip and who had applied for a visa. According to police reports dated 23 March 2012, asylum registration reports dated 30 March 2012 and asylum application forms dated 2 and 3 April 2012, the author and her husband gave substantively identical statements about their direct flight from Tehran to Denmark on 23 March 2012. Both spouses confirmed that they had not applied for a visa.

4.12 Police reports dated 25 June 2012 show that, when asked directly whether the family had travelled on the basis of their own passports and visas for Austria and had then been driven to Denmark, both spouses maintained their previous statements about their departure. The same police reports show that both spouses confirmed that they had not applied to any embassy for a visa. Not until 5 July 2012, according to a police report from that date, did the spouses state, when confronted with the fact that the Embassy of Austria issues visas only upon application in person, that there had been a meeting at the Embassy of Austria, and that the family had flown to Austria, arrived within the visa period and then travelled by car to Denmark.

4.13 At subsequent asylum interviews, both spouses stated that they had left Austria on 23 February 2013 and been driven to Denmark, that the smuggler had kept them captive for a month until receipt of the residual payment and that they had then contacted the police and sought asylum.

4.14 The State party points out that, on essential points, both spouses have additionally given inconsistent statements concerning the husband's involvement in the Iranian Green Movement; his detention, including its duration and when it

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<sup>9</sup> The State party refers to communication No. 33/2011, *M.N.N. v. Denmark*, decision of admissibility adopted on 15 July 2013.

occurred; the threats received by the author; her arrests and detentions; and the abuse suffered by her husband.

4.15 As regards the author's conversion, the State party observes that her allegation of persecution on that ground was raised only late in the asylum proceedings, and that her statements regarding her commitment to Christianity appear inconsistent. The majority of the Refugee Appeals Board found that she had failed to prove the likelihood that her conversion was genuine.

4.16 The State party further notes that the author has stated before the Board that she was aware at the time of her baptism of the serious consequences that she could face in the Islamic Republic of Iran as a result of her conversion. She did not mention anything, however, about that at her interview with the Danish Immigration Service on 9 April 2013, nor did she mention her conversion as a problem when she was asked directly about the reasons for her application for a residence permit and what she feared in the event of her return to the Islamic Republic of Iran.

4.17 Based on the above considerations, the State party believes that the communication should be declared inadmissible under article 4 (2) (c) of the Optional Protocol, as the author has failed to sufficiently substantiate her claim that her return to the Islamic Republic of Iran would expose her to a personal and foreseeable risk of serious forms of gender-based violence.

4.18 The State party further notes the author's claim that, if she is not sentenced to death owing to her conversion on 8 May 2012, she would face a charge of fornication, since her marriage to her husband has not been valid since that date and sexual activity outside marriage is punishable by law in the Islamic Republic of Iran. According to the State party, however, this claim was never raised before its immigration authorities and thus should be considered inadmissible under article 4 (1) of the Optional Protocol.

4.19 Similarly, the author's claim that, in the event of her return to the Islamic Republic of Iran, she would face forced conversion and be obliged to marry a Muslim man was never raised at the national level. The State party also observes that, in her communication before the Committee, she did not claim that she had been subjected to sexual assault and severe punishment in the Islamic Republic of Iran in 1994, without possibility of protection, but that this was part of her claim before the Danish immigration authorities. For the sake of clarity, the State party notes that the incident took place in 1994. According to the author, she never met the perpetrator between the time of her voluntary return to the Islamic Republic of Iran in 2004 and her departure to Denmark in 2012.

4.20 Further, the State party notes that, in her communication to the Committee, the author claimed that religion was part of the suppression of women in society and the family in the Islamic Republic of Iran and that that was the reason she wished to convert in Denmark. The State party notes that this claim was never invoked before the Danish asylum authorities. As a reason for her conversion, the author stated in her interview with the Danish Immigration Service on 9 April 2013 and at the Refugee Appeals Board hearing on 3 September 2013 that she had come into contact with some Christian families in Denmark, where she had found love and discovered that Christians were sweet and loving towards one another.

4.21 The State party notes that the present communication contains a number of new assertions and that the national authorities of Denmark thus never had the opportunity “to deal with any potential assertion that the decision involved gender-based discrimination”.<sup>10</sup>

4.22 The State party notes that the author claimed that the issue of gender-based violence was raised during the consideration of her case, in writing on 29 August 2013 and orally during the hearing on 3 September 2013. The State party observes that the author’s counsel presented an alternative claim during the proceedings before the Board, asking that the author be granted residence under section 7 (2) of the Aliens Act, on protection status, which indirectly comprises a reference to the Convention on the Elimination of All Forms of Discrimination against Women. However, counsel failed to state in further detail in his brief of 29 August 2013 to the Board or during the hearing on 3 September 2013 what specific matters made it relevant to invoke the Convention, and counsel also failed to refer to any specific provisions of the Convention. With reference to the Committee’s case law,<sup>11</sup> the State party recalls that authors must have raised, at the national level, the substance of the claim that they wish to bring before the Committee. Thus, in the present case the author has failed to exhaust domestic remedies.

4.23 On the merits, the State party notes that the asylum proceedings before the Refugee Appeals Board are not an instance of gender-based discrimination. The State party notes the author’s claim under article 15 and the fact that she contended that her right to equal treatment was violated by the Board and that she suffers from inequality in her access to justice, as her case was never examined and decided on an equal footing with cases brought by men. The author also claimed that the Board majority who had rejected her application had based its decision exclusively on the decision that they had made in her husband’s case.

4.24 In that connection, the State party refers to its observations in paragraphs 4.9 to 4.17 above and notes that one of the author’s grounds for her asylum application was her alleged fear that she would be killed in the Islamic Republic of Iran because of the accusations against her husband that he was an opponent of the regime. Therefore, her asylum application was related to her husband’s grounds for asylum, and thus that part of her grounds for seeking asylum was dependent on the assessment by the Board of her husband’s grounds for seeking asylum.

4.25 Thus, it is natural, and not an instance of gender-based differential treatment, for the majority of the Board to cite the decision of 3 September 2013 regarding her husband’s asylum application, concerning the part of the author’s application that is based on her fears in the Islamic Republic of Iran as a result of her husband’s political activities there. The majority of the Board decided to put aside the part of her husband’s asylum claim concerning his political persecution as inconsistent and non-credible. Based on that, the majority of the Board found that the husband had failed to prove the likelihood that he would be subjected to persecution if returned to the Islamic Republic of Iran and consequently neither would the author be subjected to such persecution.

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<sup>10</sup> See communications No. 10/2005, *N.S.F. v. United Kingdom of Great Britain and Northern Ireland*, decision of inadmissibility adopted on 30 May 2007, para. 7.3, and No. 8/2005, *Kayhan v. Turkey*, decision of inadmissibility adopted on 27 January 2006, para. 7.5.

<sup>11</sup> See *Rahime Kayhan v. Turkey* (see note 10 above), para. 7.7.

4.26 The State party adds that counsel was assigned to the author and to her husband, the counsel pleaded the author's case in his brief prior to the hearing of the Board, the author had an opportunity during the hearing to make an independent statement to the Board on her grounds for seeking asylum and thus had a chance to emphasize the matters that she believed to be essential to her case, and the author's counsel also had an opportunity to plead and argue orally the author's case to the Board.

4.27 The State party submits that, based on the above considerations, the Board made an objective, separate and individual decision in the author's asylum case, with the natural reservation, however, that a large part of her grounds for seeking asylum derived from her husband's asylum application. Consequently, the Board's assessment of that part of her grounds for seeking asylum was based on its own assessment of her husband's case. In addition, it is common practice for the Board to review cases jointly if the asylum seekers are spouses who, as in the present case, entered Denmark together and there is a presumption that their grounds for seeking asylum are overlapping or identical. The joint review is aimed only at the best possible clarification of such cases.

4.28 The State party further notes that the author claimed before the Committee that she had converted to Christianity only after her arrival in Denmark, in view of the fact that the Islamic Republic of Iran suppressed women, that she would have converted regardless of her husband's decision in that regard and that she feared the consequences of her conversion in the event of her return to the Islamic Republic of Iran.

4.29 The State party notes in this regard that the author entered Denmark on 23 March 2012 and did not state until 9 April 2013 that she had converted. Before that, she had been interviewed five times and had completed her asylum application form herself, without mentioning having become interested in Christianity. In addition, just as in the cases of the other asylum seekers, she was invited at the interviews to give the most detailed description possible of the grounds for seeking asylum. On 9 April 2013, she said to the Danish Immigration Service that she had become a Christian about one year before the interview. The State party finds it inexplicable that the author did not state her interest in Christianity at an earlier date, in particular as she stated at the interview with the Service on 9 April 2013 that she had become interested in Christianity when she arrived in Denmark and had not had sufficient knowledge of it in the Islamic Republic of Iran. According to the State party, it is conspicuous that the couple's son was not baptized and that the time before the conversion appeared extremely short: only two months of preparation for baptism done via Skype. When asked by the Service about the shortness of this period, the author explained that a miracle had occurred.

4.30 In the light of the foregoing, the State party submits that the author's grounds for seeking asylum based on persecution as a result of her conversion were considered separately during her asylum proceedings. Accordingly, there is no reason to question the comprehensive assessment made by the Board on the basis of which it rejected the genuineness of her conversion for the same reasons as those which it had applied to her husband.

4.31 Lastly, regarding the Committee's request for interim measures, the State party notes that on 16 September 2013 the Board extended the time limit for the departure

of the author, in accordance with the Committee's request. In the light of the above observations, however, the State party invites the Committee to review its request, as the author has failed prove the likelihood that she would suffer irreparable harm if returned to the Islamic Republic of Iran.

**Author's comments on the State party's observations**

5.1 The author's counsel presented comments on the State party's observations on 2 March 2016. First, he noted that, in August 2016, he had asked the Refugee Appeals Board to take into consideration the Convention on the Elimination of All Forms of Discrimination against Women with regard to the author's asylum case and had reiterated his request orally during the Board's hearing. Nevertheless, no reference had been made to the Convention in the Board's decision and, according to counsel, the author had to look into the decision pertaining her husband's case to learn the reasons behind the denial of her asylum claim.

5.2 Counsel added that the author's asylum application had been rejected for lack of credibility. He noted, however, that there was no indication that on 6 September 2013 the five members of the Board had taken into consideration the issue of the risk to the author of serious forms of gender-specific violence.

5.3 Counsel noted that the State party had argued that the Board always took the Convention into consideration, even when it had not been not invoked by the asylum seeker, although that would not specifically appear in the decision. In this connection, counsel claimed that the State party's contention was not correct. In support, he referred to the views of the Human Rights Committee in an individual communication<sup>12</sup> in which the Committee had concluded that Denmark would violate the author's<sup>13</sup> rights in the event of her deportation to Nigeria. Following the adoption of the views of the Committee, the Board re-examined the author's asylum application on 17 November 2015, taking into account the views, but confirmed its initial rejection of the application.<sup>14</sup>

5.4 Second, counsel noted that, in the above-mentioned case, the Board had taken it as a fact that the Nigerian woman had been a victim of trafficking and that she had testified in court against her traffickers. Nevertheless, in its decision of 17 November 2015, there had been no reference whatsoever to the Convention.

5.5 Counsel concluded that the Danish authorities were "misinforming" the Committee "again". During a number of meetings with the various committees, the representatives of Denmark explained that there was no need to incorporate into

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<sup>12</sup> Communication No. 2288/2013, *Omo-Amenaghawon v. Denmark*, views adopted on 23 July 2015.

<sup>13</sup> The case pertained to the risk of the deportation of the author, a Christian Nigerian woman who had been a victim of rape and had been obliged to prostitute herself in Denmark. According to counsel, on 17 November 2015, the Board noted, among other things, that the opinions of the Human Rights Committee were not legally binding and that it was thus also "for the competent Danish authorities to decide whether the applicant may be sent back" to her country of origin. Counsel contends that, since neither the International Covenant on Civil and Political Rights nor the Convention on the Elimination of All Forms of Discrimination against Women is incorporated into Danish law, it could be assumed that the decisions of the Committee would also be considered not legally binding by the Danish authorities.

<sup>14</sup> Informal translation provided by counsel.

national legislation the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and other human rights instruments, since all such instruments were part of the Danish legal order. The quoted decision of 17 November 2015 showed, in counsel's opinion, that that was not the case.

### **Issues and proceedings before the Committee concerning admissibility**

6.1 In accordance with rule 64 of its rules of procedure, the Committee must decide whether the communication is admissible under the Optional Protocol. Pursuant to rule 66, the Committee may decide to consider the admissibility of the communication separately from its merits.

6.2 The Committee notes the author's claim that her deportation to the Islamic Republic of Iran would constitute a violation by Denmark of articles 1, 2 (c) and (d), 3, 12 and 15 of the Convention, in view of her husband's perceived opposition activities there and owing to her conversion to Christianity. The Committee also takes note of the State party's argument that the communication should be declared inadmissible under article 4 (2) (c) of the Optional Protocol for lack of substantiation.

6.3 The State party has also claimed that the part of the communication regarding the claim that the author could be at risk of being killed or forcibly converted to Islam and being married to a Muslim man, owing to her conversion to Christianity in Denmark and for having had sexual relations outside marriage, and her claim that religion was part of the suppression of women in the Islamic Republic of Iran, are inadmissible for non-exhaustion of domestic remedies under article 4 (1) of the Optional Protocol, as they were never brought to the Danish authorities before the submission of the present communication.

6.4 Regarding the author's claim that she fears that the authorities would kill her husband if he were returned to the Islamic Republic of Iran, owing to his past political activities there, in the light of the documents on file, the Committee notes that the Danish immigration authorities have duly examined these allegations but have concluded that the author has failed to sufficiently substantiate her allegations, in particular given that her husband's claims in that regard have been found to lack credibility. Nothing on file allows the Committee to consider that, in reaching this conclusion, the Danish immigration authorities have failed in their duties or acted in a biased or otherwise arbitrary manner. In these circumstances, and in the absence of any other pertinent information on file, the Committee considers that the author has failed to sufficiently substantiate this particular claim for the purposes of admissibility. Accordingly, it declares this part of the communication inadmissible under article 4 (2) (c) of the Optional Protocol.

6.5 The Committee further notes the author's contention that she has been a victim of a violation of articles 1, 2, 3 and 15 of the Convention, as her case was never examined and decided on an equal footing with cases brought by men. She alleges that she suffered discrimination, as her right to equal treatment was violated by the Refugee Appeals Board, because her case was considered only as "an annex" to that brought by her husband, her own asylum application was allegedly reduced to the question of whether her husband should be granted asylum and she was reduced to

being merely a wife of a male asylum seeker. The Committee notes the State party's reply that the initial asylum claim of the author was linked only to her husband's asylum claim, based on the fact that the author had claimed asylum as a consequence of her husband's alleged political activities in the Islamic Republic of Iran and of the resulting problems that he faced. The Committee observes that nothing in the case file permits it to confirm the author's claim of discrimination. To the contrary, the information before the Committee shows that the author has been afforded adequate opportunity for independent examination of her independent circumstances. The Committee therefore considers that this part of the communication is inadmissible under article 4 (2) (c) of the Optional Protocol.

6.6 The author has also claimed that she will be a victim of a violation of article 12 of the Convention if returned to the Islamic Republic of Iran, and that she fears execution because of her conversion. If not sentenced to death, she fears forced conversion back to Islam and a forced marriage to a Muslim man, as her marriage is no longer valid as a result of her conversion. In addition, from the date of her husband's conversion to Christianity, having sex with her spouse has constituted sexual activity outside marriage, which is punishable by law in the Islamic Republic of Iran. The Committee notes that the State party has challenged this part of the communication under article 4 (1) of the Optional Protocol, as these claims were never raised to the Danish immigration authorities before the submission of the present communication to the Committee. This remains uncontested by the author or her counsel. The Committee also notes the State party's affirmation that there is no reason to question the comprehensive assessment made by the Refugee Appeals Board on the basis of which the Board rejected the genuineness of the author's conversion. The Committee notes that the decision of the Board comprehensively lists the author's explanations in that connection; it also notes the questions asked to her and the answers that she provided thereto. This information relates mainly to her, and differs from the allegations and information provided by her husband in his asylum application concerning his alleged conversion. Regarding the claims of her husband referred to in the author's asylum application, it should be noted that the author herself directed the Board to evidence that was supposed to be provided by her husband regarding the conversion and her explanations to the effect that he was more knowledgeable on matters relating to Christianity than she was. In the light of these considerations, and in the absence of any other pertinent information on file, the Committee considers that the facts before it do not show that the Board has failed to give sufficient attention to the author's personal situation and specific claims, including her claims regarding her conversion. Accordingly, the Committee declares this part of the communication inadmissible for non-exhaustion of domestic remedies and for lack of substantiation under articles 4 (1) and (2) (c) of the Optional Protocol.

6.7 Lastly, the author's counsel has claimed that the Danish immigration authorities have failed to consider her case from the perspective of the Convention, even though he has specifically asked for this. The Committee notes that, in reply, the State party has argued that neither the author nor her counsel has presented any claims under the Convention and has not indicated which substantive rights under the Convention that they thought the Danish authorities had violated or would violate in the event of the author's deportation to the Islamic Republic of Iran. The State party has also noted that counsel has merely referred to the Convention in his

appeal, without any substantiation or explanation whatsoever. The Committee notes that the State party's observations remain uncontested by counsel. In the light of these considerations, the Committee considers that the author has not substantiated how the reference to the Convention raised issues separate from those already considered by the Board in the context of the author's asylum claim. The Committee therefore considers this part of the communication to be insufficiently substantiated for purposes of admissibility and therefore inadmissible under article 4 (2) (c) of the Optional Protocol.

7. The Committee therefore decides that:

- (a) In accordance with articles 4 (1) and (2) (c) of the Optional Protocol, the communication is inadmissible;
  - (b) This decision shall be communicated to the State party and to the author.
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