



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2510/2014\*, \*\*

<i>Communication submitted by:</i>	M.R. (represented by counsel, Niels-Erik Hansen)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Denmark
<i>Date of communication:</i>	14 December 2014 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 17 December 2014 (not issued in document form)
<i>Date of adoption of Views:</i>	19 October 2021
<i>Subject matter:</i>	Deportation to the Islamic Republic of Iran
<i>Procedural issues:</i>	<i>Ratione materiae</i> ; level of substantiation of claims
<i>Substantive issues:</i>	Risk of torture or other cruel, inhuman or degrading treatment or punishment; non-refoulement
<i>Articles of the Covenant:</i>	7, 18 and 19
<i>Article of the Optional Protocol:</i>	2

1.1 The author of the communication is M.R., a national of the Islamic Republic of Iran born on 29 August 1981. He is subject to deportation to the Islamic Republic of Iran following the rejection of his application for refugee status by the Danish authorities. He claims that by forcibly deporting him to the Islamic Republic of Iran, Denmark would violate his rights under articles 7, 18 and 19 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 On 17 December 2014, pursuant to rule 94 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided not to issue a request for interim measures.

\* Adopted by the Committee at its 133rd session (11 October–5 November 2021).

\*\* The following members of the Committee participated in the examination of the present communication: Wafaa Ashraf Moharram Bassim, Yadh Ben Achour, Mahjoub El Haiba, Furuya Shuichi, Carlos Gómez Martínez, Duncan Laki Muhumuza, Vasilka Sancin, José Manuel Santos Pais, Soh Changrok, Kobauyah Tchamdja Kpatcha, Hélène Tigroudja, Imeru Tamerat Yigezu and Gentian Zyberi.



**Facts as submitted by the author**

2.1 The author grew up in a monarchist family, but after having been flogged twice – for sitting in a park with his girlfriend and for drinking alcohol – he wanted to work against the regime. In 2006, he joined the Basij militia as a cover for distributing the alcohol he was producing. At first, he was given small tasks, such as guarding a checkpoint. In addition, he was a bodyguard<sup>1</sup> for important individuals. He also participated in the 2009 election demonstrations, but refused to beat the demonstrators as instructed, and he avoided carrying weapons or participating in arrests because he knew about the ill-treatment of detainees. In October 2013, he was ordered to go fight in the Syrian Arab Republic and received two weeks of military training. He did not want to go, so he fled the Islamic Republic of Iran on 22 November 2013. The authorities subsequently searched the home of the author's parents and discovered equipment for producing alcohol.

2.2 The author travelled by car from Tehran to Khoi in the north-western part of the Islamic Republic of Iran. He changed cars and drove to the border with Turkey, continuing his route to a small village near Istanbul, where he stayed with an elderly lady for between a month and a month and a half. He was then taken by lorry to Denmark and dropped off at a large roundabout.<sup>2</sup>

2.3 The author entered Denmark on 15 January 2014 without valid travel documents and applied for asylum the same day. He invoked his fear of conflicts with the Basij if he were to return because he had abandoned them and left the country, and also because they had discovered that he produced and sold alcohol. He also feared being forced to shoot people for the Basij. On 22 May 2014, the Danish Immigration Service dismissed his application.

2.4 On 27 August 2014, the Refugee Appeals Board rejected the author's appeal. While accepting the author's membership with the Basij, it considered that those grounds alone could not justify asylum. The majority of the Board members did not accept as factual the author's statements on his activities for the Basij and on the circumstances of his home being searched after his departure from the Islamic Republic of Iran because his statements on those points appeared unlikely and fabricated for the occasion. The author also gave inconsistent and evasive statements on several points, including when he started selling alcohol or whether his family was aware of his Basij membership. For the majority of the Board members, it lacked credibility that his family had been unaware of his membership for seven years. The author's statement that he was a low-ranking member of the Basij was contrary to his statements about the tasks he carried out for them, including tasks entrusted to him by a high-ranking Basij member and acting as a bodyguard for high-ranking individuals. In addition, the author gave inconsistent statements as to whether he hit people with a baton during the 2009 demonstrations, as well as on the scope of his own activities during those demonstrations and his previous knowledge of subjecting those arrested to torture. Finally, the author gave inconsistent and evasive statements about his contact with family after his departure.

2.5 After the refusal of his application for asylum, the author was detained from 22 October 2014 to 26 May 2015 at the closed Ellebæk Institution pending his removal from Denmark. On 3 December 2014, the author requested the Refugee Appeals Board to reopen the asylum proceedings. He referred, *inter alia*, to the fact that he has an angel and other symbols contrary to Islam's teaching tattooed on his body,<sup>3</sup> for which reason he feared persecution from the Iranian authorities. He invoked the judgment delivered by the European Court of Human Rights in *M.A. v. Switzerland*.<sup>4</sup>

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<sup>1</sup> He practised boxing in his spare time.

<sup>2</sup> This information is taken from an asylum registration report of 15 January 2014 by the South-East Jutland Police. The author also declared that he had a brother who had been living in Denmark for about 12 to 13 years and a maternal uncle who had been living in Denmark for about 30 years.

<sup>3</sup> He got his four tattoos – allegedly an angel on his arm, close to the shoulder, and the other tattoos on his thigh, below his navel and on his chest – in the Islamic Republic of Iran. Photos of his tattoos are on file.

<sup>4</sup> European Court of Human Rights, *M.A. v. Switzerland*, No. 52589/13, Judgment, 18 November 2014.

2.6 On 12 December 2014, the Refugee Appeals Board found no reason to reopen the asylum proceedings. As to the author's reference to his tattoos, the Board held that the circumstances of his case were not comparable to the circumstances in *M.A. v. Switzerland* because the account given by the applicant in the latter case had been accepted as reliable.

2.7 On 20 April 2015, the author once again requested the Refugee Appeals Board to reopen the asylum proceedings. He submitted, inter alia, that he had been baptized on 16 April 2015 and thus had a new *sur place* claim for protection. He feared persecution by the Iranian authorities because he had left Islam to become a Christian. The author also contended that because of his tattoos – an angel and other symbols contrary to Islamic teachings – he could not conceal from the Iranian authorities that he had converted to Christianity.

2.8 On 12 May 2015, the Refugee Appeals Board decided to reopen the asylum proceedings and conducted an oral hearing before a new panel. It also extended the time limit for the author's departure. The author produced a declaration of 7 June 2015 issued by a pastor at the Grønnevang Church and at the Ellebæk Institution. According to the declaration, the author had been part of a religious community for refugees and immigrants at the church of Grønnevang, most of whom speak Farsi, in particular since his release from the Ellebæk Institution in May 2015. Various Christian and other topics were taught in the community. The pastor stated that he had known the author for the full, 10-month period of his detention at the Ellebæk Institution, and that the author participated devoutly and very actively in church services. Moreover, in a letter dated 31 October 2014, the Bethania Church confirmed that the author attended church services there on a regular basis until 12 October 2014.

2.9 At the Board hearings, the pastor declared that he had baptized the author, who had participated in more than 20 to 30 hours of baptism classes, and that he had no doubt that the author's conversion was genuine. The author declared that while in the Islamic Republic of Iran, he made donations to a Christian church in secret. He did not go to that church because he was a Muslim and he would thus have been sentenced to death. As to his tattoos, the author declared that he had not mentioned them to the Danish Immigration Service, or to his previous counsel, because he had thought that they were of no importance to his asylum application. Originally, his tattoos were not intended as a Christian symbol, and the author was not a Christian when he arrived in Denmark. However, after having seen the lifestyle and behaviour of Christians in his country of origin, which had sparked his interest in Christianity, meeting people from his own age group in Denmark who went to church had renewed his interest in Christianity.

2.10 On 1 July 2015, the Refugee Appeals Board again upheld the refusal of the Danish Immigration Service to grant asylum to the author. The majority of the Board members did not accept the author's conversion as genuine. They considered the pastor's assessment as an element in support of the fact that the author had become a Christian, but pointed to evasive responses by the author to several questions about his conversion to Christianity. They also noted that the author's baptism took place very late in the asylum proceedings and only after refusal of his asylum application and of his request for reopening his case, as well as following his very energetic attempts to resist removal from Denmark.<sup>5</sup>

2.11 On the basis of an assessment of the background information and the case law of the Refugee Appeals Board, the majority of the Board members held that, even if they accepted as a fact that the author left the Islamic Republic of Iran illegally, the fact that he did not possess valid travel documents did not amount to a sufficient basis on which to assume that the author would be subjected to persecution or abuse by the Iranian authorities.

2.12 Regarding the author's fear that he would become a person of interest for the Iranian authorities, the majority of the Board members further noted that there was no information to indicate that anyone other than the author's mother and sister and perhaps a few Iranian

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<sup>5</sup> According to a memorandum of 29 April 2015, an attempt was made to return the author to the Islamic Republic of Iran from Gothenburg, but he fought back too much to be brought onto the plane. The State party also submits in its observations on admissibility and the merits that the author's forced return was planned several times, but due to his strong resistance, the pilots refused having him on board.

friends on Facebook knew about his baptism. Moreover, the author did not previously encounter any problems in the Islamic Republic of Iran because of his tattoos, which he acquired in that country and which were not directly visible. The author failed to substantiate why that would change in case of his return to the Islamic Republic of Iran. The fact that the author has uploaded Christian texts and photos to the private part of his Facebook account, which cannot be seen on the public part of his account, cannot lead to a different outcome.

2.13 On 4 May 2018, the author again requested that the Refugee Appeals Board reopen his asylum case. In support of his *sur place* claim for protection, the author now declared that he had had gotten more tattoos in Denmark, that he had become a highly exposed convert whose name and photo had been reproduced in several newspaper articles, that he had been featured in a radio broadcast,<sup>6</sup> and that the Iranian authorities now knew for sure that he had converted because he had notified the representatives of the Iranian Embassy. He also stated that he had attended numerous Christian activities since 2015, including Bible cafes, Friday suppers and church services. On 22 May 2018, his counsel sent a copy of a police report made by the National Operational Aliens Centre of the North Zealand Police concerning a potential arraignment of the author at the Iranian Embassy from which it appeared that, according to the information provided by the author, he was a convert and that he wanted to become a pastor in Denmark. He therefore considered that there could be no doubt that the Iranian authorities were fully aware of the author's apostasy from Islam. On 8 November 2018, the author submitted a brief in the case.

2.14 On 12 September 2018, the Refugee Appeals Board decided to reopen the asylum case and conduct a new oral hearing. It also decided to suspend the time limit for the author's departure.

2.15 On 12 November 2018, the Refugee Appeals Board upheld the refusal by the Danish Immigration Service of the author's application for asylum. The Board still could not accept as a fact that the author's conversion to Christianity was genuine. The Board referred to the author's statement that if he was a "40 to 50 per cent Christian" in 2015, he was a "99 per cent Christian" at the moment, and found that the author's credibility had been weakened by this statement because he stated already in 2015 at the hearing before the Board that his conversion was genuine. The Board also noted that the author was not able to explain in a convincing manner why he had chosen the Protestant branch of Christianity, given that he declared that he had accompanied some friends to an Apostolic church, and that this was the reason why he had chosen that branch. He made this choice despite his statement that he had already become familiar with the different branches of Christianity in his country of origin, for which reason he ought to have made a reflected choice.

2.16 Moreover, the Board took into account the fact that the author's knowledge of Christianity appeared to be something he had learned by heart and that he seemed uncertain about some of the aspects of Christianity that he was asked to account for. This was supported by the fact that the author declared to the Board that, at the pre-departure centre where he was accommodated, "there were people who needed to be taught the questions asked by the Board to people who said that they had converted". The author also stated that he wanted to become a pastor, for which reason it must be expected that he could give an account of his reflections and personal belief. The author's Christian activities could not lead to a different outcome as the Board considered it as a fact that he only attended those Christian activities as social events and to be granted a basis of residence in Denmark.

2.17 Since the Refugee Appeals Board could not consider it as a fact that the author's conversion was genuine, it could neither consider as a fact that he would intend to carry out Christian activities in case of return to the Islamic Republic of Iran. Moreover, the author did not demonstrate that he was a person of interest to the reigning authorities before his departure. The question that the Board needed to address was whether the author had rendered it probable that, because of his Christian activities in Denmark, he would be at risk of persecution or abuse if returned to the Islamic Republic of Iran.

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<sup>6</sup> He produced a number of exhibits showing that he has been interviewed by various news media, disclosing his full name and photo, claiming that there was no longer a doubt that he has caught the attention of the Iranian authorities.

2.18 As to the publication of the author's name and photo in several newspaper articles and his featuring in a radio broadcast, the Board noted that the newspaper articles and the radio broadcast did not focus on the author's alleged conversion, but on the general conditions of refused asylum seekers, his activities as a boxing coach and the rules governing the right of refused asylum seekers to possess a mobile phone. Therefore, the author was not considered to have attracted the attention of the Iranian authorities due to his appearance in the Danish media.

2.19 The Board finally noted that on 18 April 2018, the author voluntarily informed the representatives of the Iranian Embassy in Denmark that he had converted and wanted to become a pastor in Denmark. By volunteering this information, the author made the Iranian authorities aware of the fact that he had relied on conversion as his grounds for claiming asylum in Denmark, but at the same time, the Iranian authorities were also made aware that Denmark did not consider his conversion to be genuine. On this basis, and taking into account the background information,<sup>7</sup> the Refugee Appeals Board found that, although he volunteered this information, the author did not attract the attention of the Iranian authorities in a way that makes him susceptible to persecution or abuse in case of his return to the Islamic Republic of Iran. The fact that the author left the country illegally and got more tattoos could not lead to a different outcome either.

2.20 Since 21 November 2018, the author has been registered by the Danish police as having disappeared.

### Complaint

3.1 The author invokes a violation of articles 7, 18 and 19 of the Covenant. He submits that States parties are under an obligation not to deport persons who are at a risk of deprivation of their human rights, in this case the right to freedom of expression, including freedom to receive and impart information and ideas of all kinds. This also includes the freedom of thought, conscience and religion, which includes the freedom to manifest one's religious beliefs.

3.2 The author alleges that his interest in Christianity is manifested with his very distinct tattoo on his arm. He fears persecution from the Iranian authorities if they discover his tattoo. Given his critical views towards the Iranian regime, he now has a *sur place* asylum claim. His deportation would therefore violate his civil rights protected by article 19 of the Covenant and would place him in severe danger of inhuman or degrading treatment or punishment, as prohibited by article 7 of the Covenant.

3.3 Finally, the author will be deported to the Islamic Republic of Iran irrespective of the fact that he does not hold a valid Iranian passport, and thus risks being interrogated by the authorities at the airport.<sup>8</sup> It can therefore not be excluded that he risks an investigation of his past as a former member of Basij.

### State party's observations on admissibility and the merits

4.1 On 23 August 2017, the State party submitted its observations on admissibility and the merits. It stated that the communication should be declared inadmissible. Should the Committee declare it admissible under article 7, the Covenant would not be violated if the author was returned to the Islamic Republic of Iran.

<sup>7</sup> Danish Immigration Service, *Iran: House Churches and Converts*, No. 4/2018, February 2018, available at [www.refworld.org/docid/5ab8f2de4.html](http://www.refworld.org/docid/5ab8f2de4.html); United Kingdom of Great Britain and Northern Ireland: *Home Office, Country Policy and Information Note – Iran: Christians and Christian converts*, version 3.0, 27 February 2017, available at [www.refworld.org/docid/58b42f774.html](http://www.refworld.org/docid/58b42f774.html); and Landinfo, *Report Iran: Christian converts and house churches (2) – arrests and prosecutions*, 29 November 2017, available at <https://landinfo.no/wp-content/uploads/2018/04/Iran-Christian-converts-and-house-churches-2-arrests-and-prosecutions.pdf>.

<sup>8</sup> In that respect, the author cites United Kingdom, Home Office, *Country of Origin Information Report – Iran*, 16 January 2013, p. 260, available at [www.refworld.org/docid/510136952.html](http://www.refworld.org/docid/510136952.html); and Landinfo, *Iran: On Conversion to Christianity*, p. 69.

4.2 The State party describes the structure, composition and functioning of the Refugee Appeals Board,<sup>9</sup> and the legislation that applies to asylum proceedings.<sup>10</sup> It then submits that the author has failed to establish a prima facie case for the purpose of admissibility under article 7 of the Covenant, in the absence of substantial grounds for believing that he is in danger of being subjected to inhuman or degrading treatment if returned to the Islamic Republic of Iran. This part of the communication is therefore manifestly unfounded and should be declared inadmissible.

4.3 As to the author's allegations under articles 18 and 19 of the Covenant, the State party notes that the author seeks to apply those articles in an extraterritorial manner in his communication. The author makes no allegations of a violation of these articles resting on treatment that he has suffered in Denmark, or in an area where Danish authorities are in effective control, or due to the conduct of Danish authorities. The Committee accordingly lacks jurisdiction over any such violations in respect of the State party; hence, this part of the communication is incompatible with the provisions of the Covenant. The State party cannot be held responsible for violations of articles 18 and 19 of the Covenant expected to be committed by another State outside its territory and jurisdiction.

4.4 On the merits, the author has failed to establish that his return to the Islamic Republic of Iran would violate article 7 of the Covenant. 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.<sup>11</sup> The State party's obligations under article 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 State party notes that the Refugee Appeals Board made an assessment in the author's case as to whether his statements appeared credible and convincing, including whether they were considered probable, coherent and consistent. He gave inconsistent statements about the reason why he left his country,<sup>12</sup> about his activities for the Basij<sup>13</sup> and his awareness of torture,<sup>14</sup> on the awareness among people in his local community of his membership with the Basij,<sup>15</sup> and about his contact with family after his departure.<sup>16</sup>

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<sup>9</sup> *Hussein Ahmed v. Denmark* (CCPR/C/117/D/2379/2014), paras. 4.1–4.3.

<sup>10</sup> Sections 7 (1)–(3) and 31 (1)–(2) of the Aliens Act.

<sup>11</sup> *X v. Denmark* (CCPR/C/110/D/2007/2010), para. 9.2.

<sup>12</sup> To go to the Syrian Arab Republic to fight for the Syrian regime, or to carry weapons.

<sup>13</sup> Low-ranking member of Basij, but bodyguard for high-ranking individuals or sent to break up demonstrations.

<sup>14</sup> At the interview of 4 March 2014, he declared that he took part in beating and hitting protesters, and he had also arrested protesters and beaten random passers-by in the head and on the back with his baton. At the hearing before the Refugee Appeals Board on 27 August 2014, the author stated that he had been in possession of a baton, a pepper spray canister and handcuffs, but he had not used those items.

<sup>15</sup> At the interview of 4 March 2014, he declared that his membership with the Basij was common knowledge in his neighbourhood. Later at the substantive interview, the author stated, however, that his family did not know that he was a member of the Basij and that not everyone in the neighbourhood knew that he was a member. At the hearing before the Refugee Appeals Board on 27 August 2014, he declared that his family was not aware of his affiliation with the Basij, but that a few of his friends knew.

<sup>16</sup> At the interview of 14 February 2014, he declared that he believed that his family had not yet been contacted by the authorities, but later during the same interview, he stated that he had been in contact with his family twice. Then according to the report of the substantive interview of 4 March 2014, the author declared that he had no contact with family or friends after his departure, but later during the same interview, he said that he had in fact been in contact with his family and that his father had been questioned by the authorities on his son's whereabouts. Finally, at the hearing before the Refugee

4.6 As to his conversion to Christianity, the State party notes that the author did not submit his claim of conversion to the Danish immigration authorities until he lodged his second request for reopening his case on 20 April 2015. The author did not state at any time during the asylum proceedings that he had a religiously motivated interest in Christianity. In addition, he did not mention attending any church services, whether in Denmark or elsewhere; dissociate himself from Islam; or convey a general interest in religion. Accordingly, the author did not disclose any such interest to the police or to the Danish Immigration Service. By contrast, he declared in his asylum application of 17 January 2014, at the asylum screening interview of 14 February 2014, and at the substantive interview conducted by the Danish Immigration Service on 4 March 2014, that he was of the Muslim faith, without expressing any kind of doubt or reservation or otherwise referring to his affiliation with Islam as a problem either. In the brief dated 19 August 2014, submitted by the author's counsel at that time prior to the oral hearing before the Refugee Appeals Board on 27 August 2014, the author's affiliation with Islam was not referred to as a problem either. By contrast, the counsel only made comments concerning the author's initial grounds for asylum. It further appears from the brief of 19 August 2014 that the author's support for the Christian church was based solely on acts committed by the Iranian regime in the name of Islam and not his own interest in Christianity.

4.7 The State party submits that only in his request for re-examination of 3 December 2014 did the author notify the Refugee Appeals Board that he had what could be perceived to be an interest in Christianity because he had an angel and other symbols tattooed on his body. The request for reopening said that the tattoos were contrary to Islamic teachings. The author did not mention his potentially religiously motivated actions, including attendance at church services, involvement in the Christian community, or attendance at baptism classes, in his request for reopening.

4.8 Accordingly, the State party notes that the author only started showing particular interest in the Christian faith after his application for asylum had been refused on 27 August 2014 and his request for reopening had been refused on 12 December 2014. The author was baptized on 16 April 2015, which is four months after his request for reopening had been refused by the Refugee Appeals Board. Moreover, the photos of the author's tattoos and his certificate of baptism dated 16 April 2015 were only submitted to the Refugee Appeals Board on 3 December 2014 and 20 April 2015, respectively, after the author had already been deprived of his liberty for the purpose of being removed from Denmark.

4.9 Finally, it was only in the pastor's declaration of 7 June 2015 that mention was made of the fact that the author had attended church services on a regular basis during the 10-month period in which he had been detained at the Ellebæk Institution, that is, for a period beginning more than eight months before the request for reopening was lodged on 20 April 2015. Similarly, it appears from the letter from the Bethania Church of 31 October 2014, which the Refugee Appeals Board also received shortly before its hearing on 1 July 2015, that the author had attended services in that church on a regular basis until 12 October 2014. The author did not give this information at any time during the asylum proceedings, whether at the Board hearing on 27 August 2014 or in his two requests for reopening.

4.10 Therefore, the State party considers that the advanced stage when the information on the author's interest in Christianity was produced in itself weakens the credibility of his most recent and new grounds for asylum. It further notes that the author's alleged new faith has not materialized in significant externalized acts other than his baptism.

4.11 As far as the author's tattoos are concerned, the State party considers that they are not an expression of the author's Christian belief since, according to the information provided, the author got the tattoos in the Islamic Republic of Iran at a time when he still professed an affiliation with Islam. At the hearing before the Refugee Appeals Board on 1 July 2015, the author stated that he had gotten his tattoos while living in the Islamic Republic of Iran and that they were not originally intended as Christian symbols. The author has further stated that he did not mention his tattoos to the Danish Immigration Service because he thought that

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Appeals Board on 27 August 2014, he stated that he had contacted his family after his arrival in Denmark.

they were of no importance to his application for asylum. The State party further notes that the author declared to the Danish Immigration Service on 14 February 2014 that he had not previously had any conflicts with religious or other groups and that there were no other matters of significance, including political or religious matters.

4.12 The State party submits that when an asylum seeker relies on a conversion after his or her departure from the country of origin as grounds for claiming asylum – in some cases, the conversion may even have taken place at a fairly advanced stage of the asylum proceedings – such conversion may in itself be considered relevant for the purposes of the credibility assessment to be made by the Refugee Appeals Board. According to guidelines of the Office of the United Nations High Commissioner for Refugees (UNHCR), where individuals convert after their departure from the country of origin, it may have the effect of creating a *sur place* claim. In such situations, particular credibility concerns tend to arise and a rigorous and in-depth examination of the circumstances and genuineness of the conversion will be necessary. In addition, it is noted that so-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.<sup>17</sup>

4.13 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 that field that information on conversion is grounds for asylum. For this reason as well, it cannot be considered as a fact that the author was not aware of the significance of this information to the outcome of his asylum proceedings when he requested re-examination on 3 December 2014.

4.14 The State party finds that the author’s tattoos cannot independently lead to the conclusion that the author risks persecution or abuse in case of his return to the Islamic Republic of Iran. Examination of the photos of the author’s tattoos reveals that none of them has distinct and clearly defined Christian symbols and that all are placed on spots on the body that are normally covered. Moreover, the author has not mentioned any problems that he has experienced himself due to his tattoos. Only at a fairly advanced stage of his asylum proceedings did he refer to his tattoos as relevant grounds for asylum.

4.15 As to the author’s allegations in respect of his critical view against the Iranian regime, the State party notes that he has never relied upon such a claim during the asylum proceedings. Nor did the author rely on political activities as his ground for asylum in his requests for the reopening of 3 December 2014 and 20 April 2015.

4.16 As to the author’s claim that there is a significant risk that the Iranian authorities will investigate his past as a member of Basij if he enters the Islamic Republic of Iran without a passport and is subjected to interrogation in that connection, the State party reiterates that the Danish authorities did not find the author to be at risk of persecution or abuse in case of return. According to the State party, the author is a very low-profile individual in the eyes of the Iranian authorities.

4.17 In conclusion, when rendering its decision, the Danish Refugee Appeals Board took into account all relevant information. The present communication to the Committee has not brought to light any new information substantiating that the author will risk persecution or abuse that is relevant to his asylum claim upon his return to the Islamic Republic of Iran. During domestic proceedings, the author benefited from a decision to reopen the asylum proceedings and to consider his case at an oral hearing on 1 July 2015 before a new panel whose members differed from those of the panel who made the initial decision. On that occasion, the author was allowed to make a new statement on his grounds for asylum, but the new panel also found them to lack credibility. The author has failed to identify any irregularity in the decision-making process or any risk factors that the Board failed to take

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<sup>17</sup> 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” (HCR/GIP/04/06), paras. 34 and 36.

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 Refugee Appeals 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 Refugee Appeals Board, according to which the author has failed to establish that there are substantial grounds for believing that he would be at a risk of being subjected to persecution or abuse that is relevant to his asylum claim if he is returned to the Islamic Republic of Iran. Against this background, the return of the author to the Islamic Republic of Iran would not constitute a violation of article 7 of the Covenant.

4.18 On 4 January 2019, the State party submitted a copy of the decision of 12 November 2018 of the Refugee Appeals Board, without further comments.

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

5.1 In his comments of 5 December 2019, the author<sup>18</sup> submits that the decision of the Refugee Appeals Board of 12 November 2018 goes against the Committee's views in the case of *K.H. v. Denmark*.<sup>19</sup> He recalls that he was taken to the Embassy of the Islamic Republic of Iran in Denmark and during the meeting, he openly expressed his Christian conviction. Before that meeting, he also openly expressed his Christian conviction in the Danish media. It follows that his conversion was indeed known to the authorities in the Islamic Republic of Iran when the Refugee Appeals Board issued its decision on 12 November 2018.

5.2 The author also submits that following the Committee's views in the case of *K.H. v. Denmark*, K.H. was granted a new hearing by the Refugee Appeals Board and obtained asylum, thus being protected against refoulement and the risks that his conversion would have triggered. However, in his case, the Board, sitting in another composition, found that there was no need for protection for the author against refoulement.

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

##### *Consideration of admissibility*

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether it is admissible under the Optional Protocol.

6.2 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.

6.3 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 by article 5 (2) (b) of the Optional Protocol from considering the communication.

6.4 The Committee notes that the author has alleged a violation of articles 18 and 19 of the Covenant but has not provided any information on or evidence or convincing explanation of how his rights under these articles would be violated by the State party through his removal to the Islamic Republic of Iran. The Committee therefore concludes that this part of the communication is insufficiently substantiated and declares it inadmissible under article 2 of the Optional Protocol.

6.5 The Committee then notes the State party's challenge to admissibility on the grounds that the author's claim under article 7 of the Covenant and on the basis of an alleged risk to his 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

<sup>18</sup> The counsel affirms that the author went into hiding after the latest rejection of his asylum, but was able to contact him.

<sup>19</sup> [CCPR/C/123/D/2423/2014](#).

return to the Islamic Republic of Iran would result in a risk of treatment contrary to article 7 of the Covenant owing to his conversion to Christianity. The Committee therefore declares the communication admissible insofar as it raises issues under article 7 and proceeds to its consideration of the merits.

*Consideration of the merits*

7.1 The Committee has considered the communication in the light of all the information submitted to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

7.2 The Committee notes the author's claim that returning him to the Islamic Republic of Iran would expose him to a risk of irreparable harm, in violation of article 7 of the Covenant, because he would face persecution by the Iranian authorities for having abandoned the Basij – an Iranian militia – and having fled the Islamic Republic of Iran illegally. The Committee also takes note of the author's statement regarding his conversion from Islam to Christianity, including his interest in Christianity allegedly manifested with his very distinct tattoo on his arm, and the alleged risk of persecution that he may face from the authorities if they discover his tattoo, should he be returned to the Islamic Republic of Iran.

7.3 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<sup>20</sup> and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.<sup>21</sup> Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.<sup>22</sup> 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,<sup>23</sup> unless it can be established that the assessment was clearly arbitrary or amounted to a manifest error or denial of justice.<sup>24</sup>

7.4 The Committee notes the finding of the Danish Refugee Appeals Board that the author failed to substantiate his claim that he would be at risk of persecution or abuse by the Iranian authorities as a result of his former membership with the Basij militia, his conversion from the Muslim faith to Christianity, his tattoos and his lack of a valid Iranian passport. The Committee also notes that the Refugee Appeals Board members found that the author had failed to substantiate his claim that his conversion was genuine, despite the existence of a certificate of baptism, a pastor's declaration and letters of support from the Bethania Church. In that connection, the Committee observes the inconsistencies found by the Board in the author's statements and the fact that the author converted only after refusal of his asylum application and of his request for reopening his case, as well as following his strong resistance and opposition to his removal from Denmark. The Committee further notes that when informed on two occasions about new grounds for asylum – based on the author having converted, getting more tattoos in Denmark, having his name and photo published in several newspaper articles, having been featured in a radio broadcast, and having informed the Iranian Embassy that he had converted – the Refugee Appeals Board decided to reopen his case on both occasions and conduct new oral hearings, which allowed the author to have these new grounds assessed by the Board, and that the issues were analysed in detail in the decisions adopted.

7.5 In that 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

<sup>20</sup> *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.

<sup>21</sup> *X v. Sweden* (CCPR/C/103/D/1833/2008), para. 5.18.

<sup>22</sup> *Ibid.* See also *X v. Denmark*, para. 9.2.

<sup>23</sup> *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.

<sup>24</sup> See, for example, *K. v. Denmark*, para. 7.4.

in-depth examination of the circumstances of the conversion.<sup>25</sup> However, the test for the Committee remains whether, regardless of the sincerity of the conversion, there are substantial grounds for believing that conversion may have serious adverse consequences in the country of origin such as to create a real risk of irreparable harm, as 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 behaviour and activities of the asylum seeker 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 such as to put him or her at risk of irreparable harm.<sup>26</sup>

7.6 In the present case, the Committee observes that it is not contested that the author was baptized, but the majority of the members of the Board focused their reasoning on the sincerity of the conversion, concluding that the author had failed to establish that his conversion was genuine on the basis of his general lack of credibility, inconsistencies in his statements, evasive responses and, in particular, the moment of his conversion, that is, only after refusal both of his asylum application and his request for re-examination, as well as following several unsuccessful attempts by the Danish authorities to remove him from the country.

7.7 The Committee further notes that, while the author contests the assessment and findings of the Danish authorities as to the risk of the harm he would have faced in the Islamic Republic of Iran because of his conversion, he has failed to provide any pertinent information to the Committee to justify his claim that his alleged conversion is indeed known to the Iranian authorities, that he will practise Christianity in the Islamic Republic of Iran or that he has been targeted by the Iranian authorities on the basis of his conversion.

7.8 With respect to the other allegations brought by the author, the Committee observes that the Danish authorities have also analysed the author's previous activities for the Basij and considered that he did not demonstrate a risk of persecution based on his former membership with the Basij or that he was a person of interest to the Iranian authorities before his departure. The Danish authorities have equally analysed the tattoos that the author had acquired in the Islamic Republic of Iran, as well as those which he got while in Denmark, but noted that the author did not have any problems while in the Islamic Republic of Iran because of his tattoos, which in any case were not directly visible. The Danish authorities also examined his appearances in different Danish media as well as the fact that he does not have a valid Iranian passport and that he has also informed the Iranian Embassy in Denmark about his conversion, but considered nevertheless that the author had failed to demonstrate that he had become a person of interest for the Iranian authorities following those actions and events.

7.9 The Committee considers that the information at its disposal demonstrates that the State party took into account all the elements available when evaluating the risks invoked by the author and that the author has not identified any irregularity in the decision-making process. The Committee further considers that, while the author disagrees with the factual conclusions of the State party authorities, he has not shown that their decisions were arbitrary or manifestly erroneous or that they 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 he would run a real and personal risk of being subjected to treatment contrary to article 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 article 7 of the Covenant would be violated if he were removed to the Islamic Republic of Iran.

<sup>25</sup> UNCHR, "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.

<sup>26</sup> *S.A.H. v. Denmark* (CCPR/C/121/D/2419/2014), para. 11.8; and *M.B.S. v. Denmark* (CCPR/C/125/D/2439/2014), para. 8.5.

8. The 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 would, if implemented, constitute a violation of his rights by the State party under article 7 of the Covenant.

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