United Nations CCPR/C/130/D/2752/2016

International Covenant on Civil and Political Rights

Distr.: General
16 June 2021

Original: English

Human Rights Committee

Decision adopted by the Committee under the optional protocol concerning communication No. 2752/2016*, **

Communication submitted by:	S.M. and S.V. (represented by counsel, Marie Louise Frederiksen)
Alleged victims:	The authors
State party:	Denmark
Date of communication:	11 March 2016 (initial submission)
Document references:	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 18 March 2016 (not issued in document form)
Date of adoption of decision:	6 November2020
Subject matter:	Deportation to Italy
Procedural issue:	Level of substantiation of claims
Substantive issue:	Risk of torture and other cruel, inhuman or degrading treatment or punishment
Article of the Covenant:	7
Article of the Optional Protocol:	2

1.1 The authors of the communication are a married couple: S.M., born on 30 May 1979, and S.V., born on 6 August 1983. They are nationals of the Islamic Republic of Iran. They sought asylum in Denmark but their application was rejected on grounds that they already had a valid residence permit in Italy, their first country of asylum. Their deportation to Italy was scheduled for 17 March 2016. The authors claim that, by forcibly deporting them to Italy, Denmark would violate their rights under article 7 of the Covenant. The Optional Protocol entered into force for Denmark on 23 March 1976. The authors are represented by counsel.

1.2 On 18 March 2016, 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 130th session (12 October–6 November 2020).

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

Facts as submitted by the authors

2.1 The authors met in Teheran in 2002. They converted to Christianity that same year. They studied at university and were politically active against the regime. Between 2002 and 2009, they were summoned to have approximately six conversations with the university's intelligence agency because of their political opinions and religion. In June 2009, they participated in a demonstration at Teheran University, after which they were arrested. S.M. was detained for four days and subjected to torture while S.V. was detained for one night and subjected to violence by police officers. In February 2011, S.M. was arrested again, for planning a demonstration, and detained for six days. During his detention, he was subjected to physical and mental abuse and threatened with sexual abuse.

2.2 On 7 June 2011, the authors left the Islamic Republic of Iran illegally because of the persecution they were facing for their political activity against the regime and their conversion to Christianity. They entered Italy on 16 June 2011. They were granted asylum on 16 August 2012 and issued a residence permit that was valid until 15 August 2017.

2.3 In Italy, the authors were initially offered accommodation in an asylum centre, where the conditions were extremely poor, for approximately one year. They started learning Italian and carried out a paid internship for six months. However, after 13 months they were asked to leave the asylum centre. With the little money they had earned during their internship and from selling their personal jewellery, they managed to rent an apartment for almost a year. They approached the authorities to get assistance, as well as the Office of the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organizations, but to no avail.

2.4 The authors left Italy, as they could not support themselves anymore, and arrived in Denmark, where they applied for asylum on 5 March 2014.

2.5 On 6 August 2014, the Danish Immigration Service dismissed the authors' asylum application because they had a valid residence permit in Italy and because Italy could therefore serve as the applicants' first country of asylum. On 21 November 2014, the Refugee Appeals Board of Denmark upheld that decision.

2.6 On 13 January 2015, the authors were deported to Italy. Upon arrival, the Italian authorities detained the authors for four hours and questioned them. According to the authors, the police informed them that their asylum case in Italy has been closed because 10 months and 8 days had lapsed since they had left the country. The authors spent the night at the airport and were returned to Denmark. In Denmark, they requested that their asylum case be reopened.

2.7 On 8 March 2016, the Refugee Appeals Board dismissed the authors' request because they had failed to present any new information that had not already been assessed by the Board and that would warrant a reopening of their case. In addition, the Board observed that the authors had failed to provide information on the reasons why they had been refused entry into Italy and to substantiate their claim.

Complaint

3.1 The authors submit that, by forcibly returning them to Italy, the Danish authorities would violate their rights under article 7 of the Covenant.

3.2 The authors' complaint is twofold. Firstly, they submit that the Refugee Appeals Board failed to undertake an individualized assessment of the risk they would face upon their return to Italy and to establish whether they would be treated in accordance with the recognized basic human rights standards. Secondly, they submit that the Board failed to assess whether the authors could actually enter Italy and remain there until a durable solution was found.

3.3 In this connection, the authors allege that the lack of personal integrity and security for refugees in Italy would inevitably leave them in a situation that violates their rights under article 7 of the Covenant. They state that, in assessing whether the conditions in Italy amount to inhuman and degrading treatment, the fact that the authors are socioeconomically more vulnerable in the country where they were granted asylum than they were in their home

country should be taken into account. They note that, even if they were to be granted refugee status in Italy, the latter could not provide them with a durable solution for their stay. Furthermore, they observe that they would not be eligible for social benefits upon their return to Italy and that they have exhausted all avenues for accommodation. They would therefore be expected to provide for themselves.

3.4 To support their arguments, the authors rely on several reports concerning the situation of persons with international protection in Italy. In this connection, they cite, for example, the October 2013 report of the Swiss Refugee Council, which revealed that reception conditions in Italy and basic human standards for refugees with valid or expired residence permits do not comply with international obligations of protection.[1] They further highlight, among other things, the limited integration prospects for beneficiaries of international protection in Italy and the limited capacities of the national authorities to secure adequate accommodation to all those in need. According to other reports, hundreds of migrants, including asylum seekers, live in abandoned buildings in Rome and have limited access to public services.[2] In addition, the authors refer to the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, which concluded that refugees and asylum seekers may be returned to the country where they have already found protection if they are permitted to remain there and to be treated in accordance with recognized basic human standards until a durable solution is found for them.[3]

3.5 The authors also refer to the Committee's Views in *Jasin et al. v. Denmark*,[4] which concerned the deportation of a national of Somalia to Italy in violation of article 7 of the Covenant. On that occasion, the Committee considered, in particular, that the State party had to undertake an individualized assessment of the risk that the author would face upon return to Italy. The Committee noted that the State party should not rely on general reports and on the assumption that, as the authors had benefited from subsidiary protection in the past, similar access to social benefits and entitlement to work would apply in the present.[5]

3.6 The authors of the communication at hand finally submit that the Refugee Appeals Board failed to assess whether the Italian authorities had recognized the authors' residence permit, which affected their right to enter and remain in Italy. They refer in particular to the Board's decision of 8 March 2016 in relation to their request to reopen their asylum case in Denmark. In that decision, the Board relied solely on information provided by the national police stating that their departure was still scheduled. Thus, it failed to assess the authors' individual situation as to whether they could actually enter Italy.

3.7 The authors have not submitted their communication to any other procedure of international investigation or settlement.

State party's observations on admissibility and the merits

4.1 On 16 September 2016, the State party submitted its observations on admissibility and the merits of the communication. The State party considers that the communication should be declared inadmissible, as the authors have failed to establish a prima facie case. The authors have failed to provide substantial grounds to demonstrate that they would be at risk of being subjected to inhuman or degrading treatment if returned to Italy.

4.2 The State party also submits that, if the Committee holds the authors' complaint to be admissible, it should consider it unsubstantiated, as the authors have failed to establish that their deportation to Italy would constitute a violation of article 7 of the Covenant. The State party reiterates the main facts of the case, highlighting in particular the following: the authors

[1] The author refers to Swiss Refugee Council, *Reception Conditions in Italy: Report on the Current Situation of Asylum Seekers and Beneficiaries of Protection, in Particular Dublin Returnees* (Bern, October 2013).

[2] UNHCR, "Recommendations on important aspects of refugee protection in Italy" (July 2013); and United States of America, Department of State, "Italy 2014 human rights report", *Country Reports on Human Rights Practices for 2014* (available from https://2009-2017.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm#wrapper).

[3] A/44/12/Add.1, para. 25 (f).

[4] CCPR/C/114/D/2360/2014.

[5] Ibid., para. 8.9.

entered Denmark on 5 March 2014 in possession of Italian refugee travel documents and applied for asylum on the same date. On 6 August 2014, the Danish Immigration service refused their asylum application, a decision that was upheld by the Refugee Appeals Board on 21 November 2014 on account of the fact that the authors could take up residence in Italy, which was the first safe country of asylum. The authors left Denmark for Italy voluntarily on 13 January 2015 and re-entered Denmark on the following day stating that the Italian authorities had refused them entry to the country. The State party further submits that the authors purportedly destroyed the passports issued to them as aliens[6] when they were refused entry to Italy. Subsequently, on 11 February 2015 the authors requested the reopening of their asylum case, a request that was rejected by the Board on 8 March 2016. On 11 March 2016, the authors once again requested the reopening of the asylum proceedings and on the same date submitted the communication to the Committee. The authors were deported to Italy on 17 March 2016, after the Board had rejected their two requests for their asylum case to be reopened. The State party highlights the conclusions of the Board's decisions of 8 and 16 March 2016 by which it rejected the request to reopen the authors' asylum case, in particular that the authors had failed to produce any evidence or details of the alleged refusal of the Italian authorities to let them enter Italy.

4.3 The State party reiterates the main findings of its domestic authorities, particularly the Refugee Appeals Board's decisions of 21 November 2014 and of 8 and 16 March 2016. It also elaborates on the application of the relevant domestic law[7] and the procedure before the Board, in particular on the Convention status, the protection status, the principle of non-refoulement and the principle of the country of first asylum.

4.4 The State party claims that the authors also failed to provide any essential new information or views beyond the information already relied upon in the context of their asylum proceedings, as reflected in the decisions of the Refugee Appeals Board of 21 November 2014 and of 8 and 16 March 2016. The State party submits that, throughout the asylum procedure, the authorities of the State party have considered the following: (a) that the authors' case falls within section 7 (1) of the Aliens (Consolidation) Act because of a well-founded fear of being subjected to specific, individual persecution of a certain severity if returned to their country of origin; and (b) that the authors have been granted refugee status in Italy. The Board refused to grant asylum to the authors under section 7 (3) of the Aliens (Consolidation) Act insofar as Italy could serve as the authors' first country of asylum. In that connection, it emphasizes that a State may refuse to grant a residence permit to an asylum seeker if he or she has obtained or is able to obtain protection in the first country of asylum. The State party further submits that the Board applies the principle of protection against refoulement and assesses whether an asylum seeker can enter and reside lawfully in the country of first asylum and whether his or her integrity and safety would be protected in that country when considering whether a country can serve as the first country of asylum. The concept of protection also includes certain social and financial elements, since asylum seekers must be treated in accordance with basic human rights standards. However, it cannot be required that asylum seekers have exactly the same social and living standards as the receiving country's own nationals. The concept of protection implies that asylum seekers must enjoy personal safety when they enter and stay in the country serving as the country of first asylum. The State party further observes that Italy is bound by the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and other international human rights norms and standards, including those set out in the International Covenant on Civil and Political Rights.

4.5 The State party asserts that its domestic authorities made a thorough assessment of the authors' statements, the general background information available on conditions in Italy and the applicable international case law. Regarding the authors' arguments concerning their living standards falling below a minimum threshold in case of their return to Italy, their ineligibility for social benefits and their exhaustion of all possibilities for accommodation, the State party submits that the authors did not specifically substantiate their statements nor did they provide information that would render the circumstances described probable. They

[6] The Refugee Appeals Board, in its decision of 8 March 2016, refers to "Italian residence permits".

[7] Aliens (Consolidation) Act.

were further inconsistent with the Board's assessment of the background information available on the living conditions of recognized refugees in Italy and with the authors' own experiences.

4.6 The State party refers to the decision of the European Court of Human Rights on the inadmissibility of the claim considered in *Samsam Mohammed Hussein and others v. the Netherlands and Italy*,[8] which dealt with the case of a single Somali mother and her two young children who had been issued a residence permit for the purpose of subsidiary protection in Italy, where they could be returned. The State party refers to the Court's finding that the mere return to a country where one's economic position would be worse than in the expelling State party was not sufficient to meet the threshold of ill-treatment proscribed by article 3 of the European Convention on Human Rights.[9] Moreover, the State party highlights the Court's reasoning that, in the absence of exceptionally compelling humanitarian grounds against removal, the fact that the applicant's material and social living conditions would be significantly reduced if he or she were to be removed from the contracting State was not sufficient in itself to give rise to a breach of article 3.[10]

4.7 With reference to the actual conditions in Italy, the State party refers to the Court's considerations in the above-mentioned case that, while the general situation and living conditions in Italy of asylum seekers, accepted refugees and aliens who have been granted a residence permit for international protection or humanitarian purposes may disclose some shortcomings, it has not been shown to disclose a systemic failure to provide support or facilities catering for asylum seekers as members of a particularly vulnerable group of people, as was the case in *M.S.S. v. Belgium and Greece*.[11]

4.8 The State party in particular notes that a person recognized in Italy as a refugee under the Convention relating to the Status of Refugees would be provided with a five-year renewable residence permit allowing its holder to work, obtain a travel document, apply for family reunification and benefit from the general schemes for social assistance, health care, social housing and education. Similarly, an alien recognized as a refugee would be able to apply for the renewal of his or her residence permit upon re-entry even if the validity of the residence permits had lapsed. In this connection, the State party recalls the decision of the Board of 21 November 2014, which established that the authors had been granted refugee status in Italy and had a residence permit expiring on 15 August 2017. In addition, the State party submits that its national authorities consulted the Italian authorities in the summer of 2015 and subsequently in 2016 and that the latter authorities had confirmed that an alien whose residence permit had expired could lawfully enter Italy for the purpose of having his or her residence permit renewed. The alien would only be asked to present himself or herself at the issuing police immigration department and submit a request for renewal. Therefore, the State party concludes that the authors were able to enter Italy and submit a request for renewal of their residence permits at the time of their deportation to Italy on 17 March 2016.

4.9 The State party notes the rise in the number of people entering Italy illegally since the adoption of the above-mentioned decision by the Court, which has also affected the reception conditions. However, it concludes that, in general, Italy can still serve as the first country of asylum for persons who have been granted international or subsidiary protection.

4.10 The State party refers to the judgment delivered by the Grand Chamber of the European Court of Human Rights in *Tarakel v. Switzerland*,[12] which concerned the transfer of an Afghan couple with six children who had applied for asylum in Italy and whose asylum procedure was still pending at the material time. On that occasion, the Court considered that, in the absence of detailed and reliable information concerning the physical reception conditions for asylum seekers in Italy, the Swiss authorities had provided insufficient assurances that the applicants would be taken charge of in a manner adapted to the age of the children. The Court found that a transfer by the Swiss authorities of the family to Italy without having first obtained individual guarantees from their Italian counterparts that they would

[8] Application No. 27725/10, decision, 2 April 2013.
[9] Ibid., para. 70.
[10] Ibid., para. 71.
[11] Ibid., para. 78.
[12] Application No. 29217/12, judgment, 4 November 2014.

take adequate charge of the family members and keep them together would constitute a violation of article 3 of the European Convention on Human Rights. The State party submits that the *Tarakel* judgment, which concerned a family of asylum seekers in Italy, does not deviate from the findings in previous case law, including the *Samsam Mohamed Hussein* decision, on individuals and families with an actual residence permit in Italy. Furthermore, it cannot be inferred from the *Tarakel* judgment that States are required to obtain individual guarantees from the Italian authorities before deporting individuals or families in need of protection who have already been granted residence in Italy.

4.11 The State party relies on two other decisions of the *European Court of Human Rights – A.T.H. v. the Netherlands* and *S.M.H. v. the Netherlands*[13] – to support its argument that reception conditions in Italy are acceptable for the purpose of the authors' deportation. In both of the cases cited, the Court found that the risk of hardship to the applicants if returned to Italy was not sufficiently real and imminent nor of such a severe nature to fall within the scope of article 3 of the European Convention on Human Rights. In addition, the background information invoked by the authors in their communication[14] did not contain any new information on the general conditions in Italy for persons already granted protection that had not been available to the Court when it ruled in *Samsam Mohammed Hussein* that the return to Italy of the applicants in that case would not amount to treatment proscribed by article 3 of the European Convention on Human Rights.

4.12 With regard to the authors' previous stay in Italy, the State party referred to the conclusions reached by the Refugee Appeals Board. In particular, it notes that the authors had benefited from being able to stay at a reception centre, that they had never lived on the street, that they were in good health, that they were well educated and that they were able to read and write Italian. They were both considered resourceful persons who could create an acceptable standard of living in Italy. Their assertion that they were unable to find jobs during their stay in Italy could not lead to a different assessment. Furthermore, the authors had valid residence permits and failed to provide any evidence or further information to support their assertion that they had been refused readmission into Italy. The State party further mentions the Refugee Appeals Board's decision of 8 March 2016 referring to the common practice by which the national police informs the Board if deportation to a country of first asylum is deemed futile. In the authors' case, the national police informed the Board about the authors' planned deportation on 18 February 2015, which was suspended due to the authors' request for their asylum case to be reopened. On 22 June 2015, the national police informed the Board that the authors had been invited for a meeting with the police on 1 July with the aim of determining their possible deportation to Italy. Subsequently, on 12 February 2016, the national police notified the Board about the planned deportation of the authors to Italy. The authors were deported on 17 March 2016.

4.13 The State party further differentiates the present case from those considered by the Committee in *Jasin et al. v. Denmark* and *Abubakar Ali et al. v. Denmark*.[15] Unlike in the first cited case, which concerned a mother with three minors with expired permits to reside in Italy, the authors in the present communication are two resourceful adults with international protection and permits to reside in Italy. In addition, in both cited cases, the Committee reproached the State party for its failure to analyse sufficiently the authors' personal experiences in Italy, among other things, which was not the case for the authors of the communication at hand.

4.14 In addition, the State party compares the present case to the one considered in *A.A.I. and A.H.A. v. Denmark*.[16] It notes in particular that, in the latter case, the subsidiary protection and residence permits granted to a married couple with two minors in Italy enabled them to return to Italy, as their first country of asylum, even if their residence permits had expired during their stay in Denmark. In that case, the authors drew on their previous experience, in

[13] Applications No. 54000/11, decision, 17 November 2015; and No. 5868/13, decision, 17 May 2016.

[14] See, in particular, the Swiss Refugee Council report of October 2013, the 2013 UNHCR publication entitled "Recommendations on important aspects of refugee protection in Italy" and the 2014 report of the United States Department of State.

[15] CCPR/C/116/D/2409/2014.

[16] CCPR/C/116/D/2402/2014.

particular on the Italian authorities' failure to assist them in finding temporary shelter, work or more stable housing, which subsequently resulted in them being homeless. The State party highlights the Committee's conclusion that those authors' previous experience in Italy did not substantiate their claim of being at risk of cruel, inhuman or degrading treatment if returned to Italy.

4.15 In conclusion, the State party submits that the authors' deportation to Italy would not entail a violation of article 7 of the Covenant. The communication has not brought to light any new, specific information about the authors' situation. The authors merely disagreed with the assessment of their specific circumstances made by the Refugee Appeals Board and with the Board's conclusions. In their communication of 11 March 2016, the authors did not provide any new or specific details about their situation. They did not identify any irregularities in the domestic authorities' decision-making process or a failure of the Board to consider any risk factor. In this connection, the State party relies on the Committee's established jurisprudence[17] and submits that considerable weight should be given to the assessment conducted by the State party unless it is found that the evaluation was clearly arbitrary or amounted to a denial of justice.

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

5.1 In their comments of 19 January 2017, the authors maintain that their return to Italy constituted a breach of article 7 of the Covenant and that the State party has failed to provide sufficient grounds to demonstrate that the communication is manifestly ill-founded.

5.2 They submit that, following their deportation to Italy on 17 March 2016, the Italian authorities failed to provide them with any assistance. They claim that they were ineligible for social benefits. Instead, they had to rely on the support of their fellow believers in Rome. They submitted a letter from the coordinator of Jehovah's Witnesses to support their statements. The authors submit that their case is not a question of their material and social conditions being reduced, but simply a question of access to a minimum standard of living conditions, which distinguishes their situation from that of the authors of the communication considered in *Samsam Mohammed Hussein and Others v. the Netherlands*, cited by the State party. They submit that they tried to find a job but that, due to the lack of prospects, they were not able to create an acceptable standard of living for themselves in Italy and so left again.

5.3 In addition, the authors refer to the Committee's Views in *Jasin et al. v. Denmark* and emphasize that, although the assessment of the risk faced by them must be individual, the State party relied instead on general reports and on an assumption of the authors' resources.

Additional submission from the State party

6.1 On 12 June 2017, the State party provided further observations to the Committee, generally reiterating the facts of the case.

6.2 The State party observes that the authors were not compelled to live on the street during their second stay in Italy, which lasted about six months, that is from mid-March 2016 until they left again to look for job opportunities in Europe, including Denmark and Sweden.

6.3 The State party further contests the authors' assertion that they are ineligible for social benefits. In this connection, they cite several sources[18] that suggest that persons with protection status in Italy enjoy the same rights as native Italians, including the entitlement to work and to benefit from general schemes for social assistance, health care and social housing, among other things.

6.4 Finally, the State party observes that the authors, aside from their statements, have failed to provide any proof that they approached the Italian authorities upon their return in

[17] *P.T. v. Denmark* (CCPR/C/113/D/2272/2013), para. 7.3; *K v. Denmark* (CCPR/C/114/D/2393/2014), paras. 7.4–7.5; *N v. Denmark* (CCPR/C/114/D/2426/2014), para. 6.6; *Mr. X and Ms. X v. Denmark* (CCPR/C/112/D/2186/2012), para. 7.5; and *Z v. Denmark* (CCPR/C/114/D/2329/2014), para. 7.4.

[18] See *Samsam Mohammed Hussein and others v. the Netherlands*, para. 37; and Swiss Refugee Council, *Reception Conditions in Italy*.

2016 or that the latter refused to assist them. They were also offered Italian language classes during their first stay in Italy, they had a paid internship and a place to live. The State party reiterates that the authors are well-educated, hence resourceful persons with a potential to create an acceptable standard of living for themselves in Italy. Just because the authors were unable to find a job in Italy during a relatively short stay could not lead to a different assessment. The State party maintains that Italy can serve as the authors' first country of asylum and that their deportation was not contrary to article 7 of the Convention.

Issues and proceedings before the Committee

Consideration of admissibility

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

7.2 In accordance with article 5 (2) (a) of the Optional Protocol, the Committee shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

7.3 The Committee notes that the authors claim that they have exhausted all effective domestic remedies available to them and that the State party has not disputed this claim. Accordingly, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from considering the communication.

7.4 The Committee notes the State party's brief argument that the authors' claims with respect to article 7 of the Covenant should be held inadmissible, as the authors have failed to establish a prima facie case and to provide substantial grounds to demonstrate that they would be at risk of being subjected to inhuman or degrading treatment if returned to Italy. The Committee notes the authors' contentions that the State party has failed to substantiate sufficiently why the authors' communication would be considered manifestly ill-founded. The Committee further notes the authors' contention that the Refugee Appeals Board failed to undertake an individualized assessment of the risk they would face upon their return to Italy. The Committee also notes the authors' consideration that the State party's argument about them being well-educated, and thus resourceful, persons who are able to pursue employment, is purely theoretical. The authors in fact contest it by noting that they could not create for themselves an acceptable standard of living in Italy despite several attempts, which should provide reason to believe that it was not in fact possible. In addition, the Committee observes the authors' contention that the Refugee Appeals Board failed to assess whether the authors could actually enter Italy and remain there until a durable solution was found.

7.5 The Committee recalls paragraph 12 of its general comment No. 31 (2004), in which it referred to the obligation of States parties to the Covenant 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. The Committee also recalls its jurisprudence,[19] in which it calls upon States parties to assess the individual circumstances of the persons in question, as well as the general situation in the receiving country, when examining whether they would be exposed to conditions constituting cruel, inhuman or degrading treatment in violation of article 7 of the Covenant if deported. Those circumstances include factors that increase the vulnerability of the authors and that could transform a situation that is tolerable for most into a situation that is intolerable for others. States parties should also take into account the previous experiences of the individuals in the first country of asylum, which may underscore the special risks that they are likely to face if returned and may thus render their return to the first country of asylum a particularly traumatic experience for them.[20] Nonetheless, the Committee recalls that, generally speaking, it is for the organs of States parties to examine

[19] *Jasin et al. v. Denmark*, para. 8.3. See also, for example, *Pillai et al. v. Canada* (CCPR/C/101/D/1763/2008), para. 11.4; and *Abubakar Ali et al. v. Denmark*, para. 7.8.

[20] See, for example, *Y.A.A. and F.H.M. v. Denmark* (CCPR/C/119/D/2681/2015), para. 7.7.

the facts and evidence of the case in order to determine whether such a risk exists,[21] unless it can be established that the assessment was clearly arbitrary or amounted to a manifest error or denial of justice.[22]

7.6 In the present case, the Committee notes that the national authorities considered the authors' personal circumstances in as far as these have been substantiated and these were not disputed by the authors, as follows: the authors were granted asylum in Italy on 16 August 2012; they received residence permits valid until 15 August 2017; they were provided with an initial accommodation for around 13 months, access to Italian language classes, and a six-month paid internship. In addition, the authors were able to rent a flat of their choice in Rome for almost a year. The Committee further observes that the Refugee Appeals Board considered that the authors were in good health, well-educated and thus resourceful persons, able to look for job opportunities in Italy upon their return. The Committee also notes that the authors were not homeless before their departure from Italy and did not live in destitution unlike the cases they relied on to illustrate their claim. In addition, it appears that the authors have not provided any proper information that would explain why they were not and would not be able to find a job in Italy or seek the protection of the Italian authorities in case of unemployment during their first or second stay in Italy. In this connection, the Committee observes that save for a letter of their fellow believer to support their claim about their difficulties in Italy, they merely repeated statements that they had been looking for a job and means to support themselves to no avail, and their request for support to the Italian authorities was unsuccessful. The Committee further notes the information submitted by the State party according to which refugees are entitled to benefit from the general schemes of social assistance, health care, social housing and education under Italian domestic law. The authors disagree with the factual conclusions of the State party's authorities, but the information before the Committee does not show that those findings are manifestly arbitrary.[23] Accordingly, the Committee considers that the mere fact that the authors assert that they would be confronted with serious difficulties upon return does not of itself mean that they would be in a special situation of vulnerability and in a situation significantly different to that of many other refugee families, or in a situation sufficiently difficult as to bring article 7 of the Covenant into play.

7.7 In addition, the Committee notes that the authors claim that the Danish authorities did not assess the actual possibility that they could enter and remain in Italy and draw attention, in particular, to the decision of the Refugee Appeals Board to not reopen their asylum claim. In this connection, the Committee also notes the authors' statement that, upon their entry into Italy on 13 January 2015, the police informed them that their asylum case in Italy had ceased because of the amount of time that had lapsed since they had left the country. The Committee further notes that the Board stated in its decision of 8 March 2016, as translated and provided by the State party, that the authors had purportedly destroyed their Italian residence permits when refused entry into Italy (para. 4.2). The Committee observes that the authors have not provided any additional explanation relating to this issue. In any case, the Committee notes the information provided to the State party by the Italian authorities in 2015 and 2016 according to which an alien who has been granted the right to reside in Italy as a recognized refugee or who has been granted protection status may submit a request to renew his or her expired residence permit upon re-entry into Italy. In addition, the Committee refers again to the above-mentioned decision of the Board of 8 March 2016, which referred to the communication it had with the national police on 17 February 2015 about the authors' suspended deportation and the follow-up communication on 22 June 2015 (para. 4.12). According to this information, the national police scheduled a meeting with the authors on 1 July with a view to determining the possibility of their deportation after they had returned to Denmark on 14 January 2015. No additional information has been received by the Committee from either the State party or the authors as to whether this meeting took place and its outcome. The Committee notes, however, the State party's submission about the follow-up

[21] *Pillai et al. v. Canada*, paras. 11.2 and 11.4; and *Z.H. v. Australia* (CCPR/C/107/D/1957/2010), para. 9.3.

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

[23] See, for example, *X v. Denmark* (CCPR/C/113/D/2523/2015), para. 4.4; and *A.H.S. v. Denmark* (CCPR/C/119/D/2473/2014), para. 7.6.

information received by the Refugee Appeals Board from the national police on 12 February 2016 according to which the police still planned to deport the authors to Italy. The Committee also notes that the authors could return to Italy and stay there legally until they left again (paras. 5.2 and 6.2). The Committee further notes that the authors have not pointed to any procedural irregularities in the decision-making procedure of the Danish Immigration Service or the Refugee Appeals Board. Nor have they sufficiently substantiated their claim that the decision to return them to Italy, their first country of asylum, is manifestly unreasonable or arbitrary in nature.[24] In view of the above and in the absence of any other pertinent information on file, the Committee considers that the authors' claims under article 7 of the Covenant cannot be seen as having been sufficiently substantiated for the purposes of admissibility.

8. The Committee therefore decides:

(a) That the communication is inadmissible under article 2 of the Optional Protocol;

(b) That the decision be shall be communicated to the State party and to the authors.

[24] See, for example, *A.A.I. and A.H.A. v. Denmark,* para. 6.6.