



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Views adopted by the Committee under article 5 of the Optional Protocol, concerning communication No. 64/2019*, **

<i>Communication submitted by:</i>	N.I. (represented by counsel, the Swedish Refugee Law Centre)
<i>Alleged victim:</i>	The author
<i>State Party:</i>	Sweden
<i>Date of communication:</i>	4 August 2019 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rules 64 and 70 of the Committee's rules of procedure, transmitted to the State Party on 9 August 2019 (not issued in document form)
<i>Date of adoption of Views:</i>	19 March 2025
<i>Subject matter:</i>	Deportation of a person with disabilities to Lebanon
<i>Procedural issues:</i>	Substantiation of claims; inadmissibility <i>ratione materiae</i>
<i>Substantive issues:</i>	Non-refoulement; right to life; freedom from torture and cruel, inhuman or degrading treatment or punishment
<i>Articles of the Convention:</i>	10 and 15
<i>Articles of the Optional Protocol:</i>	1 and 2 (e)

1.1 The author of the communication is N.I., a national of Lebanon born on 26 May 1983. The author claims that by deporting him to Lebanon, the State Party would breach his rights under articles 10 and 15 of the Convention. The Optional Protocol entered into force for the State Party on 14 January 2009. The author is represented by counsel.

1.2 On 4 August 2019, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested under article 4 of the Optional Protocol that

* Adopted by the Committee at its thirty-second session (3–21 March 2025).

** The following members of the Committee participated in the consideration of the communication: Muhannad Salah Al-Azzeh, Magino Corporán Lorenzo, Gerel Dondovdorj, Gertrude Oforiwa Fefoame, Mara Cristina Gabrilli, Amalia Eva Gamio Ríos, Natalia Guala Beathyate, Laverne Jacobs, Rosemary Kayess, Kim Mi Yeon, Alfred Kouadio Kouassi, Abdelmajid Makni, Floyd Morris, Christopher Nwanoro, Markus Schefer and Hiroshi Tamon. Pursuant to rule 60 of the Committee's rules of procedure, Inmaculada Placencia Porrero did not participate in the consideration of the communication.



the State Party refrain from removing the author to Lebanon while his communication was under consideration by the Committee. On 9 August 2019, the Swedish Migration Agency decided to stay the enforcement of its decision to expel the author and his family until further notice.

1.3 On 31 August 2020, the Committee, acting through its Special Rapporteur on new communications and interim measures, informed the parties of its decision to suspend its consideration of the communication. On 17 November 2021, the Committee, acting through its Special Rapporteur on new communications and interim measures, informed the parties of its decision to resume its consideration of the communication.

A. Summary of the information and arguments submitted by the parties

Facts as submitted by the author

2.1 In Lebanon, the author took part in an armed conflict against Da'esh, which adversely affected his mental health. On an unspecified date, the author arrived in Sweden, where his brother helped him to receive psychiatric care. On 17 September 2015, the author applied for asylum in Sweden. On 21 October 2015, the Migration Agency rejected his application, finding that he did not require international protection as his post-traumatic stress syndrome was not life-threatening. On 29 February 2016, the Migration Court in Stockholm rejected the author's appeal, finding that his medical certificates did not show that he had a life-threatening physical or mental health condition or a "particularly severe" disability. The Migration Court found that the author's membership of the Alawite community, which he argued was discriminated against in Lebanon, did not suffice to consider him as requiring international protection. On 8 July 2016, the Migration Court of Appeal decided not to grant him leave to appeal.

2.2 Subsequently, the author's health continued to decline. On 20 October 2017, when he was about to board a domestic flight for a family trip, he panicked out of fear of being deported to Lebanon and lost consciousness. Following assessment at a healthcare facility, he was determined to be unfit for travel. According to a medical certificate dated 27 October 2017, in addition to his post-traumatic stress disorder having deteriorated, the author had developed paranoid schizophrenia. He had started to hear voices telling him to commit suicide, and he believed himself to be in Lebanon, in life-threatening danger of being found by Da'esh fighters. The certificate indicated a severely elevated risk of impulsive suicide that was acute in situations of stress, in which he lacked control over his own body. His condition was life-threatening, and his removal to Lebanon would trigger his symptoms, including psychosis, and would risk provoking a severe fear of dying followed by an acute risk of unpredictable reactions, including suicide or extended suicide.

2.3 On an unspecified date, the author applied for re-examination of his case, referring to the above-mentioned medical certificate. On 22 June 2017, the Migration Agency rejected his application and found that there were no impediments to the enforcement of the expulsion order. The Agency noted that according to a report on Lebanon published by the Ministry of Foreign Affairs of the State Party, it was possible to obtain high-quality, albeit often expensive, healthcare. According to the author, the report did not consider healthcare for persons with mental health conditions. On 17 July 2017, the Migration Court rejected his appeal, reasoning that his health conditions were not sufficiently serious in nature as to raise issues under article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). On 22 August 2017, the Migration Court of Appeal denied his request for leave to appeal.

2.4 On 10 January 2018, the Migration Agency rejected the author's second application for re-examination of his case. In his application, the author referred to an academic article according to which there was no mental health authority in Lebanon, involuntary admissions to psychiatric institutions were not subject to review and persons assessed to be "mentally ill" did not receive personalized and holistic treatment or protection from harm and unnecessary treatment. According to the author, mental health legislation in Lebanon therefore raised serious concerns with regard to human rights. In its decision, the Agency recognized that the deterioration in his health constituted a new circumstance within the meaning of the Aliens

Act, but did not accept the medical certificate dated 27 October 2017 as evidence that it was impossible to deport him to Lebanon. The Migration Court rejected the author's appeal on 13 February 2018.

2.5 The author's health continued to deteriorate. A medical certificate dated 7 November 2018 stated that his psychotic symptoms had worsened to the extent that he was at times a danger to his wife and children, from whom he sometimes had to live separately, and that he required stronger medication, including stronger antidepressant medication and admission to a psychiatric clinic. A certificate dated 14 February 2019 stated that his post-traumatic stress disorder and paranoid schizophrenia had been caused by his experiences as a fighter in Lebanon, and that he was in a psychotic state of mind, continually hallucinating that he was in Lebanon and that Da'esh fighters were coming to murder him. The voices now told him to kill not only himself but also his children, which would be preferable to letting them be captured and tortured by Da'esh. The certificate stated that any attempt to deport the author could provoke uncontrollable behaviour, including sudden and unexpected suicidal acts of violence and that, given his physical strength, any unpredictable event could quickly escalate.

2.6 On an unspecified date, the author submitted a third request for re-examination, in which he referred to the two above-mentioned certificates. The author argued that any attempt to enforce his expulsion, which would require the use of force, would cause him such severe distress that it would constitute inhuman or degrading treatment under article 3 of the European Convention on Human Rights.¹ The author also argued that his elevated fear of death and risk of suicide would continue upon his arrival and stay in Lebanon, and that medical experts agreed that, if removed, he would most likely never recover from his mental health conditions. His removal would therefore amount to inhuman or degrading treatment. Moreover, he argued that the previous decisions lacked country-of-origin information on access to healthcare in Lebanon. He invoked severe deficiencies in the psychiatric healthcare system in Lebanon, which were in breach of human rights standards. He requested that the Migration Agency collect up-to-date information to rebut his claims.

2.7 On 28 February 2019, the Migration Agency rejected the author's application for re-examination, referring to the above-mentioned report by the Ministry of Foreign Affairs on the availability of healthcare in Lebanon. The Agency did not respond to his request that it gather more information. On 18 March 2019, the Migration Court rejected his appeal. On 17 May 2019, the Migration Court of Appeal denied his request for leave to appeal.

Complaint

3.1 The author submits that his deportation to Lebanon would breach his rights under articles 10 and 15 of the Convention. He notes that in *Paposhvili v. Belgium*, the European Court of Human Rights stated that the scope of the prohibition of inhuman or degrading treatment included the following:

[S]ituations involving the removal of a seriously ill person in which substantial grounds have been shown for believing that he or she, although not at imminent risk of dying, would face a real risk, on account of the absence of appropriate treatment in the receiving country or the lack of access to such treatment, of being exposed to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering or to a significant reduction in life expectancy.²

He also notes that the Court of Justice of the European Union, whose decisions are binding on the State Party, has held the following:

It follows that [a]rticle 4 and [a]rticle 19 (2) of the Charter [of Fundamental Rights of the European Union], as interpreted in the light of [a]rticle 3 of the [European Convention on Human Rights], preclude a [m]ember State from expelling a third-country national where such expulsion would, in essence, result in significant and

¹ The author refers to European Court of Human Rights, *Bouyid v. Belgium*, Application No. 23380/09, Judgment, 28 September 2015.

² European Court of Human Rights, *Paposhvili v. Belgium*, Application No. 41738/10, Judgment, 13 December 2016, para. 183.

permanent deterioration of that person's mental health disorders, particularly where ... such deterioration would endanger his life.³

The author argues that his medical certificates clearly establish that his mental health conditions are life-threatening. Without medication and a safe environment, with support from his family members, he would be at imminent risk of death by suicide. He has no one who can care for him except for his wife and brother in Sweden.

3.2 The author argues that his medical certificates show that adequate and appropriate mental healthcare is unavailable in Lebanon and that he would probably never recover or stabilize his situation there, the environment and surroundings being intrinsically connected to the cause of his mental health conditions. Even if there is a theoretical possibility to treat him in Lebanon, it is the responsibility of the State Party to dispel remaining doubts concerning the state of the country's mental healthcare system and its respect for human rights standards. According to the author, his medical certificates demonstrate that any attempt to deport him would risk provoking in him a state of agony or severe fear of dying, followed by an acute risk of suicide or extended suicide. Upon removal to Lebanon, he would face a real risk of being exposed to a serious, rapid and irreversible decline in his state of health, resulting in intense suffering, or to a significant reduction in life expectancy, on account of the absence of or lack of access to appropriate treatment, in breach of articles 10 and 15 of the Convention.

3.3 The author argues that the domestic authorities have not carefully assessed his disabilities and did not conduct an adequate individual assessment as to whether he would receive the necessary treatment upon arrival in Lebanon to prevent him from committing suicide or extended suicide, including by refusing his request to gather more information about the psychiatric healthcare system in Lebanon.

State Party's observations on admissibility and the merits

4.1 In its observations dated 5 February 2020, the State Party provides a summary of relevant domestic legislation and of the immigration procedures undertaken by the author in Sweden. The State Party observes that in his asylum application, the author argued that he risked being sentenced, on false grounds, to a disproportionately long prison sentence for terrorist crimes upon return to Lebanon. In addition, he argued that he risked being killed by Sunni extremists, against whom he had fought and since he was Alawite. The Migration Agency interviewed him twice and received a medical certificate indicating that he had symptoms of post-traumatic stress disorder and was receiving treatment for trauma. Following enquiries with the Embassy of Sweden in Amman, the Agency was informed that he had not been prosecuted and was not being sought by or known to the authorities of Lebanon. On 21 October 2015, the Agency rejected his asylum application. In its decision, the Agency noted that it did not follow from the medical documentation submitted that the author had a life-threatening physical or mental health condition or a "serious disability". The Agency therefore found that there were no exceptionally distressing circumstances to warrant the granting of a residence permit pursuant to chapter 5, section 6, of the Aliens Act. On appeal, the author claimed that he would not receive the necessary specialized trauma therapy in Lebanon. He submitted a medical certificate stating that he regularly met with a psychologist owing to his symptoms of a post-traumatic stress disorder. On 29 February 2016, the Migration Court rejected the author's appeal, concurring with the Agency's findings.

4.2 The State Party notes that in his first application for re-examination, the author claimed that he had a life-threatening condition for which treatment in Lebanon was unavailable. The Migration Agency found that the author's evidence that his physical health had deteriorated constituted a new circumstance within the meaning of chapter 12, section 19 of the Aliens Act. The Agency noted that according to country information, high-quality care was available in Lebanon, albeit often at a high cost. It considered that his wife's family members in Lebanon could be expected to support them upon their return, and that nothing suggested that he would be unable to fly there. In an overall assessment, the Agency found

³ Court of Justice of the European Union, *M.P. v. Secretary of State for the Home Department*, Case No. C-353/16, Judgment, 24 April 2018, para. 43.

that there were no impediments to the enforcement of the removal order. On 17 July 2017, the Migration Court rejected the author's appeal, finding that his medical condition was not so severe that his removal would constitute a breach of article 3 of the European Convention on Human Rights.

4.3 The State Party notes that in his second application for re-examination, the author argued that he would be unable to receive appropriate care for his deteriorating and life-threatening mental health condition in Lebanon. He also claimed that he would be unable to fly to Lebanon, and submitted a certificate stating that he had panicked and fainted while boarding a domestic flight, in addition to two further medical certificates. On 10 January 2018, the Migration Agency rejected the author's application. It accepted that the deterioration in his health constituted a new circumstance, but found no evidence that his health precluded him from travelling to Lebanon. The Agency reiterated the availability of high-quality healthcare in Lebanon and the existence of the author's and his wife's social network in Lebanon. On 13 February 2018, the Migration Court rejected the author's appeal, based on an extensive and detailed assessment of applicable legislation and case law concerning the author's medical condition. Referring to jurisprudence of the European Court of Human Rights,⁴ the Migration Court assessed whether the author would, if removed to Lebanon, face a real risk, on account of the absence of appropriate treatment or lack of access to such treatment, of being exposed to a serious, rapid and irreversible decline in his state of health resulting in intense suffering or to a significant reduction in life expectancy. The Migration Court found that the author's medical condition could not be regarded as a lasting impediment to the enforcement of the removal order. It stated that it assumed that the authorities responsible for his removal would consider whether his health had deteriorated further or whether individual and personal guarantees must be obtained from Lebanon that he would be able to receive care there.

4.4 The State Party notes that in his third request for re-examination, the author argued that he would not receive adequate mental healthcare in Lebanon, and submitted additional medical certificates. The Migration Agency rejected his request on 28 February 2019, finding that the deterioration in his health constituted a new circumstance, but not a practical impediment to the enforcement of the expulsion order. The Agency also found that it had not been demonstrated that he would be unable to receive care in Lebanon, and recalled that he had a social network there. The Migration Court upheld this decision on 18 March 2019. In an extensive assessment, the Migration Court found that he had insufficiently substantiated his claim that he would be unable to receive the appropriate healthcare in Lebanon, and concluded that his expulsion would not breach article 3 of the European Convention on Human Rights.

4.5 The State Party submits that the communication is inadmissible *ratione materiae*, as the author's allegations do not concern any treatment to which he would be subjected in Sweden owing to the conduct of the Swedish authorities. The State Party argues that its responsibility under the Convention for acts or omissions contrary to the Convention on another State's territory is to be considered an exception to the main rule that a State Party's responsibility for Convention obligations is limited to its territory, thus certain exceptional circumstances are required. The State Party notes that its right to expel aliens is inherent. The removing State is responsible under the applicable treaty only if the foreseeable consequence of the removal is that the alien is at risk of the most serious human rights violations.

4.6 The State Party questions whether articles 10 and 15 of the Convention, invoked by the author, encompass the principle of non-refoulement. It invites the Committee, in considering this question, to bear in mind that non-refoulement claims can already be lodged with several international human rights bodies. If the Committee takes the view that articles 10 and 15 of the Convention include an obligation with regard to non-refoulement, the State Party considers that this obligation should apply only to claims relating to an alleged risk of torture.

⁴ See European Court of Human Rights, *D. v. United Kingdom of Great Britain and Northern Ireland*, Application No. 30240/96, Judgment, 2 May 1997; and European Court of Human Rights, *Paposhvili v. Belgium*.

4.7 The State Party submits that the communication is inadmissible as it is insufficiently substantiated and without merit. The State Party understands that the author's complaint regarding his removal is on the grounds that: (a) he has post-traumatic stress disorder, depression, paranoid schizophrenia, spectrum disorder and other psychotic conditions, and would not receive adequate medical care in Lebanon; and (b) his expulsion would give rise to a chronic state of agony and fear in him, manifesting in an imminent risk of suicide. According to the State Party, the author has failed to substantiate his claim that, if returned to Lebanon, he would personally face a real risk of being subjected to treatment in violation of articles 10 and 15 of the Convention.

4.8 The State Party notes that Lebanon is a party to the International Covenant on Civil and Political Rights and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The State Party does not underestimate legitimate concerns regarding the human rights situation in Lebanon, but such concerns do not suffice to establish the author's need for international protection. The State Party's authorities evaluated the security situation in Lebanon in relation to the author's individual circumstances and found that he had not substantiated his claim that he needed international protection because he was Alawite.

4.9 The State Party argues that the Committee must focus on the foreseeable consequences of the author's removal in the light of his personal circumstances. The State Party observes that in May 2014, the National Mental Health Programme was launched in Lebanon to reform mental healthcare and to provide services beyond medical treatment at the community level. In May 2015, under the Programme, the Mental Health and Substance Use Prevention, Promotion and Treatment Strategy for Lebanon (2015–2020) was launched. According to the Head of the Programme, there are two large psychiatric hospitals that provide most mental health services in Lebanon, but university hospitals have recently started opening psychiatric wards for short admissions, so that patients can be reintegrated into their families and communities. The Programme is evidence-based and takes a human rights-based approach, addressing the needs of vulnerable groups. Laws and regulations on mental health services are being revised and developed. In addition, the Institute for Development, Research, Advocacy and Applied Care, a non-profit organization located in Beirut, delivers free community services, including trauma counselling. The State Party concludes that, notwithstanding concerns regarding accessibility, there is appropriate mental healthcare in Lebanon.

4.10 The State Party contends that the author's removal to Lebanon would not entail a breach of his rights under articles 10 or 15 of the Convention, in the absence of any reason to conclude that the decisions taken by its authorities were inadequate or arbitrary or amounted to a denial of justice. The Migration Agency and the Migration Court thoroughly examined the author's asylum application and, on three occasions, his claims regarding impediments to the enforcement of the expulsion order. The author had several opportunities to file submissions. The domestic authorities therefore had sufficient information to make a well-informed, transparent and reasonable risk assessment.

4.11 The State Party observes that according to the treaty bodies, a medical condition must be of an exceptional nature for it to trigger non-refoulement obligations,⁵ and aggravation of the condition of an individual's health by virtue of deportation is generally insufficient to amount to degrading treatment.⁶ The State Party observes that in *Paposhvili v. Belgium*, the European Court of Human Rights noted that only very exceptional circumstances may raise issues under article 3 of the European Convention on Human Rights in this regard. The State Party invites the Committee to adopt a similar approach to claims made under article 15 of the Convention, which cannot oblige States Parties to alleviate disparities between the level of treatment available in the sending State and that in the receiving State. The State Party argues that no separate issues arise under article 10 of the Convention.

⁵ Human Rights Committee, *Z. v. Australia* (CCPR/C/111/D/2049/2011), para. 9.5.

⁶ Committee against Torture, *G.R.B. v. Sweden* (CAT/C/20/D/83/1997), para. 6.7; *T.M. v. Sweden* (CAT/C/31/D/228/2003), para. 6.2; and *Y.G.H. et al. v. Australia* (CAT/C/51/D/434/2010), para. 7.4.

4.12 The State Party notes that in the present case, the domestic migration authorities examined the author's health status on several occasions and concluded that his expulsion would not breach article 3 of the European Convention on Human Rights, given the availability of appropriate healthcare in Lebanon. Nothing had emerged to indicate that such care would not be provided. The domestic authorities considered that the author had insufficiently substantiated his claim that he would not have access to healthcare in Lebanon owing to his ethnicity. The author's and his wife's social network in the country could be expected to support him upon return.

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

5.1 In his comments dated 20 April 2020, the author argues that the Committee may examine his arguments regarding the extraterritorial effects of his expulsion to Lebanon, and that articles 10 and 15 of the Convention cover the principle of non-refoulement.⁷

5.2 The author asserts that the State Party has not presented any arguments to demonstrate that the communication has failed to reach the minimum level of substantiation. The author does not seek to obtain a re-evaluation of the facts and evidence in his case, but rather to assert that his rights under the Convention would be violated upon expulsion to Lebanon.

5.3 The author argues that being Alawite, he could be subjected to societal discrimination in Lebanon, which should be considered when assessing whether he would have access to healthcare. According to the author, the State Party's observations regarding the National Mental Health Programme in Lebanon say little about the availability of adequate mental healthcare and whether such care respects the rights enshrined in the Convention. The background to the Mental Health and Substance Use Prevention, Promotion and Treatment Strategy and the associated comprehensive list of measures suggest that the mental healthcare system in Lebanon has major flaws. According to the Strategy, stigmatization affects all aspects of care, including service development, delivery and utilization, and results in discrimination. The Strategy also indicates that chronic underfunding and the tendency to direct funding towards curative hospital-based treatment has led to a scarcity of specialized human resources and services in the private sector, whereas the public sector is overstretched owing to the crisis in the Syrian Arab Republic. The fact that the integration of mental healthcare into primary care is one of the Strategy's objectives shows that it is not currently a reality. The statements by the Head of the National Mental Health Programme, referred to by the State Party, describe the objectives of the Strategy, rather than reality, and confirm the challenges with regard to stigmatization of mental health conditions and the Strategy's unsustainable funding sources. Furthermore, the Institute for Development, Research, Advocacy and Applied Care, according to its website, can provide free trauma counselling when stressful events occur, which would not be adequate for the author given his diagnoses and their direct link to his experiences in Lebanon. According to the author, the State Party's observations suggest that it underestimates the lack of available and adequate mental healthcare in Lebanon and his need for such care. The State Party has not presented updated country information.

5.4 The author asserts that the domestic proceedings were flawed, as country information was "close to non-existent". He notes that the State Party presents no information on measures taken to ensure that the asylum procedure was adapted to his health condition. According to the author, the European Court of Human Rights and the Committee against Torture have on many occasions exposed shortcomings in asylum procedures in the State Party that rendered them inadequate or arbitrary or that amounted to a denial of justice. Legislative changes made in 2016 and the recruitment of many new staff members by the Migration Agency are likely to exacerbate inadequacies and shortcomings.

5.5 The author argues that in assessing his claim under article 15 of the Convention, the Committee should apply the standard set by the European Court of Human Rights in *Paposhvili v. Belgium*, in the light of the purpose of the Convention. The author argues that the threshold for the applicability of article 3 of the European Convention on Human Rights should not be too high, as it would otherwise become illusory, and that it should be interpreted

⁷ The author refers, among other communications, to *O.O.J. v. Sweden* (CRPD/C/18/D/28/2015).

in such a way as to provide practical and effective protection of the rights contained therein.⁸ In *Paposhvili v. Belgium*, the European Court of Human Rights noted the obligation of returning States to “verify on a case-by-case basis whether the care that is generally available in the receiving State is sufficient and appropriate in practice for the treatment of the applicant’s illness so as to prevent him or her from being exposed to treatment contrary to [a]rticle 3” of the European Convention on Human Rights.⁹ The author asserts that at no point in his case did the domestic authorities conduct an adequate individual assessment to verify whether he would receive the necessary treatment to prevent him from committing suicide or extended suicide upon arrival in Lebanon. The State Party has not understood that his condition is life-threatening.

5.6 The author argues that the conclusion on his medical certificates that he would probably never be able to recover or stabilize his situation shows that medical care is not available in Lebanon. Even if there is a theoretical possibility of treatment, the author has serious doubts regarding the mental healthcare system in Lebanon. The author reiterates that besides his wife and brother in Sweden, he has no other family members who could care for him.

State Party’s additional observations

6. In its additional observations, dated 25 June 2020, the State Party notes that the decision to expel the author would become statute-barred on 8 July 2020. He could then apply anew for asylum and his removal would no longer be enforceable. A new application would involve a full examination of all arguments advanced by him. Any adverse decision would entail the right to file a suspensive appeal. In the absence of an enforceable removal decision, the State Party therefore invites the Committee to declare the communication inadmissible for failure to exhaust domestic remedies.

Author’s comments on the State Party’s additional observations

7.1 In his additional comments, dated 29 October 2021, the author notes that on 10 July 2020, he submitted a second application for asylum, including a new medical certificate indicating that his condition was life-threatening owing to a risk of suicide, and that his delusions and unexpected reactions to stress endangered himself and others. The author also invoked a 2020 report by Human Rights Watch according to which the health sector in Lebanon was struggling to provide urgent and necessary life-saving medical care owing to the Government’s failure to reimburse funds owed to private and public hospitals. According to the author, the report contradicts the State Party’s statements regarding the availability of high-quality healthcare in Lebanon.

7.2 On 30 September 2020, the Migration Agency rejected the author’s second application for asylum. The Agency acknowledged the content of the medical certificate but considered that no new circumstances had emerged since the previous proceedings that could give rise to a different assessment than those previously made. According to the author, the Agency disregarded the consequences of the deteriorating economic and humanitarian situation in Lebanon on its healthcare system. Before the Migration Court, the Agency submitted medical information on the country of origin regarding the availability of mental healthcare in Lebanon concerning another person. The Agency acknowledged that the document lacked information regarding the availability of treatment for psychotic conditions, but stated that treatment for depression should cover psychotic conditions too. The author contested this assumption, but in its decision of 16 April 2021, the Migration Court accepted it, concluding that he had not shown that he would face a risk of inhuman or degrading treatment upon return. On 26 July 2021, the Migration Court of Appeal decided not to grant leave to appeal.

7.3 The author argues that the migration authorities failed to assess adequately whether he would receive the required treatment upon arrival in Lebanon. He reiterates that his health conditions are linked to his experiences in Lebanon and that he would lack support from his

⁸ European Court of Human Rights, *Paposhvili v. Belgium*, para. 182.

⁹ *Ibid.*, para. 189.

family, to whom he would constitute a threat. He argues that the burden of proof in his case does not entail a requirement for clear proof, as a certain degree of speculation is inherent in the preventive purpose of the principle of non-refoulement.¹⁰ His removal would trigger in him a state of agony or severe fear of dying. However, the authorities failed to fully assess the multitude of risk factors linked to his expulsion. The author reiterates that his acute risk of suicide or extended suicide is strongly linked to his psychotic condition. The assessment of his access to the required treatment must be based on his specific diagnosis. It is therefore essential to confirm the general availability of treatment for psychotic conditions in Lebanon. However, by assuming that availability of treatment for depression suggests availability of treatment for psychotic conditions, without any information to support this assumption, the State Party authorities failed to properly assess the availability of the required treatment.

7.4 The author argues that the migration authorities also failed to ascertain whether he would actually have access to the required care. The author reiterates that persons with psychotic conditions suffer from stigmatization and discrimination in Lebanon, and that he would be unlikely to recover as he would find himself in what he perceived to be a hostile environment. The Migration Court had the option to order the Migration Agency to obtain medical information on Lebanon with regard to his personal circumstances. It failed to do so, despite the absence of information on treatment for psychotic conditions and despite the deteriorating healthcare situation in Lebanon, with respect to which the World Health Organization (WHO) has raised concerns. He argues that the State Party's authorities should have dispelled serious doubts or obtained individual and sufficient assurances from Lebanon to avoid a violation of article 3 of the European Convention on Human Rights.¹¹ The author reiterates that, upon return to Lebanon, he would be at risk of imminent death by suicide.

Additional observations

From the State Party

8.1 In its additional observations, dated 17 January 2022, the State Party notes that following the author's second asylum application, its authorities considered the general situation of Alawites in Lebanon and assessed anew whether he would face a real or personal risk of being persecuted on account of his previous political activities or a personal threat from Sunni extremists or Da'esh. The Migration Agency noted that the author had not exhausted possibilities for national protection in Lebanon and that he had not demonstrated that the Lebanese authorities would be unwilling or unable to protect him. Moreover, a considerable period had elapsed since his departure from Lebanon. He was therefore deemed not to need international protection.

8.2 The State Party argues that it follows from *Paposhvili v. Belgium* that it is for the applicant to adduce evidence to support their claims. Concerning the question as to whether the author's mental health conditions are sufficiently serious in nature as to bring him within the scope of article 15 of the Convention, the State Party acknowledges that he is unwell and requires comprehensive care, but argues, referring to country information, that he would have access to appropriate treatment in Lebanon, including psychiatric care and the medication with olanzapine and venlafaxine. Treatment for depression, including psychiatric care, is considered also to cover treatment for unspecified organic psychosis, even if not specified in the medical country information. Propiomazine, or an equivalent substitute, would reasonably be available in Lebanon. Furthermore, there is no reason to assume that his ethnicity would affect his access to care. The migration authorities concluded that his expulsion would not breach his rights under article 3 or, in the light of a proportionality assessment that was conducted, article 8 of the European Convention on Human Rights. The State Party argues that there is no reason to conclude that these assessments were inadequate or clearly arbitrary or that they amounted to a manifest error or denial of justice. The State Party therefore reiterates that the author has not substantiated his claim that he would be at a

¹⁰ *Z.H. v. Sweden* (CRPD/C/25/D/58/2019), para. 10.9.

¹¹ European Court of Human Rights, *Savran v. Denmark*, Application No. 57467/15, Judgment, 7 December 2021, para. 130 (e).

foreseeable, present, personal and real risk of being subjected to treatment contrary to articles 10 or 15 of the Convention upon return to Lebanon.

From the author

9.1 In his additional comments, dated 16 March 2022, the author argues that the State Party has not contested the seriousness of his state of health, the possibility of obtaining medical information on the country of origin in relation to the author's individual circumstances, or the causal link between his psychotic condition and the risk of suicide. According to the author, it would have taken approximately two weeks to obtain medical information on the country of origin, which would not have significantly delayed the processing of his case. The author reiterates that he can be a danger to himself and others in stressful situations and that he requires professionally trained personnel, capable of handling aggressive behaviour combined with hallucinatory delusions, to prevent suicide. The author reiterates that persons with psychotic conditions face stigmatization and abuse in Lebanon, that healthcare there is inadequate for him and that persons with mental health conditions have no right to personalized and holistic treatment in Lebanon. According to the author, the migration authorities did not consider these circumstances when assuming that treatment for depression in Lebanon also covered adequate care for his psychotic condition. The author stresses that that assumption was made without any corroborating information and that available information about healthcare in Lebanon and the situation of persons with mental health conditions contradicts it.

9.2 The author reiterates that the State Party has not verified whether the care generally available in the receiving State is sufficient and appropriate in practice for the treatment of his condition. The authorities assessed whether his membership of the Alawite community would limit his access to care, but their finding that the high cost of the healthcare does not constitute a particularly distressing circumstance is inconsistent with the judgment of the European Court of Human Rights in *Paposhvili v. Belgium*. The authorities did not assess the actual accessibility of the care given the personal circumstances of the author, who has low cognitive function and is unable to work. The author argued before the domestic authorities that he lacked a support network or family in Lebanon. In 2019, the unemployment rate in Lebanon was at 50 per cent amid challenging humanitarian, political and financial circumstances. According to the author, it is obvious that there are serious obstacles for his wife to be the sole breadwinner and to pay for the high cost of his healthcare. However, the domestic authorities did not consider this argument.

B. Issues and proceedings before the Committee

Consideration of admissibility

10.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with article 2 of the Optional Protocol and rule 65 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

10.2 The Committee notes the State Party's submission that the communication should be found inadmissible *ratione materiae*, as the author's allegations do not concern any treatment to which he would be subjected in Sweden owing to the conduct of the Swedish authorities. The Committee refers to its jurisprudence, according to which the removal by a State Party of an individual to a jurisdiction where he or she would risk facing violations of the Convention may, under certain circumstances, engage the responsibility of the removing State under the Convention.¹² The Committee considers that the principle of non-refoulement imposes a duty on a State Party to refrain from removing a person from its territory when there is a real risk that the person would be subjected to serious violations of Convention rights amounting to a risk of irreparable harm, including but not limited to those enshrined in articles 10 and 15 of the Convention.¹³ The Committee therefore considers that the

¹² *O.O.J. v. Sweden*, para. 10.3; *N.L. v. Sweden* (CRPD/C/23/D/60/2019), para. 6.4; and *Z.H. v. Sweden*, para. 9.4.

¹³ Human Rights Committee, general comment No. 31 (2004), para. 12.

principle of extraterritorial effect would not prevent it from examining the present communication under article 1 of the Optional Protocol.

10.3 The Committee considers that the author has sufficiently substantiated his claims, for the purposes of admissibility, that his removal to Lebanon would breach his rights under articles 10 and 15 of the Convention since the State Party's authorities did not adequately assess whether the medical treatment required for his psychotic conditions was available in Lebanon or whether he would actually have access to such treatment, in the absence of which he would be at imminent risk of death by suicide, including extended suicide.

10.4 There being no other obstacles to admissibility, the Committee declares the communication admissible and proceeds with its consideration of the merits.

Consideration of the merits

11.1 The Committee has considered the communication in the light of all the information that it has received, in accordance with article 5 of the Optional Protocol and rule 73 (1) of its rules of procedure.

11.2 The Committee recalls that the removal by a State Party of an individual to a jurisdiction where he or she would risk facing violations of the Convention may, under certain circumstances, engage the responsibility of the removing State under the Convention.¹⁴ The Committee considers that the principle of non-refoulement imposes a duty on a State Party to refrain from removing a person from its territory when there is a real risk that the person would be subjected to serious violations of Convention rights amounting to a risk of irreparable harm, including but not limited to those enshrined in articles 10 and 15 of the Convention.¹⁵ Accordingly, the Committee recalls that States Parties are obliged not to extradite, deport, expel or otherwise remove a person from their territory where there are substantial grounds for believing that there is a real risk of irreparable harm. The risk must be personal, and there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists. Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin. Considerable weight should be given to the assessment conducted by the State, and it is generally for the organs of States to review or evaluate the facts and evidence of the case in order to determine whether such a risk exists, unless it can be established that the evaluation was clearly arbitrary or amounted to a manifest error or denial of justice.¹⁶

11.3 The Committee considers that the removal of a person with disabilities in need of ongoing medical treatment may, in certain circumstances, raise issues under the Convention, when lack of access to that treatment would expose the person to an imminent and real risk to their lives and/or health.¹⁷ It is for the individual concerned to adduce evidence capable of demonstrating that there are substantial grounds for believing that he or she would be exposed to a real risk of ill-treatment if removed. Where such evidence is adduced, it is for the authorities of the returning State, in the context of domestic procedures, to dispel any doubts raised. The risk alleged must be subjected to close scrutiny, in the course of which the authorities in the returning State must consider the foreseeable consequences of removal for the individual concerned in the receiving State, in the light of the general situation there and the individual's personal circumstances. The assessment of the risk must therefore take into consideration general sources such as reports of WHO or of reputable non-governmental organizations and the medical certificates concerning the person in question.¹⁸ As regards the factors to be taken into consideration, the authorities in the returning State must verify on a case-by-case basis whether the care generally available in the receiving State is sufficient and appropriate in practice for the treatment of the individual concerned. The authorities must

¹⁴ *O.O.J. v. Sweden*, para. 10.3; *N.L. v. Sweden*, para. 6.4; and *Z.H. v. Sweden*, para. 9.4.

¹⁵ *N.L. v. Sweden*, para. 6.4; and *Z.H. v. Sweden*, para. 9.4.

¹⁶ *N.L. v. Sweden*, para. 7.3; *Z.H. v. Sweden*, para. 10.3; and *Z.R. v. Sweden* (CRPD/C/31/D/94/2021), para. 7.2.

¹⁷ See *N.L. v. Sweden*, *Z.H. v. Sweden* and *Z.R. v. Sweden*.

¹⁸ European Court of Human Rights, *Paposhvili v. Belgium*, paras. 183–187.

also consider the extent to which the individual in question will actually have access to care and facilities in the receiving State.¹⁹

11.4 In the present case, the Committee notes, on the one hand, the author's claim that, by deporting him to Lebanon, the State Party would breach his rights under articles 10 and 15 of the Convention, as the State Party's authorities did not adequately assess whether the medical treatment required for his post-traumatic stress disorder, depression, paranoid schizophrenia, spectrum disorder and other psychotic conditions was available in Lebanon or whether he would actually have access to such treatment, in the absence of which he would be at imminent risk of death by suicide, including extended suicide. On the other hand, the Committee notes the State Party's submission that the author's removal to Lebanon would not entail a breach of his rights under articles 10 or 15 of the Convention. The Committee notes the State Party's argument that the domestic authorities concluded on several occasions, on the basis of country information, that the author would have access to adequate treatment in Lebanon, and that there was no reason to conclude that those decisions were inadequate or arbitrary or amounted to a denial of justice.

11.5 The Committee must therefore determine in the present case, taking into account the factors set out above, whether there are substantial grounds for believing that the author would face a real risk of irreparable harm as contemplated in articles 10 and article 15 of the Convention if he were to be removed to Lebanon, such as being exposed to a serious, rapid and irreversible decline in his health resulting in intense suffering or to a significant reduction in life expectancy.²⁰ The Committee notes that according to the medical reports submitted to it, the author's condition is life-threatening owing to a risk of suicide or extended suicide. The Committee also notes that according to the author's medical documentation, his removal to Lebanon would trigger his symptoms, including psychosis, and would result in an acute risk of unpredictable reactions, including suicide or extended suicide.

11.6 The Committee notes that the parties disagree as to whether the domestic authorities adequately assessed whether he would be able to receive the required treatment in Lebanon. The Committee notes the author's submission that while the domestic authorities found that the required treatment was available in Lebanon, the Migration Agency acknowledged in the most recent proceedings that medical information on the country of origin submitted to the Migration Court lacked information regarding the availability of psychotic treatment in Lebanon and did not explain the basis for its assumption that treatment for depression would cover his psychotic condition. The Committee notes, however, that in its submission to the Migration Court, the Agency explained that whereas information on unspecified psychosis (F29 according to the WHO International Statistical Classification of Diseases and Related Health Problems) was lacking, the information on depression (F32) also covered psychiatric care. The Committee does not consider it to be arbitrary or manifestly unreasonable or to amount to a denial of justice for the domestic authorities to have concluded that care for depression and psychiatric care should cover unspecified psychosis and, accordingly, that the treatment available in Lebanon was sufficient and appropriate in practice for the author.

11.7 In relation to the author's access to the required treatment in Lebanon, the Committee notes that the State Party's authorities concluded that it had not been shown that the author would lack access to care in Lebanon or that his membership of the Alawite community would limit his access to care, and found that his relatives could be expected to support him. The Committee notes that the author has not provided further information to substantiate his claim that his membership of the Alawite community may hinder his access to medical treatment. The Committee further notes that in its decision of 30 September 2020, the Migration Agency summarily noted that the high cost of quality healthcare in Lebanon and the family's lack of contact with their relatives could not constitute exceptionally distressing circumstances. The Migration Court confirmed the Agency's reasoning on 16 April 2021. However, the Committee considers that, beyond finding that the high medical costs did not constitute an exceptional circumstance, it is not clear that the State Party's authorities considered the extent to which the author would actually have access to the required care, taking into account the high cost of treatment, his low cognitive function and inability to

¹⁹ Ibid., paras. 189 and 190.

²⁰ *N.L. v. Sweden*, para. 7.5; and *Z.H. v. Sweden*, para. 10.7.

work, the documented assessment that his condition would worsen upon return to Lebanon, his lack of contact with relatives in Lebanon, stigmatization surrounding mental health in Lebanon and the impact of the challenging circumstances in the country on the actual provision of healthcare, including mental healthcare. In this regard, the Committee notes that the European Court of Human Rights referred to the need to consider the cost of medication and treatment and the existence of a social and family network when assessing the accessibility of medical treatment.²¹ In the absence of an analysis examining the possible impact of these elements on the author's access to the required treatment, and given the life-threatening nature of his condition, the Committee considers that the State Party's authorities have inadequately considered the extent to which he would actually have access to the required care in Lebanon.

11.8 In the light of the foregoing, the Committee considers that the author's removal to Lebanon would, if implemented, violate his rights under articles 10 and 15 of the Convention.

C. Conclusions and recommendations

12. The Committee, acting under article 5 of the Optional Protocol, is of the view that the State Party has failed to fulfil its obligations under articles 10 and 15 of the Convention. The Committee therefore makes the following recommendations to the State Party:

- (a) Concerning the author, the State Party is under an obligation:
 - (i) To provide him with an effective remedy, including compensation for any legal costs incurred in filing the present communication;
 - (ii) To review his case, taking into account the State Party's obligations under the Convention and the present Views;
 - (iii) To publish the present Views and circulate them widely in accessible formats so that they are available to all sectors of the population.
- (b) In general, the State Party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State Party to ensure that the rights of persons with disabilities, on an equal basis with others, are properly considered in the context of asylum decisions.

13. In accordance with article 5 of the Optional Protocol and rule 75 of the Committee's rules of procedure, the State Party should submit to the Committee, within six months a written response, including information on any action taken in the light of the present Views and recommendations of the Committee.

²¹ European Court of Human Rights, *Paposhvili v. Belgium*, para. 190.