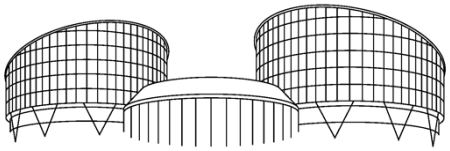

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF WINTHER v. DENMARK

(Application no. 9588/21)

JUDGMENT

Art 8 • Expulsion • Private and family life • Expulsion order with a six-year re-entry ban against migrant lawfully residing in Denmark for less than four years following conviction for serious offences • Relevant and sufficient reasons • Proportionality duly assessed by domestic courts in light of Court's case-law

Prepared by the Registry. Does not bind the Court.

STRASBOURG

12 November 2024

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Winther v. Denmark,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Gabriele Kucsko-Stadlmayer*, President*,
Tim Eicke,
Faris Vehabović,
Armen Harutyunyan,
Anja Seibert-Fohr,
Anne Louise Bormann,
Mateja Đurović*, judges*,
and Andrea Tamietti, *Section Registrar,*

Having regard to:

the application (no. 9588/21) against the Kingdom of Denmark lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Syrian national, Mr Martin Treesh Winther ("the applicant"), on 28 January 2021;

the decision to give notice of the application to the Danish Government ("the Government");

the parties' observations;

Having deliberated in private on 8 and 22 October 2024,

Delivers the following judgment, which was adopted on the latter date:

INTRODUCTION

1. The application concerns an order made in criminal proceedings for the expulsion of a migrant, who had entered Denmark as an adult. The applicant complained under Article 8 of the Convention.

THE FACTS

2. The applicant was born in 1994 in Syria and currently lives in Aalborg. He was represented by Mr Jesper Lyngby Andersen, a lawyer practising in Aarhus.

3. The Government were represented by their Agent, Ms Vibeke Pasternak Jørgensen, of the Ministry of Foreign Affairs, and their co-Agent, Ms Nina Holst-Christensen, of the Ministry of Justice.

4. The facts of the case may be summarised as follows.

5. In September 2014, at the age of 20, the applicant entered Denmark and applied for asylum. On 6 February 2015 he was granted a residence permit as a refugee in Denmark under section 7(1) of the Danish Aliens Act (*Udlændingeloven*) until 6 February 2020.

6. By a judgment of the District Court (*Retten i Aalborg*) of 1 March 2019, the applicant was convicted, notably of assault with aggravating circumstances, under Article 245 § 1 of the Penal Code (which carries a

sentence of imprisonment of up to six years) by having, jointly with three co-accused, beaten and kicked a man in the head and on the body with a bat (or similar weapon) and a bottle, including while the victim was lying prostrate. The applicant was also convicted of blackmailing and attempted duress. The three offences were committed on three different days in November 2018, and related to debt collection on behalf of a third person. The applicant was further convicted under the Controlled Substances Act (*Bekendtgørelse om euforiserende stoffer*) of possession of 2.44 grams of cannabis for his own consumption, and 5.94 grams for distribution. Lastly, he was convicted of having imported ninety-one forged 100-euro banknotes. The applicant was sentenced to seven months' imprisonment. His expulsion was also ordered, together with a six-year re-entry ban.

7. The District Court's reasoning regarding the expulsion order was as follows:

> "[The applicant], who is a Syrian national, must be expelled unless it would for certain be contrary to Denmark's international obligations – see section 24(1)(i), read with section 22(1)(vi), and section 24(1)(ii), read with section 26(2), of the Aliens Act. When making this decision, the court has considered the proportionality of societal concerns as regards expulsion and taken into consideration the nature and seriousness of the offences committed, seen in the context of [the applicant's] residence in this country, as well as the strength of his family, social and cultural ties with Denmark and his country of origin.
>
> [The applicant] came to Denmark at age 20 in September 2014, when he applied for asylum. On 6 February 2015 he was granted residence in Denmark until 6 February 2020 under section 7(1) of the Aliens Act. [The applicant] has stated that he has a Danish girlfriend, who is expecting twins in May 2019. He is attending an educational programme at [an adult education centre] and speaks Danish to a certain extent. He has two aunts, who also live in Denmark.
>
> [The applicant] was born and raised in Syria, where he attended school. He speaks and writes the language of Syria, and his family has fled Syria.
>
> On the basis of an overall assessment of [the applicant's] personal circumstances and his ties with Denmark and his country of origin, respectively, compared with the seriousness, nature and circumstances of the crime of which [the applicant] has been found guilty, the court finds that it is a proportionate measure for preventive purposes, to uphold law and order and security, to expel the defendant with a six-year re-entry ban – see Article 8 § 2 of the European Convention on Human Rights – and that expulsion would therefore not for certain be contrary to Denmark's international obligations – see section 26(2) of the Aliens Act. Thus, [the applicant] must be expelled."

8. The applicant (and the co-defendants) appealed against the judgment to the High Court of Western Denmark (*Vestre Landsret*), before which he stated that he and his girlfriend had had twins in March 2019. The children were born prematurely and one of them had health problems. Since his release on 12 April 2019 (from custody on remand), the applicant had been living with his family and had been taking part in childcare. He had also completed the ninth grade and had found a job with a transport company. The applicant's

girlfriend and children were Danish nationals. His girlfriend did not wish to follow him to Syria.

9. By a judgment of 29 January 2020, the High Court upheld the District Court judgment. With respect to the expulsion order it stated as follows:

> "... For the reasons given by the District Court, the High Court upholds the expulsion of the defendants and the six-year re-entry ban as proportionate measures to prevent disorder and crime – see Article 8 of the European Convention on Human Rights – and the finding that expulsion would thus for certain not be contrary to Denmark's international obligations, in respect of which see section 26(2) of the Aliens Act. The information presented to the High Court regarding the defendants' personal circumstances, including the fact that [the applicant] and ... have started families, cannot lead to any other outcome. Accordingly, the High Court upholds the judgment."

10. The applicant was granted leave to appeal to the Supreme Court (*Højesteret*), which in a judgment of 14 August 2020 increased the sentence to eight months' imprisonment and upheld the expulsion order. In respect of the latter, it stated:

> "[The applicant], who is a Syrian national, has been lawfully resident in Denmark for about three years and nine months – see section 27(2) and (5) of the Aliens Act. Accordingly, the Supreme Court upholds the finding that the conditions for expulsion under section 24(1)(i) – see section 22(1)(vi) – and under section 24(1)(ii) of the Aliens Act are met.
>
> In consequence, [the applicant] must be expelled unless expulsion would for certain be contrary to Denmark's international obligations – see section 26(2) of the Aliens Act. Under section 32(4)(iv) and (v) (formerly sections 32(2)(ii) and 32(3)), the ban on re-entry must normally be for a period of six years.
>
> The question is thus whether expulsion with a six-year re-entry ban would be contrary to Article 8 of the European Convention on Human Rights.
>
> [The applicant] has lived in Denmark since September 2014, and he has his partner and two young children in Denmark. Expulsion would thus amount to interference with his right to respect for private and family life – see Article 8 § 1 [of the Convention]. Such interference is justified only if the conditions of Article 8 § 2 are met.
>
> As mentioned above, the sanction of expulsion is authorised by the Aliens Act, the purpose being to prevent disorder or crime. It must therefore be considered whether it is deemed necessary in a democratic society, in view of those considerations, to expel [the applicant] with a six-year re-entry ban. This decision must be made following a proportionality test.
>
> It appears from the case-law of the European Court of Human Rights – see in this respect, *inter alia*, the judgment of 23 June 2008 in *Maslov v. Austria* (application no. 1638/03) – that when balancing the considerations under Article 8 § 2, a fair balance must be struck between a number of [the following] criteria ...
>
> The weight to be attached to the individual criteria depends on the circumstances of the specific case – see in this respect paragraph 70 of the above-mentioned judgment. The duration of the re-entry ban is considered to be one factor in the proportionality test – see in this respect paragraph 98.
>
> The European Court of Human Rights seems to have made no decisions where the facts of the case (including the nature and seriousness of the offence, the length of the

prison sentence, the alien's ties with his or her country of origin and host country, the alien's family relationships, etc.) correspond to the facts of the present case.

[The applicant], who is 25 years old by now and who came to Denmark at age 20 in September 2014, was born and raised in Syria, where he also went to school. He speaks and writes Arabic. Even though his parents and siblings have fled Syria, the Supreme Court finds that [the applicant] still has very strong ties with that country.

[The applicant] applied for asylum when he came to Denmark, and on 6 February 2015 he was granted a time-limited right of residence until 6 February 2020. He has two aunts living in Denmark, but his immediate family (parents and siblings) do not live in Denmark. He has a Danish girlfriend, and according to the information provided, they have lived together since January 2018 (except for the period when [the applicant] was in custody in this case). In March 2019 the couple became parents of twins. The children were born prematurely, and [the applicant] and his partner were hospitalised for a period of time together with the children, and he has been involved in caring for them since their birth. Since his release in this case, [the applicant] has completed the ninth grade. From May to November 2017 he was working in Denmark and he has recently found new employment again. Apart from his Danish partner and the children, the Supreme Court finds that [the applicant] has relatively limited ties with Denmark.

[The applicant], who has no previous convictions of relevance to this case, has been found guilty, *inter alia*, of aggravated assault, blackmail and attempted duress. Such offences cannot be considered a spontaneous reaction in an emotional state of mind, for example following a prior disagreement. On the contrary, the criminal offences were planned and committed jointly by several persons to collect a debt for a third party. The offences must therefore be deemed to be serious offences, which is also reflected in the fact that the sentence imposed is imprisonment for a term of eight months.

[The applicant's] partner and children are Danish nationals. His partner has no ties with Syria and does not speak Arabic. It would therefore entail great difficulty for her to accompany him to Syria. As a matter of fact, she has also stated that she is not willing to accompany him to Syria. The children are young and are expected to stay in Denmark with their mother. The consequence of his deportation would therefore be that for a period of time [the applicant] would be physically separated from his partner and children, which amounts to serious interference with his right to respect for family life.

However, the family life of [the applicant] and his Danish girlfriend has been of a fairly short duration, and their children are quite young, so physical separation from their father for a period of time must be regarded as less harmful for them than if they had been older. His partner and children would also be able to visit him in Syria if the relevant conditions were met, or in other countries in which they would be allowed to stay, and they would be able to communicate by telephone and over the internet. Moreover, a ban on re-entry would be limited to six years, and after that period it would be possible for the family to restore their cohabitation in Denmark if the conditions were otherwise met.

Having regard to the nature and seriousness of [the applicant's] offences viewed in conjunction with his respective ties with Syria and Denmark, the Supreme Court finds on the basis of an overall assessment that societal considerations (the prevention of disorder or crime), which point in favour of the expulsion of [the applicant] with a six-year re-entry ban, are so weighty that they carry greater weight than the considerations for his private life, and in particular for his family life, which militate against expulsion. It is noted in this connection that he has lived in Denmark only for a few years and that he has cohabited with his Danish girlfriend for only a relatively short period.

> On those grounds, the Supreme Court finds that the expulsion of [the applicant] with a six-year re-entry ban would not be a disproportionate interference with his rights under Article 8 of the European Convention on Human Rights. Accordingly, the Supreme Court upholds the decision that [the applicant] must be expelled and issued with a six-year re-entry ban."

11. The applicant served the rest of the sentence from 11 to 17 May 2020 and from 17 March to 2 April 2021, on which date he was released on parole.

12. Thereafter, it appears that he was obliged to live in a deportation centre at quite some distance from his family (although he was not deprived of his liberty).

13. By a final decision of 5 April 2022, the Aliens Appeal Board (*Flygtningenævnet*) refused to grant the applicant asylum under section 7(1) of the Aliens Act. However, having regard to the general situation in Syria, it found that as things stood, the expulsion order could not be implemented by force. The applicant thus remained in Denmark on a so-called "tolerated stay" (*tålt ophold*).

14. Some months later, the Danish Return Agency (*Hjemrejsestyrelsen*) reported to the police that the applicant had failed to abide by various obligations imposed by the Agency, and that he could be considered to have absconded from the deportation centre as of 24 June 2022.

15. Subsequently, having received notification that the applicant had applied for asylum in the Netherlands on 21 January 2023, the Danish authorities accepted his readmission on 27 March 2023. On 14 July 2023 the Danish authorities received notification from the Dutch authorities that the applicant had disappeared.

16. The applicant has always had an officially registered address since his arrival in Denmark.

17. The applicant was arrested in Denmark on about 14 May 2024.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

18. The relevant provisions of the Aliens Act (*Udlændingeloven*) relating to expulsion have been set out in detail in, for example, *Munir Johana v. Denmark* (no. 56803/18, §§ 23-26, 12 January 2021) and *Salem v. Denmark* (no. 77036/11, §§ 49-52, 1 December 2016).

19. Section 24b of the Aliens Act on suspended probation orders, which provided for suspended expulsion orders with a probation period of two years, was amended by Law no. 469 of 14 May 2018, which came into force on 16 May 2018. The new provision introduced a warning scheme, which did not provide for a requirement to specify a particular probation period.

20. Section 32 of the Aliens Act was amended by Law no. 469 of 14 May 2018 and Law no. 821 of 9 June 2020. In brief, as a result of the amendments, a re-entry ban was to be imposed as follows: for six years if the alien was sentenced to imprisonment for between three months and one year

(section 32(4)(iv)); for twelve years if the alien was sentenced to imprisonment for between one year and one year and six months (section 32(4)(vi)); and permanently, if the alien was sentenced to imprisonment for more than one year and six months (section 32(4)(vii)). However, the courts were given discretion to reduce the length of re-entry bans, whether permanent or limited in time (section 32(5)(i)), if the length would otherwise "for certain" be considered in breach of Denmark's international obligations, including Article 8 of the Convention.

21. Section 50 of the Aliens Act was amended by Law no. 919 of 21 June 2022. As a result of the amendment, when carrying out a subsequent review of whether an expulsion order should be set aside, the Danish courts are now able to impose a re-entry ban for a shorter period than that previously specified, irrespective of when the criminal offence was committed, if they find, at the time of the review, that a shortening of the period is required to ensure that the expulsion order falls within the scope of Denmark's international obligations (see also, *inter alia*, *Noorzae v. Denmark*, no. 44810/20, §§ 14-15, 5 September 2023).

THE LAW

I. PRELIMINARY OBJECTION

22. On 19 April 2024 the Government requested that the application be struck out of the Court's list of cases under Article 37 § 1 (a) of the Convention. They noted that the applicant had absconded (see paragraph 14 above) and disappeared (see paragraph 15 above). Accordingly, it was unclear where the applicant resided and whether he intended to pursue the application.

23. On 7 May 2024 the applicant contested the request. He stated that he intended to pursue the application before the Court. He submitted various documents to prove that he was still residing in Denmark.

24. The Court notes that applicant was arrested in Denmark on about 14 May 2024 (see paragraph 17 above) and that he has indicated that he wishes to maintain his application before the Court.

25. In these circumstances, the requirements for striking the application out of the Court's list of cases under Article 37 § 1 (a) of the Convention are not fulfilled. The Court therefore dismisses the Government's request.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

26. The applicant complained that the Supreme Court's decision of 14 August 2020 to order his expulsion with a six-year re-entry ban was in breach of Article 8 of the Convention, which, in so far as relevant, reads as follows:

"1. Everyone has the right to respect for his private and family life ...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

27. The Government submitted that the application should be declared manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

28. The applicant disagreed.

29. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Arguments by the parties

30. The applicant submitted that the Danish courts had failed to take the relevant circumstances into account in the balancing test, notably that he had no criminal past, that he had a partner and two small children who all needed his care, that they were Danish nationals, and that he was a Syrian national.

31. The Government submitted that the Danish courts had carried out the proportionality test thoroughly at three levels of jurisdiction, balancing the opposing interests and taking all the applicant's personal circumstances into account. The applicant had committed serious offences, which constituted a threat to public order and security.

32. Moreover, they argued that since the domestic courts had considered the case specifically in the light of Article 8 of the Convention and the Court's pertinent case-law, the Court should be reluctant, having regard to the subsidiarity principle, to disregard the outcome of the assessment made by the national courts.

33. Finally, the Government pointed out that the applicant would be able to apply for a residence permit on the basis of family reunification after the expiry of the re-entry ban. He was thus not prevented from being reunited with his family in Denmark, while his children were still young and in their formative years, if the conditions were met.

2. The Court's assessment

(a) General principles

34. The relevant criteria to be applied have been set out in, among other authorities, *Üner v. the Netherlands* ([GC], no. 46410/99, §§ 54-60, ECHR 2006-XII) and *Maslov v. Austria* ([GC], no. 1638/03, §§ 68-76, ECHR 2008). In *Savran v. Denmark* ([GC], no. 57467/15, § 182, 7 December 2021) the Court summed up the criteria which are relevant for the analysis whether the expulsion order was necessary in a democratic society:

> "182. In *Maslov* ... the Court ... set out the following criteria as relevant to the expulsion of young adults, who have not yet founded a family of their own:
>
> – the nature and seriousness of the offence committed by the applicant;
>
> – the length of the applicant's stay in the country from which he or she is to be expelled;
>
> – the time that has elapsed since the offence was committed and the applicant's conduct during that period; and
>
> – the solidity of social, cultural and family ties with the host country and with the country of destination.
>
> In addition, the Court will have regard to the duration of the exclusion order (ibid., § 98; see also *Külekci v. Austria*, no. 30441/09, § 39, 1 June 2017, and *Azerkane v. the Netherlands*, no. 3138/16, § 70, 2 June 2020). Indeed, the Court notes in this context that the duration of a ban on re-entry, in particular whether such a ban is of limited or unlimited duration, is an element to which it has attached importance in its case-law (see, for example, *Yilmaz v. Germany*, no. 52853/99, §§ 47-49, 17 April 2003; *Radovanovic v. Austria*, no. 42703/98, § 37, 22 April 2004; *Keles v. Germany*, no. 32231/02, §§ 65-66, 27 October 2005; *Külekci*, cited above, § 51; *Veljkovic-Jukic v. Switzerland*, no. 59534/14, § 57, 21 July 2020; and *Khan v. Denmark*, no. 26957/19, § 79, 12 January 2021)."

(b) Application of those principles to the present case

35. The Court finds it established that there was an interference with the applicant's right to respect for his private life and family life within the meaning of Article 8, that the expulsion order and the re-entry ban were "in accordance with the law", and that they pursued the legitimate aim of preventing disorder and crime (see also, for example, *Salem v. Denmark*, no. 77036/11, § 61, 1 December 2016).

36. As to whether the interference was "necessary in a democratic society", the Court notes that the Danish courts took as their legal starting-point the relevant provisions of the Aliens Act and the Penal Code, as well as the criteria to be applied in making a proportionality assessment under Article 8 of the Convention and the Court's case-law. The Court recognises that the domestic courts thoroughly examined all the relevant criteria. In the examination below, the Court will focus on the Supreme Court's reasoning.

37. The Supreme Court gave particular weight to the nature and the seriousness of the crime committed, namely that the applicant had been convicted, notably, of aggravated assault, blackmail and attempted duress, and that the offences had been planned and committed jointly by several individuals to collect debt for a third party (see paragraph 10 above).

38. With regard to the criterion of "the length of the applicant's stay in the country from which he or she is to be expelled", the Supreme Court duly took into account the fact that the applicant had entered Denmark as a 20-year-old adult, and that he had lawfully resided there for less than four years when the offences were committed (see, also *mutatis mutandis*, *Sarac v. Denmark*, no. 19866/21, § 30, 9 April 2024; *Nguyen v. Denmark*, no. 2116/21, § 30, 9 April 2024; *Noorzae v. Denmark*, no. 44810/20, § 28, 5 September 2023; and *Sharifi v. Denmark*, no. 31434/21, § 28, 5 September 2023).

39. As to the criterion of "the solidity of social, cultural and family ties with the host country and with the country of destination", the Supreme Court properly took into account the fact that the applicant was born and had been raised in Syria, where he had also gone to school. He spoke and wrote Arabic. The Supreme Court therefore found that the applicant still had very strong ties with Syria.

40. As to the criterion of "the time that has elapsed since the offence was committed and the applicant's conduct during that period", the Supreme Court into account, at the time of its judgment of 14 August 2020, that since his release on 12 April 2019, the applicant had been living with his family, had participated in childcare, had completed the ninth grade and had found a job with a transport company (see paragraphs 8 and 10 above). The Court notes, however, that the applicant subsequently lived in a deportation centre at quite some distance from his family (see paragraph 12 above), that he failed to abide by various obligations imposed by the Danish Return Agency (see paragraph 14 above), that in January 2023 he left his family in Denmark to apply for asylum in the Netherlands, and that he thereafter disappeared (see paragraph 15 above).

41. The Supreme Court also took the applicant's family situation into account, including the criterion of "the best interests and well-being of the children, in particular the seriousness of the difficulties which they are likely to encounter in the country to which the applicant is to be expelled". It noted that the applicant had a Danish girlfriend and that, according to the information provided, they had been living together since January 2018. They had become parents of twins in March 2019. The partner and the children were Danish nationals. The partner had no ties with Syria and did not speak Arabic. It would therefore entail great difficulty for her to accompany the applicant to Syria. She had stated that she was not willing to accompany him there. The Supreme Court accepted that the expulsion of the applicant would amount to a serious interference with his right to respect for his family life, but it found that several mitigating circumstances pointed in favour of

considering the expulsion order proportionate. The Supreme Court thus stated:

> "However, the family life of [the applicant] and his Danish girlfriend has been of a fairly short duration, and their children are quite young, so physical separation from their father for a period of time must be regarded as less harmful for them than if they had been older. His partner and children would also be able to visit him in Syria if the relevant conditions were met, or in other countries in which they would be allowed to stay, and they would be able to communicate by telephone and over the internet. Moreover, a ban on re-entry would be limited to six years, and after that period it would be possible for the family to restore their cohabitation in Denmark if the conditions were otherwise met."

The Supreme Court did not explain the basis for its assessment that a physical separation would be less harmful for young children than for older. Be that as it may, the applicant himself chose to leave his family in Denmark, where he can remain on so-called "tolerated stay" to apply for asylum in the Netherlands.

42. By virtue of section 32(4)(iv) of the Aliens Act (see paragraph 20 above), due to the length of the sentence (eight months' imprisonment) the re-entry ban was limited to six years.

43. The Court notes that it has previously found such a ban to be disproportionate on account of its unlimited duration, whereas in other cases it has considered the limited duration of an exclusion order to be a factor weighing in favour of its being proportionate (see, for example, *Savran*, cited above, §§ 182 and 199, and the cases cited therein). One of the elements relied on in this connection has been whether the offence leading to the expulsion order was of such a nature that the person in question posed a serious threat to public order (see, among other authorities, *Ezzouhdi v. France*, no. 47160/99, § 34, 13 February 2001; and *Bousarra v. France*, no. 25672/07, § 53, 23 September 2010, in which the Court found that the individuals in question did not pose a serious threat to public order; see also *Mutlag v. Germany*, no. 40601/05, §§ 61-62, 25 March 2010, in which the Court found that the person in question did pose a serious threat to public order).

44. In the present case, the Court does not call into question the finding that the applicant's offences leading to the expulsion order were of such a nature that he posed a threat to public order at the time (see, among other authorities, *Abdi v. Denmark*, no. 41643/19, § 39, 14 September 2021; *Mutlag*, cited above, §§ 61-62; see also *Sarac*, §34; *Nguyen*, § 35; *Noorzae*, § 32; and *Sharifi*, § 33, all cited above).

45. It appears that in general the Danish courts, when issuing an expulsion order in criminal proceedings with a time-limited re-entry ban, do not take into account whether in the future, after the expiry of the time-limited re-entry ban, the expelled person would have prospects of being readmitted to Denmark.

46. In the present case, the Supreme Court stated that it would be possible for the family to restore their cohabitation "if the conditions were otherwise

met", but it did not as such assess whether it would be realistically possible for the applicant to obtain a new residence permit (see paragraph 10 above).

47. The Court cannot exclude that exceptionally, in those few borderline cases where the length of the re-entry ban becomes decisive in the assessment of the compatibility of the expulsion order with Article 8, it may be relevant to take into account whether in the future, after the expiry of the time-limited re-entry ban, the expelled person would have prospects of being readmitted to the country.

48. For example in the Danish context, if by virtue of section 32(5)(i) of the Aliens Act, in the proportionality test, the domestic courts reduce the length of a re-entry ban, since otherwise the length would "for certain" be considered in breach of Denmark's international obligations, including Article 8 of the Convention (see paragraph 20 above), the Court considers that the time-limited nature of the re-entry ban can only be considered a factor capable of rendering the applicant's expulsion compatible with Article 8, if the expelled person has some prospect of one day returning at least for a visit. Thus, if at the time of expulsion, in view of the rules on re-entry in place at that time, the national courts find that the prospect of the expelled person being readmitted to the country in any legal manner, whether on a residence permit or on a short-term visa, is purely theoretical, it would in the Court's opinion not be justified to attribute significant weight to the length of the re-entry ban as factor capable of rendering the expulsion compatible with Article 8. A time-limited re-entry ban would in such circumstances amount *de facto* to a permanent ban (see, *mutatis mutandis*, *Savran*, cited above, §§ 182, 199-200, where the possibility of the applicant's re-entering Denmark on a visitor's visa despite a permanent re-entry ban was found to be purely theoretical, owing to the very limited basis on which such a visa could be issued).

49. In the present case, the length of the re-entry ban was set to six years due to the rather limited length of the sentence, by virtue of section 32(4)(iv) of the Aliens Act (see paragraph 42 above). Section 32(5)(i) of the Aliens Act was not applied. Although it was a factor in the proportionality assessment there is no indication that the length of the re-entry ban was even given significant weight by the Supreme Court in reaching the conclusion that expelling the applicant was compatible with Article 8. On the contrary in its reasoning the Supreme Court gave particular weight to the nature and seriousness of the crime committed.

50. Taking account of all the factors described above, the Court concludes that the interference with the applicant's private and family life was supported by relevant and sufficient reasons. It notes that at all levels of jurisdiction there was an explicit and thorough assessment of whether the expulsion order could be considered to be contrary to Denmark's international obligations. The Court points out in this connection that where independent and impartial domestic courts have carefully examined the facts, applying the relevant

human rights standards consistently with the Convention and its case-law, and adequately weighed up the applicant's personal interests against the more general public interest in the case, it is not for the Court to substitute its own assessment of the merits (including, in particular, its own assessment of the factual details of proportionality) for that of the competent national authorities. The only exception to this is where there are shown to be strong reasons for doing so (see *Savran*, cited above, § 189, with further references). In the Court's opinion, such strong reasons are absent in the present case.

51. It follows that there has been no violation of Article 8 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 12 November 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Registrar	Gabriele Kucsko-Stadlmayer President