



Expulsions following criminal convictions were not violations

In today's **Chamber** judgments¹ in the cases of [Munir Johana v. Denmark](#) (application no. 56803/18) and [Khan v. Denmark](#) (no. 26957/19) the European Court of Human Rights held, unanimously and by six votes to one respectively, that there had been:

no violations of Article 8 (right to respect for private life) of the European Convention on Human Rights.

The case concerned the applicants' expulsions from Denmark being ordered following repeated convictions for various criminal offences, despite their having lived there since a young age.

The Court found in particular that the domestic authorities had taken into account the applicant's particular circumstances, in particular the specific crimes and their prior criminal records, and that their ties to Denmark had been properly examined. It considered that the sentences had been proportionate.

Principal facts

The applicant in the first case, Marsel Munir Johana, is an Iraqi national who was born in 1994 and lives in Silkeborg (Denmark). The applicant in the second case, Shuaib Khan, is a Pakistani national who was born in 1986. The applicant in the second case was born in Denmark, while the applicant in the first case came to live there at the age of four.

Both applicants had had a criminal record for many years before the events in question. Convictions were for, among other things, violent, drugs, and driving offences, and offences while in prison.

In 2016 the applicant in the first case was charged in connection with violent offences. The prosecution asked for the applicant to be expelled from Denmark (he had two previous conditional expulsion orders against him). The Danish Immigration Service agreed that that would be the correct course of action. He was convicted. His expulsion and a six-year re-entry ban were ordered. That decision was upheld on appeal by the Western Denmark High Court and the Supreme Court and finally sentenced to six months' imprisonment. The Supreme Court referred to, in particular, the applicant's repeated offences as an adult and the likelihood he would reoffend, considering that those factors were weightier than the applicant's strong ties to Denmark. Following the first-instance expulsion decision he was convicted of another unrelated drugs offence.

On 25 August 2017 the applicant in the second case was charged with threatening a police officer and not having the right residence permit, alongside other offences. He was given a prison sentence and a fine, and a two-year suspended expulsion order. The City Court referred to his leadership of a criminal gang, his numerous convictions for other offences, his lack of a dependent family, and the need to prevent disorder. In 2018 that decision was upheld by the High Court of Eastern Denmark and the Supreme Court, with a final sentence of three months' imprisonment and a 12,200 Danish kroner fine. His expulsion and a six-year re-entry ban were also ordered. It appears that the applicant was released from pre-trial detention in October 2017 and left Denmark soon afterwards.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private life) of the Convention, the applicants complained separately that the decisions to expel them from Denmark had breached their rights.

The applications were lodged with the European Court of Human Rights on 28 November 2018 and 15 May 2019.

Judgment was given by a Chamber of seven judges, composed as follows:

Marko **Bošnjak** (Slovenia), *President*,
Jon Fridrik **Kjølbro** (Denmark),
Aleš **Pejchal** (the Czech Republic),
Egidijus **Kūris** (Lithuania),
Branko **Lubarda** (Serbia),
Pauliine **Koskelo** (Finland),
Saadet **Yüksel** (Turkey),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Both applicants submitted that their crimes had not been particularly serious and that the domestic authorities had failed to take the relevant circumstances into account when balancing their rights against the public interest. They argued that their expulsions and re-entry bars had been too severe in the light of the custodial sentences given.

The Court reiterated that a State is entitled to control the entry and residence of foreign nationals there. However, expulsion decisions had to be in accordance with the law and proportionate. As none of the parties disputed that there had been a lawful interference in both cases, the question thus was whether they had been proportionate.

The Court noted that the domestic courts had examined the “nature and seriousness” of the offences thoroughly, in particular their long criminal records and the likelihood they might reoffend. The Court noted, in particular, that the applicant in the first case had been convicted of a drugs offence even after the first-instance ruling in his case. The Court stated that the domestic authorities had taken the applicants’ social, cultural and family ties with Denmark and their destination countries into account. Furthermore, the applicants would be free to resume their lives in Denmark after a limited period of time. Lastly, as neither applicant had dependent family members, there had been no interference with their family rights.

The Court found that the interferences had been proportionate and thus there had been no violation of their rights.

The judgments are available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.