

[Denmark violates the International Covenant on Civil and Political Rights in failing to provide sufficient reasons for refusing a naturalisation application](#)

01.06.2015

Q v. Denmark (2001/2010)

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Summary

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The communication was submitted by an Iraqi citizen under the Optional Protocol to the Covenant.

Background

The author arrived in Denmark on 15 October 1997 and was granted humanitarian protection. On 30 April 1998, the author obtained a residence permit. On 9 May 2001, his residence permit was given indefinite duration.

On 12 May 2005, the author applied to the Copenhagen police for Danish naturalisation. The Ministry of Refugees, Immigration and Integration Affairs subsequently received the application from the police. On 27 January 2006, the Ministry informed the author that his application had been received and the examination

procedure would start within 12 to 16 months. On 25 June 2007, the author was requested to submit details of his Danish language proficiency, any criminal record and any public debts. On 2 July 2007, the author submitted the requested information.

On 4 July 2007, the Ministry informed the author that the documentation that he had submitted regarding his participation in language courses did not satisfy the requirement of language proficiency contained in the Danish Guidelines on Naturalisation, which provided that the applicant should be proficient in the Danish language and have knowledge of Danish society, culture and history. The author then requested to be exempted from the language requirement for medical reasons, pursuant to the Guidelines. On 5 October 2007, the Ministry notified the author that his request for exemption had been rejected and that no proper basis had been found to bring it to the attention of the Parliament's Committee on Naturalisation as the author had failed to demonstrate a severe physical or mental illness.

The author then provided a medical opinion from his psychiatrist and requested a reconsideration of his exemption request. On 3 June 2008, the Ministry informed the author that the Committee on Naturalisation had found no basis to grant the exemption. No explanation was given as to the reasons for the denial.

On 9 September 2009, the author's psychiatrist informed the Ministry about his medical assessment of the author. He indicated that he had been monitoring the author since December 2007 and that the author suffered from a severe chronic mental disorder in the form of paranoid psychosis and depression that had no prospect of improving. As a result, the Ministry examined the case again. However, on 6 November 2009, the author was informed that the letter from his psychiatrist did not contain any new information and that therefore there were no grounds to re-submit his request to the Naturalisation Committee.

On 12 November 2009, the author's psychiatrist wrote to the Ministry requesting a detailed justification for the rejection so that he could integrate this information in the treatment of his patient. He also indicated that from a medical perspective the denial was unfounded as it was well established that the author suffered from the various disorders cited and therefore prima facie satisfied the conditions for exemption from the language requirement. On 8 December 2009, the Ministry replied that there was no basis for bringing the case before the Naturalisation Committee again, that the exemption provision was open to interpretation and that presentation before the Naturalisation Committee did not mean that the exemption would necessarily be granted.

On 15 July 2010, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that he was the victim of violations by Denmark of his rights to equality before the law and freedom from discrimination (under article 26 of the Covenant).

The Committee's decision

Regarding the admissibility of the author's claim, the Committee found that the author had sufficiently substantiated his claim for the purposes of articles 2 and 3 of the Optional Protocol and declared the claim to be admissible.

On the merits, the Committee recalled that neither the Covenant nor international law in general spelled out specific criteria for the granting of citizenship through naturalisation and that States were free to decide upon such criteria. However, when adopting and implementing legislation, State parties must respect applicants' rights as enshrined in article 26. The Committee recalled in this respect that article 26 requires reasonable and objective justification and a legitimate aim for distinctions relating to an individual's characteristics, such as their disability.

The Committee noted that the Ministry's letters informing the author of the Naturalisation Committee's decision did not contain any indication of the substantive grounds for refusing his application. The Committee considered that the lack of justification and of transparency regarding the procedure had hindered the author's ability to submit further documentation in support of his request. The Committee noted that the fact that the Naturalisation Committee was part of the Danish legislature did not exempt Denmark from taking measures so that the author was informed, even in brief terms, of the substantive grounds of the Naturalisation Committee's decision. In the absence of such justification, Denmark had failed to demonstrate

that its decision had been based on reasonable and objective grounds.

In the light of the above, the Committee concluded that Denmark had violated the author's rights under article 26 of the Covenant.

In accordance with article 2(3)(a) of the Covenant, the Committee observed that Denmark was under an obligation to provide the author with an effective remedy, including compensation and a reconsideration of his request for exemption taking into consideration the Committee's findings. The Committee found that Denmark was also under an obligation to prevent similar violations in the future.

Denmark must now submit its written response within six months of the Committee's decision, including information on the action taken in the light of the Committee's recommendations, and ensure that the Committee's decision is published widely.

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