



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

FOURTH SECTION

CASE OF MIARI v. DENMARK

(Application no. 2852/24)

JUDGMENT

Art 8 • Expulsion • Private life • Expulsion order with a six-year re-entry ban against settled migrant, lawfully residing in Denmark for more than thirty-four years, following conviction for serious drug offences • Domestic courts reduced permanent re-entry ban provided by the relevant domestic law to six years, holding that otherwise the length would “for certain” be considered in breach of Art 8 • Re-entry ban’s length the decisive factor in expulsion decision • Prospect of re-entering Denmark, at least for a short period, not purely theoretical • Time-limited nature of the re-entry ban was a factor capable of rendering the applicant’s expulsion compatible with Art 8 • 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

15 July 2025

FINAL

15/10/2025

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Miari v. Denmark,

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

Lado Chanturia, *President*,

Jolien Schukking,

Faris Vehabović,

Lorraine Schembri Orland,

Anja Seibert-Fohr,

Ana Maria Guerra Martins,

Anne Louise Bormann, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 2852/24) 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 stateless Palestinian, Mr Khaled Miari (“the applicant”), on 26 January 2024;

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

the parties’ observations;

Having deliberated in private on 17 June 2025,

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

INTRODUCTION

1. The application concerns an order made, during criminal proceedings, for the expulsion of the applicant, a settled migrant. He complained under Article 8 of the Convention.

THE FACTS

2. The applicant was born in 1972 in Lebanon and lives in Odense. He was represented by Mr Tyge Trier, a lawyer practising in Copenhagen.

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. The applicant was born in Lebanon. In 1986, at the age of almost 13, he entered Denmark. In 1991 he was granted permanent residence in Denmark.

6. The applicant is divorced and has no children.

7. He has a criminal record, having been convicted of robbery by a judgment of 18 November 1997. He was sentenced to two years and six months’ imprisonment.

8. By a judgment of the District Court (*Retten i Odense*) of 25 November 2022, the applicant was convicted under Article 191 of the Penal Code (which carries a sentence of imprisonment of up to ten years) of drug offences relating to 351.88 grams of cocaine, 102.99 grams of heroin and 146 grams of cannabis, intended for resale, or sold, in the period between approximately November 2021 and April 2022. The applicant was sentenced to three years' imprisonment and expelled from Denmark with a six-year re-entry ban.

9. The applicant stated before the District Court that, among other things, he and his ex-wife wanted children, but had not succeeded in having any. Instead, they had previously run a residential home for children. He had been highly appreciated by the local authorities. Thereafter he had gone bankrupt, divorced, fell into a depression, and started using cannabis and cocaine. His friends and family lived in Denmark. He and his ex-wife were reconciled. They had not discussed what they would do if he were to be deported, save that she would not accompany him.

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

“[The applicant] is sentenced to imprisonment for a term of three years ...

The conditions for expelling [the applicant] as set out in section 22(2)(iii) and (iv) of the Aliens Act have been met. [The applicant] has lived in Denmark for many years and speaks the language; he has previously had links to the labour market for a number of years, and has no ties to his country of origin. However, when this is weighed up against the fact that he has been sentenced to imprisonment for a term of three years, mainly for selling hard drugs, the court finds that it would not for certain be contrary to Denmark's international obligations to expel him pursuant to section 32(5)(i) of the Aliens Act for a period of six years, and the court allows the application for expulsion.”

11. The applicant appealed against the judgment to the High Court of Eastern Denmark (*Østre Landsret*), where he submitted, *inter alia*, that during his pre-trial detention he had received addiction therapy, and that he was no longer a drug addict. Before that, he had completed a number of educational programmes and courses for use in his work among vulnerable children and adults, including on addiction therapy. He had fallen back into drug abuse two years previously because his residential home had been under financial strain. His family lived in various locations around the world. In Denmark, he had seventy-seven family members. He was a stateless Palestinian and had fled Lebanon. He had come to Denmark just before his thirteenth birthday. Apart from a couple of people he was friends with on Facebook, he had no friends or family in Lebanon. He did not speak Arabic fluently, only broken Arabic, in which he was able to speak to his mother.

12. By a judgment of 24 May 2023, the High Court upheld the District Court's judgment. In respect of the expulsion order, the High Court stated as follows:

“It follows from section 24(1)(i), read with section 22(1)(ii), (iii) and (iv), of the Aliens Act that [the applicant] must be expelled unless expulsion would for certain be

MIARI v. DENMARK JUDGMENT

contrary to Denmark's international obligations, including Article 8 of the Convention – see section 26(2) of the Aliens Act.

Under Article 8 of the Convention ... According to the case-law ...

[The applicant], who is currently 50 years old, is a stateless Palestinian from Lebanon who entered Denmark in 1986 at the age of 13. According to the information provided, he has no family in Lebanon. He speaks broken Arabic.

[The applicant] has been lawfully resident in Denmark for about thirty-four years, has attended elementary school and completed the 9th and 10th grades. He also has a professional bachelor's degree in special education and has completed educational programmes and courses on management and addiction therapy. In Denmark he has run his own kiosk and has worked, *inter alia*, in an addiction centre under the auspices of Odense Local Authority and has been the manager of a socio-educational residential home. During the period preceding his pre-trial detention in the case at hand, he was a drug addict and received social welfare. He is divorced and has no children, but his parents and siblings live in Denmark.

Accordingly, the High Court accepts as a fact that [the applicant's] personal and cultural ties to Denmark are much stronger than his ties to Lebanon, but he would not be entirely unequipped to make a life in Lebanon if an expulsion order is imposed.

By this judgment, [the applicant] is sentenced to imprisonment for a term of three years for violation of the legislation on controlled substances in particularly aggravating circumstances, as set out in Article 191 § 2, read with Article 191 § 1, of the Penal Code. Previously, in 1997, he was given a concurrent sentence of imprisonment for a term of two years and six months for robbery – see Article 288 § 1(i) of the Penal Code.

Based on an overall assessment of [the applicant's] social background, including the information about the crime committed during his stay in Denmark, and the facts that he had entered Denmark at the age of 13 and does not have a family life within the meaning of the Convention, the High Court finds that the considerations in favour of expelling [the applicant] are so compelling as to outweigh the considerations, based on his strong ties to Denmark, against expulsion.

As mentioned above, it follows from the case-law of the European Court of Human Rights that the duration of a re-entry ban is significant in the assessment of whether an expulsion order would be a disproportionate interference with a person's private life or family life.

It follows from section 32(4)(vii) of the Aliens Act that an alien can be expelled and issued with a permanent re-entry ban if he or she is expelled under section 22 and is sentenced to imprisonment for more than one year and six months. However, a re-entry ban of a shorter duration may be imposed if the imposition of a permanent re-entry ban would entail expulsion being for certain contrary to Denmark's international obligations – see section 32(5)(i).

In the light of the information on [the applicant's] strong ties to Denmark, the High Court finds that a permanent re-entry ban would be contrary to Denmark's international obligations. The High Court therefore upholds the decision to expel [the applicant] and issue him with a re-entry ban for six years.

In view of this reasoning concerning the issue of expulsion, the High Court upholds the District Court judgment.”

13. A request by the applicant for leave to appeal to the Supreme Court was refused on 29 September 2023 by the Appeals Permission Board (*Procesbevillingsnævnet*).

14. The applicant was released on 16 April 2024, and thereafter was obliged to live in a deportation centre. He was apparently admitted to a psychiatric hospital from July to September 2024. It appears that the expulsion order has not yet been enforced and that the applicant remains in Denmark.

RELEVANT LEGAL FRAMEWORK

15. 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).

16. Section 24b of the Aliens Act, 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.

17. 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 allowed 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.

18. Under section 50 of the Aliens Act, if the expulsion has not been enforced, a foreign national claiming that material changes in his circumstances have occurred may request that the expulsion order be revoked by a court. Such a request may be submitted not earlier than six months and must be submitted not later than two months before the date when enforcement of the expulsion can be expected. If the request is submitted at a later date, the court may decide to examine the case if it deems it excusable that the time-limit was exceeded.

19. Section 50 of the Aliens Act was amended by Law no. 919 of 21 June 2022. As a result of the amendment, when making 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

ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

20. The applicant complained that the High Court's decision of 24 May 2023 (see paragraph 12 above) to expel him from Denmark with a six-year re-entry ban, which had become final on 29 September 2023 (see paragraph 13 above), was in breach of Article 8 of the Convention, the relevant part of which 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

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

22. The applicant disagreed.

23. In the Court's view, the complaint 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. *The parties' arguments*

24. The applicant submitted that the domestic courts had failed to take certain relevant circumstances into account in the balancing test, notably that he had been well integrated for many years in the Danish labour market, that his previous conviction dated back to 1997, that he had never received a warning that he might be deported, and that he had very strong ties to Denmark and none to Lebanon. In his view, it had not been established that there were “very compelling reasons” to deport him with a re-entry ban for six years.

25. Before the Court the applicant also relied on his right to family life. His father had passed away in March 2024, and since then he had been the main carer of his terminally ill mother. Moreover, he had rekindled his relationship with his ex-wife, and they were planning to remarry.

26. The applicant further submitted that his mental health had deteriorated after July 2024.

27. Lastly, the applicant maintained that the expulsion order was *de facto* permanent because the prospect of his being granted a new residence permit in Denmark was purely theoretical, in the light of his age, and the fact that he had no wife or children.

28. The Government submitted that the Danish courts had carried out a thorough proportionality assessment, balancing the opposing interests and taking all the applicant's personal circumstances into account. The applicant had committed serious drug offences and he posed a threat to public order. The courts had used their discretion to reduce the duration of the re-entry ban to six years. Accordingly, provided that the applicant fulfilled the requirements at the relevant time, he was able to re-enter Denmark, either by applying for a residence permit based on family reunification or work purposes, or by applying for a short-term visa. Moreover, 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.

29. The Government disputed that the applicant's right to respect for family life was at stake. His mother had been able to take care of herself while the applicant was imprisoned (see paragraph 14 above) and, during the criminal proceedings, the applicant had divorced. In any event, the applicant could maintain contact with his family by telephone or online.

30. In respect of the elements relied on by the applicant, which had occurred after the expulsion order had become final on 29 September 2023 (see paragraph 13 above), the Government reiterated that under section 50 of the Aliens Act (see paragraphs 18-19 above), the applicant could request a revocation of the expulsion order, or a shortening of the duration of the ban, if those elements could be considered material changes in his circumstances.

2. *The Court's assessment*

(a) **General principles**

31. 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 as to whether the expulsion order was necessary in a democratic society:

“In *Maslov* (cited above, ...) 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

32. The Court finds it established that there was an interference with the applicant’s right to respect for his private 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).

33. The Court observes that the applicant did not rely on his right to respect for his family life, either in form or in substance, during the criminal proceedings leading to the expulsion order at issue. The Court will therefore examine the case only under the private-life aspect of Article 8 (see, for example, *Savuran v. Denmark*, no. 3645/23, § 27, 12 November 2024).

34. 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 examined the relevant criteria thoroughly given that very serious reasons were required to justify the expulsion of the applicant, a settled migrant who had entered Denmark at the age of 13 (see paragraph 5 above) and had been lawfully resident in the host country for thirty-four years when the offences were committed (see *Maslov*, cited above, § 75). The Court is therefore called upon to examine whether “very serious reasons” of that kind were adequately adduced and examined by the national authorities when assessing the applicant’s case (see also *Savuran*, cited above, § 28;

Sharafane v. Denmark, no. 5199/23, § 49, 12 November 2024; and *Al-Habeeb v. Denmark*, no. 14171/23, § 52, 12 November 2024).

35. The domestic courts gave particular weight to the seriousness of the offence committed and the sentence imposed. The applicant was convicted, in particular, under Article 191 of the Penal Code (which carried a sentence of up to ten years' imprisonment) of serious drug offences, relating to 351.88 grams of cocaine, 102.99 grams of heroin and 146 grams of cannabis, committed over a period of several months. The applicant was sentenced to three years' imprisonment (see paragraphs 8 and 12 above).

36. The domestic courts took into account the fact that the applicant had been convicted of robbery in 1997, for which he had been sentenced to two years and six months' imprisonment (see paragraph 7 above).

37. They also duly took into account the criterion of "the length of the applicant's stay in the country from which he or she is to be expelled" and noted that the applicant had lawfully resided in Denmark for thirty-four years (compare *Al-Habeeb*, cited above, § 55, and the case-law cited therein).

38. In respect of the criterion of "the time that has elapsed since the offence was committed and the applicant's conduct during that period", the Court notes that the applicant was released on 16 April 2024, and is apparently still in Denmark (see paragraph 14 above). He has relied on various issues which occurred after the criminal proceedings and after his release, namely a deterioration in his mental health, his being the main carer of his mother during her illness, and the prospect of his remarrying his ex-wife (see paragraph 25 above). In the Court's view, however, such circumstances are not related to the "applicant's conduct" and therefore cannot be taken into account when reviewing whether the decision to expel the applicant was in compliance with Article 8 of the Convention. It notes, though, as submitted by the Government (see paragraph 30 above), that revocation proceedings may be lodged under section 50 of the Aliens Act if material changes have occurred. The Court has accepted that this remedy is adequate and effective for the purpose of bringing an application before it (see *Abdi v. Denmark*, no. 41643/19, § 22, 14 September 2021).

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 domestic court properly took this into account. The High Court specifically accepted that the applicant's ties to Denmark were much stronger than his ties to Lebanon, but found that he was not incapable of making a life in the latter country (see paragraph 12 above).

40. Lastly, regard has also been had to the duration of the expulsion order, in particular whether the re-entry ban was of limited or unlimited duration. The Court 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).

41. In the present case, the domestic courts found, in view of the nature and circumstances of the offences, that the applicant's conduct had constituted a genuine and sufficiently serious threat affecting one of the fundamental interests of society. This meant that, having regard also to the sentence – three years' imprisonment – the expulsion order would normally have been combined with a permanent re-entry ban by virtue of section 32(4)(vii) of the Aliens Act (see paragraph 17 above). Nevertheless, notably on account of the applicant's strong ties to Denmark, the courts reduced the duration of the ban to six years (see also *Savuran*, § 35, and contrast *Savuran*, § 200, both cited above).

42. The Court does not call into question the finding that the applicant's offence leading to the expulsion order was of such a nature that he posed a serious threat to public order (see, among other authorities, *Mutlag*, cited above, §§ 61-62; *Avci v. Denmark*, no. 40240/19, §§ 30 and 37, 30 November 2021; and *Savuran*, § 36, cited above).

43. The length of the re-entry ban is only one of many factors in assessing whether an expulsion order is compatible with Article 8. Normally it cannot be said that this factor or any other factor is in itself decisive for the outcome of this assessment. In the Danish context this is different owing to the Danish law that allows the courts to reduce the length of the re-entry ban if and only if a longer duration would “for certain” be contrary to Denmark's international obligations. This means that in some borderline cases the length of the re-entry ban becomes decisive in the assessment made by the Danish courts (see *Savuran*, § 37; *Sharafane*, § 57; and *Al-Habeeb*, § 62, all cited above).

44. That was so in the present case, as the Danish courts could only reduce the length of the re-entry ban if they found that a permanent re-entry ban would “for certain” be a violation of Denmark's international obligations. Accordingly, the length of the re-entry ban was in fact the deciding factor in the decision to expel the applicant (compare *Sharafane*, cited above, § 57).

45. The applicant claims that the six-year re-entry ban is in reality permanent as he has no realistic possibility of regaining a residence permit in Denmark (see paragraph 27 above). The Court notes, however, that being a stateless Palestinian from Lebanon, the applicant does not belong to visa group 5 (see, contrast, *Sharafane*, cited above, § 68) and he does not claim,

that after the expiry of the re-entry ban, he would not be able to re-enter Denmark on a visa to visit his family there. This means that the possibility of his being able to return to Denmark at least for a short period, following the expiry of the six-year re-entry ban, is not purely theoretical (see *Savuran*, § 39, and contrast *Savran*, § 200, both cited above). The Court thus finds no reason to question the finding of the domestic courts that the time-limited nature of the re-entry ban was a factor capable of rendering the applicant's expulsion compatible with Article 8.

46. Taking account of all the elements described above, the Court concludes that the interference with the applicant's private life was supported by relevant and sufficient reasons. It is satisfied that "very serious reasons" were adequately adduced by the national authorities when assessing his case. 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 (compare *Savuran*, cited above, § 40).

47. 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 15 July 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski
Deputy Registrar

Lado Chanturia
President