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

FIFTH SECTION

DECISION

Application no. 21783/22
Ozgur CAKMAK
against Denmark

The European Court of Human Rights (Fifth Section), sitting on 25 January 2024 as a Committee composed of:

Stéphanie Mourou-Vikström*, President*,
Lado Chanturia,
Mattias Guyomar*, judges*,

and Sophie Piquet, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 21783/22) 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") on 26 April 2022 by a Turkish national, Mr Ozgur Cakmak ("the applicant"), who was born in 1991, lived in Copenhagen and was represented by Mr Anders Schønnemann Olesen, a lawyer practising in Copenhagen;

the decision to give notice of the complaint under Article 8 about the expulsion order to the Danish Government ("the Government"), represented by their Agent, Ms Vibeke Pasternak Jørgensen, from the Ministry of Foreign Affairs, and their Co-Agent, Ms Nina Holst-Christensen, from the Ministry of Justice, and to declare inadmissible the remainder of the application (a complaint under Article 4 of Protocol No. 7 to the Convention);

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicant is a Turkish national, born in Denmark. By a judgment which became final on 28 October 2021 the applicant was convicted, notably of attempted murder committed on 11 April 2013. He was sentenced to six years and three months' imprisonment. Moreover, he was expelled from Denmark with a life-long ban on returning.

2. The applicant complained that the order expelling him from Denmark was in violation of Article 8 of the Convention

THE COURT'S ASSESSMENT

3. The Court notes that the general principles applicable to cases involving expulsion of settled immigrants are well established in the Court's case-law (see notably, *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).

4. It also notes the recent cases against Denmark concerning expulsion of settled immigrants (see, among others, *Noorzae v. Denmark*, no. 44810/20, 5 September 2023; *Sharifi v. Denmark*, no. 31434/21, 5 September 2023; *Al-Masudi v. Denmark*, no. 35740/21, 5 September 2023; *Avci v. Denmark*, no. 40240/19, 30 November 2021; *Abdi v. Denmark*, no. 41643/19, 14 September 2021; *Laraba v. Denmark* (dec.), no. 26781/19, 22 March 2022; *Adam Johansen v. Denmark* (dec.), no. 27801/19, 1 February 2022; and *Hussain v. Denmark* (dec.), [Committee], no. 31572/19, 22 February 2022).

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

6. As to the question of whether the interference was "necessary in a democratic society", the Court recognises that the domestic courts thoroughly examined each relevant criterion set out, for example, in *Maslov v. Austria* (cited above, §§ 72-73) and were fully aware that very serious reasons were required to justify expulsion of the applicant, a settled migrant who had been born in Denmark and had lawfully spent his childhood and youth in the host country (ibid., § 75).

7. In respect of the applicant's right to respect for his private life, the domestic courts took the relevant factors into account, which included the nature and seriousness of the offence committed by the applicant, the length of the applicant's stay in the country from which he was going to be expelled, the nationalities of the various persons concerned and the solidity of his social, cultural and family ties with the host country and with the country of destination. Thus, the Danish courts took into account, among other things, that the applicant was born in Denmark and had been sentenced to six years and three months' imprisonment for attempted murder, a serious offence committed as an adult. On 11 April 2013 he had, together with others, as a member of a gang, fired at least 30 shots at several other persons in a public place. One victim survived being shot in the head. No one else was hit. At the

time, there was not sufficient evidence in the case. Evidence emerged, however, in 2018-2019 due to new analytical methods and DNA systems.

8. The domestic courts noted, among other things, that the applicant had had a criminal past since 2012, including a conviction of 4 November 2013 for possession of weapons, for which he was sentenced to one year and three months' imprisonment; a conviction of 12 March 2019 for notably forgery, for which he was sentenced to five months' imprisonment; and a conviction of 19 September 2019 for violence, for which he was sentenced to 40 days' imprisonment and issued with a warning of expulsion.

9. The expulsion order in the present case was issued together with a lifelong ban on re-entry. The Court notes in this context that the duration of a ban on re-entry is an element to which it has attached importance in its case-law. In the present case, the Court is convinced that the applicant's crime leading to the expulsion order was of such a nature that he posed a serious threat to public order (see, *inter alia*, *Al-Masudi v. Denmark*, cited above, § 34; *Avci v. Denmark*, cited above, § 37; *Balogun v. the United Kingdom*, no. 60286/09, § 53, 10 April 2012; and *Mutlag v Germany*, no. 40601/05, §§ 61-62, 25 March 2010).

10. Taking account of all of 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 (*Savran v. Denmark* [GC], no. 57467/15, § 189, 7 December 2021). In the Court's opinion, such strong reasons are absent in the present case.

11. It follows that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 15 February 2024.

Sophie Piquet Acting Deputy Registrar	Stéphanie Mourou-Vikström President