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

SECOND SECTION

DECISION

Application no. 74411/16
Mansour SAID ABDUL SALAM MUBARAK
against Denmark

The European Court of Human Rights (Second Section), sitting on 22 January 2019 as a Committee composed of:
Paul Lemmens, *President,*
Jon Fridrik Kjølbro,
Ivana Jelić, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*
Having regard to the above application lodged on 7 December 2016,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Mansour Said Abdul Salam Mubarak, is a Moroccan national, born in 1960. At the time of lodging the application, he was detained in Denmark. He was represented by Michael Juul Eriksen, a lawyer practising in Aarhus.

A. The circumstances of the case

2. The facts of the case, as submitted by the applicant, may be summarised as follows.
3. In 1979, when the applicant was 19 years old, he left Morocco for the Netherlands. He entered Denmark in 1984, when he was 24 years old.
4. In March 1988, in addition to his Moroccan nationality, the applicant was granted Danish citizenship.
5. He returned to Morocco several times, most recently in 1989. His mother and 5 siblings lived there.
6. The applicant speaks Arabic and some Danish. He has received social benefits since 1994.

7. In Denmark, the applicant was married to a woman from 1988 to 1999. They had 4 children, born in 1985, 1986, 1992 and 1994 (now adults), who are Danish nationals. In 2000 he married a Moroccan woman, who returned to Morocco in 2005. They divorced in April 2015. They did not have children.

8. In the period between 2006 to 2008 the Moroccan authorities requested that the applicant be extradited to be prosecuted for crimes which included attempted murder and attempt to sabotage installations using explosives, committed in Casablanca in 2003. Upon request, the Danish authorities obtained further information and guaranties, *inter alia*, that the death penalty would not be imposed. Nevertheless, having found that the Moroccan authorities had failed to submit sufficient information enabling the Danish authorities to assess whether the conditions for extradition were fulfilled, notably in relation to the Moroccan legislation and the sentence which could be imposed, the request was refused by the Danish authorities on 18 December 2008.

9. In 2013, under Islamic law, the applicant married a Danish national of Moroccan origin. They never lived together. They had a daughter in October 2015. The child was thus conceived while the applicant was detained.

10. The applicant has had a criminal record since 2002, which in so far as relevant includes a City Court judgment of 11 April 2007 convicting him, *inter alia*, of promoting terrorism (now Article 114 e of the Penal Code), and sentencing him to 3 years and 6 months' imprisonment.

11. On 11 February 2014, the applicant was arrested, charged anew with promoting terrorism, committed as from the beginning of 2012 until the date of arrest.

12. By a City Court (*Retten på Frederiksberg*) judgment of 4 December 2014, the applicant was convicted for having promoted terrorism by making propaganda for al-Qaeda and related terrorist groups through numerous posts on Facebook and in emails and by editing and publishing three books (Articles 114 e, 136, and 266 b of the Penal Code). The City Court did not find that the conviction ran counter to Article 10 of the Convention. The applicant was sentenced to 4 years' imprisonment. The Prosecution's request that the applicant be stripped of his Danish citizenship and expelled from Denmark with a permanent entry ban was refused by a majority of judges (7 votes to 5).

13. On 15 January 2015, the Moroccan authorities requested anew that the applicant be extradited. They gave official assurances, stating again that the Moroccan authorities would not plead for the death penalty, and added that the applicant would obtain a fair trial with all legal guaranties, including a lawyer. The request was refused by the Danish authorities, on 23 April 2015, for the same reasons as given in the refusal of 18 December 2008.

14. On appeal to the High Court (*Østre Landsret*), the criminal case against the applicant was heard over 17 days. By a judgment of 1 July 2015 the conviction and sentence were upheld. In the High Court's opinion, since the applicant had incited to terrorism, the content of his books could not be protected under Article 10 of the Convention.

15. Moreover, by a majority (17 votes to 1) the applicant had his citizenship revoked and was expelled with a permanent ban on his re-entry. The High Court noted that, according to the preparatory work on section 8b of the Act on Danish Nationality, the assessment of whether to withdraw a person's citizenship should be based on a weighing up of the severity of the offence, and the impact on the person concerned, of the withdrawal of his or her citizenship.

16. As to the severity of the offence, the High Court noted that the applicant had been convicted of very serious terrorist crimes under 114e of the Penal Code. He had promoted terrorist activities, spread propaganda on behalf of Al-Qaeda and other terrorist organisations, praised and encouraged armed jihad. Given their extent, nature and seriousness, his crimes had been carried out in an extremely professional manner and lasted for two years. Moreover, he had been convicted for similar crimes in 2007.

17. As to the impact on the applicant of the withdrawal of his citizenship, the High Court took into account that the applicant had been born and raised in Morocco, where he had spent all of his school years. He had arrived in Denmark when he was 24, and had lived there for 32 years. He spoke Arabic and some Danish. He had not achieved a permanent attachment to the Danish labour market and had received social benefits since 1994. He had four adult children. In 2013, under Islamic law, he married a Danish citizen of Moroccan descent, and in October 2015, she gave birth to a daughter who, according to him, was his child.

18. After having weighed the severity of the offence against the impact of withdrawal of the applicant's citizenship based on an assessment of his situation, including his ties with Denmark and Morocco, his current family situation and his language skills, the High Court found that his Danish citizenship should be withdrawn. It also found that the conditions in the Danish Aliens Act for expelling the accused had been met. It found that none of these measures would be in breach of Article 8 of the Convention.

19. The applicant appealed against the stripping of his citizenship and the expulsion to the Supreme Court (*Højesteret)*, which by a judgment of 8 June 2016 upheld the High Court's judgment.

20. On 4 October 2017 the Minister of Justice declared the applicant a danger to national security under section 45 of the Aliens Act.

21. In the meantime, on 29 September 2016 the applicant requested asylum. He submitted that he feared being killed upon return because he had expressed criticism against the King and the authorities in Morocco. He also

feared being punished for the crimes of which he was allegedly wrongly accused in Morocco. Finally, he feared double punishment.

22. By decision of 28 November 2017 the Aliens Board (*Udlændingestyrelsen*) refused to grant the applicant asylum.

23. The decision was upheld by the Refugee Appeals Board (*Flygtningenævnet*) on 2 March 2018. The latter considered that expulsion to Morocco was not *per se* excluded. Moreover, it found that the applicant had failed to substantiate his allegations of being in danger due to his alleged criticism against the King and regime in Morocco. The Refugee Appeals Board noted that the applicant had alleged that he had expressed criticism since 1989, but that the Moroccan authorities had not made an extradition request until 2006. On the contrary, that request was specifically related to the charges of attempted murder and attempt to sabotage installations using explosives, allegedly committed in Casablanca 2003, but not to criticism of the King or the regime. Moreover, the applicant had been in contact with the Moroccan authorities many times before then without any problems.

24. Having regard to the recent background material on Morocco, set out for example in *X v. Sweden*, no. 36417/16, §§ 26-31, 9 January 2018, compared with the extradition requests, the information that the Moroccan authorities might have about the applicant, including possibly the recent crimes committed, the Refugee Appeals Board found that the applicant could be at risk of being subjected to treatment contrary to Article 3 upon return to Morocco.

25. However, as opposed to the situation in the case of *X v. Sweden* (cited above, § 60), in the present case the Danish Government had twice obtained official assurances by the Moroccan authorities guaranteeing a proper treatment of the applicant upon return, namely in 2008 and 2015, in connection with the request for extradition. Those assurances were still official and valid. The Refugee Appeals Board stated that, according to the background information available to it, there was a real way of controlling compliance with those assurances. The authorities had affirmed that they would not plead for the death penalty, and that the applicant would obtain a fair trial with all legal guaranties, including a lawyer.

26. Furthermore, the Refugee Appeals Board took into account the fact that the prison conditions in Morocco had improved considerably and were now independently monitored by the *Conseil National des Droits de l'Homme*, according to which all detainees now have access to free medical treatment, nutrition has been improved, and education is offered in most prisons. The Refugee Appeals Board referred to several reports, including the US Department of States report "2016 Country Reports on Human rights practices – Morocco", and a Danish report from 2017 on the situation in Morocco.

27. The Refugee Appeals Board also found that a potential risk of double punishment would only be relevant if the character and intensity of the penalty were to reach the required threshold to have an impact on an asylum request. Having regard to the assurances given by the Moroccan authorities, the Board found no elements indicating that a penalty would be disproportionate or in breach of Article 3.

28. On 14 May 2018 the applicant applied to the Court requesting an interim measure under Rule 39 of the Rules of Court with immediate effect, staying his deportation from Denmark. The Court rejected this request on 17 May 2018.

29. On 9 February 2018, having served his sentence, the applicant was detained under section 35, subsection 1, of the Aliens Act, awaiting the implementation of the expulsion order. He was deported to Morocco on 4 January 2019.

B. Relevant domestic law

30. The relevant provisions of the Danish Penal Code read as follows:

Article 114

"(1) Any person who, by acting with the intent to frighten a population to a serious degree or unlawfully to coerce Danish or foreign public authorities or an international organisation to carry out or omit to carry out an act or to destabilise or destroy a country's or an international organisation's fundamental political, constitutional, financial or social structures, commits one or more of the following acts, when the act due to its nature or the context in which it is committed can inflict on a country or an international organisation serious damage, shall be guilty of terrorism and liable to imprisonment for any term extending to life imprisonment:

1) Homicide pursuant to section 237.

2) Gross violence pursuant to section 245 or section 246.

3) Deprivation of liberty pursuant to section 261.

4) Impairment of the safety of traffic pursuant to section 184(1); unlawful disturbances in the operation of public means of communication, etc. pursuant to section 193(1); or gross damage to property pursuant to section 291(2); if these violations are committed in a way which can expose human lives to danger or cause considerable financial losses.

5) Seizure of transportation means pursuant to section 183a.

6) Gross weapons law violations pursuant to section 192a of the Act on Weapons and Explosives, section 10(2).

7) Arson pursuant to section 180; explosion, spreading of noxious gases, flooding, shipwrecking, railway or other traffic accident pursuant to section 183(1) and (2); health-endangering contamination of the water supply pursuant to section 186(1); health-endangering contamination of products intended for general use, etc. pursuant to section 187(1).

8) Possession or use, etc. of radioactive substances pursuant to section 192b.

(2) Similar punishment shall apply to any person who, with the intent mentioned in section 1, transports weapons or explosives.

(3) Similar punishment shall apply to any person who, with the intent mentioned in subsection 1, threatens to commit one of the acts mentioned in subsections 1 and 2.

Article 114a

If one of the acts mentioned in items 1-7 below is committed without being covered by section 114, the punishment may exceed the highest punishment prescribed for the violation by up to half the punishment. If the highest punishment prescribed for the relevant act is shorter than 4 years' imprisonment, the punishment may, however, be increased to imprisonment for a term not exceeding six years.

1) Contravention of section 180, section 181(1), section 183(1) or (2), section 183a, section 184(1), section 192a(2), section 193(1), sections 237, 244, 245, 246, 250, section 252(1), section 266, section 288 or section 291(1) or (2) when the act is covered by article 1 of the Convention of 16 December 1970 for the Suppression of Unlawful Seizure of Aircraft, article 1 of the Convention of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation or article II of the Protocol of 24 February 1988 for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.

2) Contravention of section 180, section 181(1), section 183(1) or (2), section 184(1), sections 237, 244, 245, 246, 250, section 252(1), section 260, section 261(1) or (2), section 266 or section 291(1) or (2) when the act is covered by article 2 of the Convention of 14 December 1973 on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

3) Contravention of section 261(1) or (2) when the act is covered by article 1 of the International Convention of 17 December 1979 against the Taking of Hostages.

4) Contravention of section 180, section 181(1), section 183(1) or (2), section 186(1), sections 192a(2), 192b, 237, 244, 245, 246, 260, 266, 276, 278, 279, 279a, 281, 288 or section 291(2) when the act is covered by article 7 of the IAEA Convention (the Convention of the International Atomic Energy Agency) of 26 October 1979 on the Physical Protection of Nuclear Material.

5) Contravention of section 180, section 181(1), section 183(1) or (2), section 183a, section 184(1), section 192a(2), section 193(1), sections 237, 244, 245, 246, section 252(1), sections 260, 266, 288 or section 291(1) or (2) when the act is covered by article 3 of the Convention of 10 March 1988 for the Suppression of Unlawful Acts against the Safety of Maritime Navigation or article 2 of the Protocol of 10 March 1988 for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

6) Contravention of section 180, section 181(1), section 183(1) or (2), section 183a, section 184(1), section 186(1), section 192a(2), section 193(1), sections 237, 244, 245, 246, 250, section 252(1), section 266 or section 291(2) when the act is covered by article 2 of the International Convention of 15 December 1997 for the Suppression of Terrorist Bombings.

7) Contravention of section 192 b, section 260 or section 266, when the act is covered by article 2 of the international Convention of 13 April 2005 for the Suppression of Nuclear Terrorism.

Article 114b

Any person who

1) directly or indirectly provides financial support to;

2) directly or indirectly procures or collects means to; or

3) directly or indirectly places money, other assets or financial or other similar means at the disposal of; a person, a group or an association which commits or intends to commit acts included under section 114 or section 114a,

shall be liable to imprisonment for any term not exceeding ten years.

Section 114c

(1) Any person who recruits a person to commit or advance acts covered by section 114 or section 114a or to join a group or an association to promote the committing of acts of this nature by the group or the association shall be liable to imprisonment for a term not exceeding ten years. Under especially aggravating circumstances, the punishment may be increased to imprisonment for a term not exceeding 16 years. Especially cases involving contraventions of a systematic or organised nature shall be considered especially aggravating circumstances.

(2) Any person who recruits a person to commit or advance acts covered by section 114b or to join a group or an association to promote the committing of acts of this nature by the group or the association shall be liable to imprisonment for a term not exceeding six years.

(3) Any person who allows himself to be recruited to commit acts covered by section 114 or section 114a shall be liable to imprisonment for a term not exceeding six years.

Section 114d

(1) Any person who trains, instructs or in any other way educates a person to commit or promote acts covered by section 114 or section 114a knowing that the person has the intention of using the skills for this purpose shall be liable to imprisonment for a term not exceeding ten years. Under especially aggravating circumstances, the punishment may be increased to imprisonment for a term not exceeding 16 years. Especially cases involving contraventions of a systematic or organised nature shall be considered especially aggravating circumstances.

(2) Any person who trains, instructs or in any other way educates a person to commit or promote acts covered by section 114b knowing that the person has the intention of using the skills learned for this purpose shall be liable to imprisonment for a term not exceeding six years.

(3) Any person who allows himself to be trained, instructed or in any other way educated to commit acts covered by section 114 or section 114a shall be liable to imprisonment for a term not exceeding six years.

Section 114e

Any person who otherwise promotes the activities of a person, a group or an association committing or intending to commit acts covered by sections 114, 114a, 114b, 114c or 114d shall be liable to imprisonment for a term not exceeding six years."

31. Section 8b of the Act on Danish Nationality *(Indfødsretloven*, no. 422 of 7 June 2004) reads as follows:

> "(1) A person convicted of violation of one or more provisions of Parts 12 and 13 of the Criminal Code may be deprived of his or her Danish nationality by court order unless this will make the person concerned stateless.
>
> (2) Where a person is punished abroad for an act which may, under subsection (1) hereof, lead to deprivation of Danish nationality, such person can be deprived of his or her nationality pursuant to section 11 of the Criminal Code."

32. According to the preparatory works to section 8b of the Act on Danish Nationality, a decision to deprive citizenship requires that a proportionality test be made, weighing the seriousness of the crime against the impact on the person's loss of Danish citizenship. Such a determination involves evaluating the person's ties to Denmark compared to his or her ties to a country of another citizenship, including family ties in both countries. Moreover, a person who was convicted of a serious crime, punishable by more than two years' imprisonment, should, as a starting point, be stripped of Danish citizenship. However, even very serious crimes should not result in loss of citizenship if the person has no connection or very little connection to the other country.

33. The relevant provisions of the Aliens Act set out:

Section 26

> "(1) In deciding on expulsion under sections 25a to 25c, regard must be had to the question whether expulsion must be assumed to be particularly burdensome, in particular because of –
>
> (i) the alien's ties with Danish society;
>
> (ii) the alien's age, health and other personal circumstances;
>
> (iii) the alien's ties with persons living in Denmark;
>
> (iv) the consequences of the expulsion for the alien's close relatives living in Denmark, including impact on family unity;
>
> (v) the alien's slight or non-existent ties with his country of origin or any other country in which he may be expected to take up residence; and
>
> (vi) the risk that, in cases other than those mentioned in section 7(1) and (2) and section 8(1) and (2), the alien will be ill-treated in his country of origin or any other country in which he may be expected to take up residence.
>
> (2) An alien must be expelled under sections 22 to 24 and 25 unless this would be contrary to Denmark's international obligations.

Section 35

> "(1) An alien may be remanded in custody when on definite grounds custody is found to be necessary to ensure the alien's presence during his case and during a possible appeal until a decision on expulsion, if any, can be enforced, and if:

(i) the alien is not permanently resident in Denmark and there are reasonable grounds for suspecting that the alien has committed an offence that may lead to expulsion under sections 22 to 24;

(ii) the alien has entered Denmark in violation of a re-entry ban.

(2) An alien who has submitted an application for a residence permit pursuant to section 7, and who has been expelled by final judgment under sections 22 to 24, may be remanded in custody to ensure effective enforcement of the decision of expulsion.

(3) ..."

C. Relevant country information on Morocco

34. In its report on Morocco (UN doc. A/HRC/27/48/Add.5, dated 4 August 2014), the United Nations Working Group on Arbitrary Detention welcomed the adoption of the Constitution in July 2011, marking an important step towards the strengthening of human rights, and the establishment of the National Human Rights Council (CNDH) as the independent national institution responsible for the protection and promotion of human rights. It found that the CNDH and its various regional offices were making a significant contribution to the promotion and protection of human rights in the country. It further observed:

"... the important and ongoing efforts of the Government to establish and consolidate a culture of human rights in Morocco. The Working Group encourages that process and expresses the hope that it will lead to the prevention and combating, in law and in practice, of any kind of violation that would constitute arbitrary deprivation of liberty. The Working Group appreciates that the extensive structural reform undertaken by Morocco to consolidate the promotion and protection of human rights has continued since its visit in December 2013."

35. However, as concerned cases involving allegations of terrorism or threats to national security, the Working Group noted as follows:

"21. The Anti-Terrorism Act (No. 03-03), adopted in the wake of the Casablanca bombings of 16 May 2003, has, as a legal framework, been responsible for numerous violations of human rights and it remains in force in its original form.

22. The Anti-Terrorism Act extends the time limits on custody to up to 96 hours, renewable twice. This means that detainees maybe held for up to 12 days upon written consent from the prosecution before being brought before the investigating judge. In addition, communication with a lawyer is only possible 48 hours after the renewal of custody is granted. Hence suspects may be deprived of all contact with the outside world for six days before being allowed to communicate for half an hour with a lawyer and, even then, under the control of a police officer (Code of Criminal Procedure, art. 66, para. 6). The Working Group notes that those provisions, which restrict crucial safeguards, such as early contact with counsel, significantly increase the risk of torture and ill-treatment. The Working Group also notes with concern that the definition of the crime of terrorism is rather vague.

23. The Working Group heard several testimonies of torture and ill-treatment in cases involving allegations of terrorism or threats against national security. In those cases, the Working Group concurs with the Special Rapporteur on torture that a

systematic pattern of acts of torture and ill-treatment during the arrest and detention process can be detected.

24. In such cases, it appears that suspects are often not officially registered, that they are held for weeks without being brought before a judge and without judicial oversight, and that their families are not notified until such time as the suspects are transferred to police custody in order to sign confessions. In many cases, victims are then transferred to a police station, where a preliminary investigation is opened, dated from the transfer to avoid exceeding the limits placed on the custody period.

...

29. Article 293 of the Code of Criminal Procedure states that a confession, like any other evidence, is subject to the discretion of the judge and that any confession obtained under torture is inadmissible.

30. The Working Group notes the considerable importance accorded to confessions in the context of a trial. Through interviews with detainees serving long sentences, the Working Group found that confessions had often been obtained as a result of torture. Such confessions were set out in the police records and served almost exclusively as evidence for prosecution and conviction."

36. The Working Group found in its conclusions (paragraph 74 of the report) that:

"... in cases related to State security, such as cases involving terrorism [or] membership in Islamist movements ... there is a pattern of torture and ill-treatment during arrest and in detention by police officers, in particular agents of the National Surveillance Directorate (DST). Many individuals have been coerced into making a confession and have been sentenced to imprisonment on the sole basis of that confession."

37. The United Nations Human Rights Committee, in its concluding observations on the sixth periodic report of Morocco (UN doc. CCPR/C/MAR/CO/6, adopted on 2 November 2016) welcomed, among other measures, the adoption of the new Constitution in 2011 which strengthens democratic institutions and the status of human rights in the legal system, as well as the ratification by Morocco of the Optional Protocol to the Convention against Torture in 2014.

38. However, it also raised a number of concerns, among them the following:

"Counter-terrorism

17. The Committee remains concerned about the broad and unclear wording of the provisions in the Criminal Code that define what acts constitute acts of terrorism and the introduction of new, vaguely defined offences in 2015. ... The Committee is also disturbed by the excessive length of time that persons may be held in police custody in connection with terrorism-related offences (12 days) and by the fact that such persons are allowed to consult a lawyer only after 6 days have elapsed (arts. 9, 14 and 19).

...

Prohibition of torture and ill-treatment

23. The Committee welcomes the authorities' efforts to combat torture and ill-treatment and notes that there has been a marked reduction in such practices since the time that its last concluding observations (CCPR/CO/82/MAR) were issued. It is nonetheless concerned by continued reports of torture and cruel, inhuman or degrading treatment being perpetrated by agents of the State in Morocco and Western Sahara, particularly in the case of persons suspected of terrorism or of endangering State security or posing a threat to the territorial integrity of the State. The Committee notes with particular concern that: (a) confessions obtained under duress are reportedly sometimes admitted as evidence in court even though, by law, they are inadmissible; (b) in cases of alleged torture or of the extraction of confessions under duress, judges and prosecutors do not always order that medical examinations be performed or that investigations be undertaken; (c) persons who report cases of torture are sometimes the object of intimidation, threats and/or legal proceedings; and (d) the number of cases in which charges have been brought and the number of convictions that have been handed down seem quite low given the number of complaints filed and the extent to which torture and ill-treatment have occurred in the past (arts. 2, 7 and 14).

...

Police custody and access to a lawyer

25. The Committee is concerned about the unduly prolonged periods of police custody and that access to a lawyer is permitted only in cases in which the period of police custody is prolonged and for a maximum of 30 minutes (arts. 9 and 14).

...

Right to a fair trial and the independence of the judiciary

33. The Committee is concerned about cases in which irregularities appear to have occurred in court proceedings, including the admission of confessions obtained under duress and refusals to hear witnesses or to consider evidence. It is also concerned about cases in which lawyers and judges have been the target of threats and intimidation and of interference in their work and about the imposition of arbitrary or disproportionate disciplinary measures."

39. The US Department of State, in its Country Reports on Human Rights Practices for 2016, Morocco (released on 3 March 2017), noted that:

"Reporting in previous years alleged more frequent use of torture. A May 2015 report by [Amnesty International] AI claimed that between 2010 and 2014, security forces routinely inflicted beatings, asphyxiation, stress positions, simulated drowning, and psychological and sexual violence to "extract confessions to crimes, silence activists, and crush dissent." Since the AI interviews, the government has undertaken reform efforts, including widespread human rights training for security and justice sector officials. In June 2015 Minister of Justice Mustapha Ramid publicly announced that torture would not be tolerated, and that any public official implicated in torture would face imprisonment.

In the event of an accusation of torture, the law requires judges to refer a detainee to a forensic medical expert when the detainee or lawyer requests it or if judges notice suspicious physical marks on a detainee. The UN Working Group on Arbitrary Detention, human rights NGOs, and media documented cases of authorities' failure to implement provisions of the antitorture law, including failure to conduct medical examinations when detainees allege torture. Following the recommendations of the Special Rapporteur for Torture's 2013 report, the Ministries of Justice, Prison

Administration, and National Police each issued notices to their officials to respect the prohibition against maltreatment and torture, reminding them of the obligation to conduct medical examinations in all cases where there are allegations or suspicions of torture. Since January 2015 the Ministry of Justice has organized a series of human rights trainings for judges, including on the prevention of torture. ...”

40. A report released on 21 March 2017 by the Danish Immigration Service on the “Risk of Double Jeopardy in Morocco” states in its relevant part as follows:

“1. Legislation on the principle of double jeopardy

In the national legislation the principle of double jeopardy (*non bis in idem/ne bis in idem*) is laid down in the Moroccan Code of Penal Procedure, Act no. 22-01 enacted by decree [*dahir*] no. 1.02.155 on 3rd October 2002, Articles 704 to 749 in the chapter about international cooperation. An anonymous well-informed legal adviser in Rabat and the Liaison Judge at the Embassy of Spain both stated that the principle of *non bis in idem* is stipulated in the Code of Penal Procedure, Article 707.

International legislation ratified by Morocco, according to which no one can be prosecuted or punished twice for the same violation in the country of origin or abroad (double jeopardy), is stipulated in the Palermo Convention.

2. Risk of double jeopardy

All sources confirmed that Morocco respects the principle of *non bis in idem*. The well-informed legal adviser noted, however, that it may be that Morocco has information about other matters that would allow a prosecution. The same source further explained that if a terrorist was expelled from a foreign country, he would be monitored closely by the Moroccan security service. He would not be prosecuted and punished for terrorism. However, the Moroccan authorities might know of other violations committed by the person in question for which he would be sentenced. Concerning extradited Moroccan citizens who were convicted of terrorism, it is in no way a rule that they will be prosecuted and convicted for other violations.

According to the Ministry of Justice and Liberties, the consequence for a Moroccan who has committed an offence abroad, but who has not been punished and who subsequently returns to Morocco, is that he or she will be punished pursuant to the Code of Penal Procedure.

The consequence for a Moroccan who has been punished for an offence abroad, but who has not served his or her sentence and who returns to Morocco, is that he or she will be punished pursuant to the Code of Penal Procedure. The Liaison Judge at the Embassy of Spain added that where a sentence had been imposed but not served entirely, the person can be sentenced in Morocco.

No examples of violation of the principle of *non bis in idem* were known to the Liaison Judge at the Embassy of Spain.

3. Monitoring

According to the Ministry of Justice and Liberties, in cases where a Moroccan national has been sentenced for an offence related to terrorism abroad and who is expelled to Morocco for that reason, the person in question will be monitored by the relevant authorities.

A well-informed legal adviser commented that few things remain undisclosed in Morocco as the security service is highly efficient. Many ordinary people, including

the neighbourhood guards (*concierges du quartier*), provide information to the security service about their neighbours on a voluntary basis. However, there is no 'surveillance psychosis'."

41. In its World Report 2018, published on 18 January 2018, Human Rights Watch stated, in respect of Morocco and Western Sahara, *inter alia*:

"Police Conduct, Torture, and the Criminal Justice System

Courts failed to uphold due process guarantees in political and security-related cases.

The Code of Penal Procedure, amended in 2011, gives a defendant the right to contact a lawyer after 24 hours in police custody or a maximum of 36 hours if the prosecutor approves this extension. In cases involving terrorism offenses, the prosecutor can delay access to a lawyer for up to six days. The law does not give detainees the right to a have a lawyer present when police interrogate or present them with their statements for signature.

The 2003 counterterrorism law contains an overly broad definition of 'terrorism' and allows for up to 12 days of garde à vue (precharge) detention in terrorism related cases.

The Rabat Appeals Court conducted a new trial of 24 Sahrawis convicted by a military court in 2013 for their alleged role in violence that erupted after security forces entered to dismantle a protest encampment set up in Gdeim Izik, Western Sahara. The violence resulted in the deaths of 11 security force members. The appeals court sentenced nearly all of the defendants to prison terms of between 20 years and life, similar to the sentences that the military court handed them in 2013. In its verdict, the court relied on the original police statements from 2010, which the defendants rejected as false. They said they were either coerced or physically forced into signing the statements, including through the use of torture. The court ordered medical examinations, which concluded that torture could neither be proven nor disproven, an unsurprising conclusion given that these examinations, the first of a forensic nature of these defendants, were taking place seven years after the alleged torture took place.

On March 9, a Rabat court of appeals upheld the conviction of French citizen Thomas Gallay on charges of materially aiding persons who harboured terrorist aims, but reduced his prison sentence from six to four years. Gallay's lawyer, who was not present when the police questioned him, said that police used pressure and deceit to persuade him to sign statements in Arabic, a language that he could not read. The court also convicted Gallay's eight Moroccan co-defendants, sentencing them to prison terms of up to 18 years. Hundreds of others were serving prison terms on terrorism charges, some of them following unfair mass trials, like those arrested in the 'Bellarij' case in 2008. ..."

42. According to the 2017/18 Amnesty International Report "The State of the World's Human Rights", published on 22 February 2018, the UN Subcommittee on Prevention of Torture visited Morocco in October 2017. The report said that Morocco had yet to establish a national preventive mechanism against torture, and that courts continued to rely on statements made in custody in the absence of a lawyer to convict defendants, without adequately investigating allegations that statements had been forcibly obtained through torture and other ill-treatment.

THE LAW

A. Article 3 of the Convention

43. When lodging his application to the Court, the applicant complained that his expulsion to Morocco would be in breach of Article 3 of the Convention, because twice the Moroccan authorities had requested his extradition relating to crimes he had not committed. He also submitted that he risked double punishment in respect of the crimes of which he was convicted in Denmark. Article 3 reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

1. General principles

44. The Court reiterates at the outset that it is conscious of the difficulties faced by States in protecting their population against terrorist violence, which in itself constitutes a grave threat to human rights. It is therefore careful not to underestimate the extent of the danger represented by terrorism and the threat it poses to society. It considers it legitimate, in the face of such a threat, for Contracting States to take a firm stand against those who contribute to terrorist acts. However, this does not affect the absolute nature of Article 3. As the Court has affirmed on several occasions since its judgment in the case of *Chahal v. the United Kingdom* (15 November 1996, §§ 80 and 81, *Reports of Judgments and Decisions* 1996-V), this rule brooks no exception. It is not possible to make the activities of the individual concerned, however undesirable or dangerous, a material consideration or to weigh the risk of ill-treatment against the reasons put forward for the expulsion in order to determine whether the responsibility of the State is engaged under Article 3 (see *Trabelsi v. Belgium*, no. 140/10, §§ 117-118 with further references, ECHR 2014 (extracts)). Expulsion by a Contracting State may give rise to an issue under Article 3, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person concerned, if deported, faces a real risk of being subjected to treatment contrary to Article 3. In such circumstances, Article 3 implies an obligation not to deport the person in question to that country.

45. The Court further reiterates that where domestic proceedings have taken place, it is not the Court's task to substitute its own assessment of the facts for that of the domestic courts and, as a general rule, it is for those courts to assess the evidence before them. As a general principle, the national authorities are best placed to assess not just the facts but, more particularly, the credibility of witnesses since it is they who have had an opportunity to see, hear and assess the demeanour of the individual

concerned (see *F.G. v. Sweden* [GC], no. 43611/11, §118, ECHR 2016). The Court must be satisfied, however, that the assessment made by the authorities of the Contracting State concerned is adequate and sufficiently supported by domestic material as well as by material originating from other reliable and objective sources (ibid, § 117).

46. If the applicant has not already been deported, the material point in time for the assessment must be that of the Court's consideration of the case (see *Chahal v. the United Kingdom*, cited above, § 86). A full and *ex nunc* evaluation is required where it is necessary to take into account information that has come to light after the final decision by the domestic authorities was taken (see, for example, *Maslov v. Austria* [GC], no. 1638/03, §§ 87-95, ECHR 2008, and *Sufi and Elmi v. the United Kingdom*, nos. 8319/07 and 11449/07, § 215, 28 June 2011). The assessment must focus on the foreseeable consequences of the applicant's removal to the country of destination, in the light of the general situation there and of his or her personal circumstances (see, for example, *Salah Sheekh v. the Netherlands,* no. 1948/04, § 136, 11 January 2007; *Vilvarajah and Others v. the United Kingdom*, 30 October 1991, §§ 107 and 108, Series A no. 215; and *F.G. v. Sweden*, cited above, § 115). If the applicant has already been deported, the material point in time is the date of deportation (see, *inter alia*, *A.S. v. France,* no. 46240/15, § 60, 19 April 2018).

47. It is for the applicant to adduce evidence capable of demonstrating that there are substantial grounds for believing that, if the measure complained of were to be implemented, he or she would be exposed to a real risk of being subjected to treatment contrary to Article 3 (see *Saadi v. Italy* [GC], no. 37201/06, § 129, ECHR 2008; and *F.G. v. Sweden*, cited above, § 120). In this connection it should be observed that a certain degree of speculation is inherent in the preventive purpose of Article 3 and that it is not a matter of requiring the persons concerned to provide clear proof of their claim that they would be exposed to proscribed treatment (see *Paposhvili v. Belgium* [GC], no. 41738/10, § 186, ECHR 2016; and *Trabelsi*, cited above, § 130).

48. Where such evidence is adduced, it is for the authorities of the returning State, in the context of domestic procedures, to dispel any doubts raised by it (see *Saadi*, cited above, §§ 129-132; and *F.G. v. Sweden*, cited above, § 120).

2. Application of these principles to the present case

49. The Court emphasises that the issue before it is not whether, upon his return, the applicant risks being monitored, arrested and/or questioned or even convicted of crimes by the Moroccan authorities since this would not, in itself, be contrary to the Convention. The issue is whether the applicant's removal to Morocco would expose him to a real risk of being tortured or subjected to inhuman or degrading treatment or punishment as prohibited by

Article 3 of the Convention. In the present case, the material point in time is 4 January 2019, when the applicant was deported.

50. In examining this matter, the Court observes that from the international material cited above (see paragraphs 34-42 above) it transpires that the human rights situation in general has improved in Morocco over several years and that the authorities are making efforts to comply with international human rights standards. However, it also transpires from the findings of the United Nations Working Group on Arbitrary Detention in its August 2014 report on Morocco (see paragraphs 34-36 above), the observations of the United Nations Human Rights Committee on the sixth periodic report on Morocco (see paragraphs 37-38 above) and the information on Morocco set out in the report by the US Department of State (see paragraph 39 above) that, despite the efforts undertaken by the Moroccan Government, ill-treatment and torture by the police and the security forces still occur, particularly in the case of persons suspected of terrorism or of endangering State security. Nevertheless, in the Court's opinion, a general and systematic practice of torture and ill-treatment during questioning and detention has not been established. In its assessment of the general situation the Court has further taken into account the actions taken by the Moroccan authorities in response to reported cases of torture (see paragraph 39 above), the right of access to a lawyer of persons placed in detention, as described by Human Rights Watch (see paragraph 41 above), which protects detainees against torture and ill-treatment to the extent that lawyers can report such cases for investigation purposes, and the fact that law-enforcement and security officials have obviously been made aware that such treatment is prohibited and that it carries heavy penalties. Moreover, both national and international organisations present in Morocco monitor the situation and investigate reports of abuse.

51. Thus, the general situation in Morocco is not of such a nature as to show, on its own, that there would be a breach of the Convention if the applicant were to return there (see, also *X v. Sweden,* cited above, § 52 and *X v. the Netherlands*, no. 14319/17, § 77, 10 July 2018).

52. The Court therefore has to establish whether the applicant's personal situation is such that his return to Morocco would contravene Article 3 of the Convention.

53. In its decision of 2 March 2018, the Refugee Appeals Board found that the applicant had failed to substantiate that he was in danger due to his alleged criticism of the King and regime in Morocco. However, having regard to the recent background material on Morocco, set out for example in *X v Sweden* (cited above, §§ 26-31), compared with the extradition requests from 2006 and 2015, the information that the Moroccan authorities might have about the applicant, including possibly of the recent crimes committed, the Refugee Appeals Board did find that the applicant could be at risk of being subjected to treatment contrary to Article 3 upon return to

Morocco. Nevertheless, as opposed to the situation in *X v. Sweden* (cited above), the Refugee Appeals Board pointed out that in the present case, the Danish Government had twice obtained official assurances from the Moroccan authorities guaranteeing proper treatment of the applicant upon return, namely between 2006 and 2008, and anew in 2015, in connection with the request for extradition. Those assurances were still official and valid. The Refugee Appeals Board stated that, according to the background information available to it, there was a real way of controlling compliance with those assurances. The assurances included the guarantees that the authorities would not seek the death penalty and that the applicant would obtain a fair trial with all legal guaranties, including a lawyer. Furthermore, the prison conditions in Morocco had improved considerably and were now independently monitored by the *Conseil National des Droits de l'Homme*. Finally, although noting that a possible risk of double punishment would only be relevant if the character and intensity of the penalty were to reach the required threshold to have an impact on an asylum request, having regard to the assurances by the Moroccan authorities, the Refugee Appeals Board found no elements indicating that a penalty would be disproportionate or in breach of Article 3.

54. The Court agrees with the findings of the national authorities that the applicant has failed to substantiate being in danger due to his alleged criticism against the King and regime in Morocco, but that he could be at risk of being subjected to treatment contrary to Article 3 upon return to Morocco due to the extradition request submitted in 2006 and 2015, and the information that the Moroccan authorities might have about the applicant, including possibly about recent crimes committed.

55. The Court notes that the extradition request was based on a suspicion that the applicant had committed serious crimes, which included attempted murder and attempt to sabotage installations using explosives, committed in Casablanca in 2003. To this effect, the present case resembles the situation in the cases of *Rafaa v. France* (no. 25393/10, 30 May 2013) and *Ouabour v. Belgium* (no. 26417/10, 2 June 2015), in which the Court found that it would amount to a violation of Article 3 to extradite the applicants to Morocco. For the same reason, the present case can be distinguished from the case of *X v. the Netherlands*, (cited above, 10 July 2018), in which the Court found that the applicant had failed to demonstrate that there were grounds to assume that the Moroccan authorities regarded the applicant as a terrorist suspect, and that his removal to Morocco would give rise to a violation of Article 3 of the Convention.

56. The Court can also agree with the findings of the Refugee Appeals Board that the present case differs from the situation in *X v. Sweden* (cited above, in which the Court found a violation of Article 3 in the event of X's deportation to Morocco), because in the present case, the Danish Government had taken special measures both in the period between 2006

and 2008, and anew in 2015, to ensure that the applicant, if extradited, would not be subjected to treatment contrary to the Convention. Moreover, it observes that according to the Refugee Appeals Board, and the background information available to it, there is a real way of controlling compliance with those assurances. Therefore, even though the applicant has not been extradited, but expelled, the Court has not found any reason to question the validity of the assurances provided, nor has it found any indication that the Moroccan authorities would fail to honour their assurances.

57. In addition, the Court reiterates that according to the recent country information on Morocco (see paragraphs 34-42 above) detainees have the right of access to a lawyer, which protects them against torture and ill-treatment to the extent that lawyers can report such cases for investigation purposes, and that the Moroccan law now requires judges to refer a detainee to a forensic medical expert when the detainee or lawyer requests it or if judges notice suspicious physical marks on a detainee.

58. In line therewith, the Court reiterates its finding in the case of *A.S. v. France* (cited above), in which the applicant had been convicted in 2013 in France for involvement in a conspiracy to carry out terrorist acts, and sentenced to seven years' imprisonment. On 22 September 2015, he was expelled to Morocco, where he was arrested upon arrival. Subsequently, having been convicted there in March 2016, and sentenced to four years' imprisonment, he was released on 21 December 2016 on the ground that he had already served his entire sentence in France for the same act for which he had been tried in Morocco. The Court found that despite his release, and his contact with his lawyer, *A.S.* had failed to present any evidence, such as medical certificates, to show that his conditions of detention had exceeded the requisite severity threshold for a violation of Article 3 (*ibid*. §§ 63-64).

59. In the light of the foregoing considerations, the Court concludes that the assessment by the domestic authorities was adequate and sufficiently supported by the domestic and other reliable and objective material (compare *F.G. v. Sweden*, cited above, § 117) and that the applicant's removal to Morocco on 4 January 2019 did not give rise to a violation of Article 3 of the Convention.

60. Consequently, this part of the application should be dismissed as manifestly ill-founded within the meaning of Article 35 §§ 3 (a) and 4 of the Convention.

B. Article 8 of the Convention

61. The applicant also complained that the order to withdraw his Danish citizenship and to expel him from Denmark, which became final with the Supreme Court's judgment of 8 June 2016, was in violation of Article 8 of the Convention, which reads as follows:

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

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."

1. Deprivation of citizenship

62. The Court has accepted that an arbitrary denial of citizenship might, in certain circumstances, raise an issue under Article 8 of the Convention because of its impact on the private life of the individual (see *Karassev v. Finland (dec.)*, no. 31414/96, ECHR 1999-II; *Slivenko v. Latvia (dec.)* [GC], no. 48321/99, § 77, ECHR 2002-II; *Savoia and Bounegru v. Italy (dec.)*, no. 8407/05, 11 July 2006; and *Genovese v. Malta*, no. 53124/09, § 30, 11 October 2011). Recently, the Court has considered that the same principles must apply to the revocation of citizenship already obtained, since this might lead to a similar – if not greater – interference with the individual's right to respect for family and private life (see *Alpeyeva and Dzhalagoniya v. Russia*, nos. 7549/09 and 33330/11, § 108, 12 June 2018; K2 v. the United Kingdom (dec.), no 42387/13, § 49, 7 February 2017; and *Ramadan v. Malta*, no. 76136/12, § 85, ECHR 2016 (extracts)). In determining whether a revocation of citizenship is in breach of Article 8, the Court has addressed two separate issues: whether the revocation was arbitrary, and the consequences of the revocation for the applicant.

63. In determining arbitrariness, the Court has had regard to whether the revocation was in accordance with the law, whether it was accompanied by the necessary procedural safeguards, including whether the person deprived of citizenship was allowed the opportunity to challenge the decision before courts affording the relevant guarantees, and whether the authorities acted diligently and swiftly (see *Ramadan v. Malta*, cited above, §§ 86-89).

(a) Arbitrariness

64. The decision to deprive the applicant of his Danish citizenship was taken by virtue of section 8b of the Act on Danish Nationality (see paragraph 31 above). The Court is therefore satisfied that the decision was "in accordance with the law".

65. The applicant had the possibility to contest the prosecuting authorities' request to strip him of his Danish citizenship before the domestic courts at three levels of jurisdiction, and he has not alleged any procedural shortcomings in this respect. Accordingly, the Court is satisfied that the applicant was afforded the procedural safeguards required by Article 8 of the Convention (see, also, *Alpeyeva and Dzhalagoniya v. Russia*, cited above, § 118).

66. The Court observes that the decision to deprive the applicant of his Danish citizenship became final on 8 June 2016, when the Supreme Court upheld the High Court's judgment. The decision was taken subsequent and due to the fact that the applicant, in February 2014, had again been charged with promoting terrorism, committed as from the beginning of 2012 until the date of arrest. Hence, the authorities did act diligently and swiftly.

67. Finally, the Court points out that the situation complained of came about as a result of the applicant's continued criminal behaviour, in that he was convicted of very serious terrorist crimes under 114e of the Penal Code, and had been convicted for similar crimes in 2007 (see paragraph 16 above). Thus, any consequences complained of are to a large extent a result of his own choices and actions (see, *inter alia*, *Ramadan v. Malta*, cited above, § 89).

68. The Court concludes that the decision of the Danish courts to deprive the applicant of his Danish citizenship was not arbitrary.

(b) Consequences of the revocation

69. The applicant was not rendered stateless by the decision to deprive him of his Danish citizenship (see, among others, *K2 v. United Kingdom,* cited above, § 62).

70. Furthermore, in compliance with the preparatory work on section 8b of the Act on Danish Nationality (setting out that the assessment of whether to withdraw a person's citizenship should be based on a weighing of the severity of the offence and the impact on the person concerned), in the present case, the domestic courts carefully assessed the consequences for the applicant of a revocation of his Danish citizenship. They took into account the fact that he had been born and raised in Morocco, where he spent all of his school years and that he came to Denmark when he was 24. He had lived in Denmark for 32 years. Furthermore, he spoke Arabic and some Danish. He had not achieved a permanent attachment to the Danish labour market and had received social benefits since 1994. He had four adult children. In 2013, under Islamic law, he had married a Danish citizen of Moroccan descent and, in October 2015, she gave birth to a daughter who, according to him, was his child. Having weighed the severity of the offence against the impact of withdrawal of the applicant's citizenship, based on an assessment of his situation, including his ties with Denmark and Morocco, his current family situation and his language skills, the courts found that it would not be in breach of Article 8 of the Convention to revoke the applicant's Danish citizenship.

c. Conclusion

71. In view of the above, the Court is satisfied that the domestic courts' assessment of the decision to revoke the applicant's nationality was adequate and sufficient, and struck a fair balance between the competing

interests of the applicant and society as a whole. Consequently, this part of the application must be rejected as manifestly ill-founded within the meaning pursuant to Article 35 § 3(a) and 4 of the Convention.

2. The order to expel the applicant from Denmark

72. The Court reaffirms at the outset that a State is entitled, as a matter of international law and subject to its treaty obligations, to control the entry of aliens into its territory and their residence there (see, among many other authorities, *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, 28 May 1985, § 67, Series A no. 94). The Convention does not guarantee the right of an alien to enter or to reside in a particular country and, in pursuance of their task of maintaining public order, Contracting States have the power to expel an alien convicted of criminal offences. However, an interference with a person's private or family life will be in breach of Article 8 of the Convention unless it can be justified under paragraph 2 of that Article as being "in accordance with the law", as pursuing one or more of the legitimate aims listed therein, and as being "necessary in a democratic society" in order to achieve the aim or aims concerned.

73. The Court has no doubt that there was an interference with the applicant's right to respect for his private and family life within the meaning of Article 8, that the expulsion order was "in accordance with the law", and that it pursued the legitimate aim of preventing disorder and crime.

74. The relevant criteria to be applied, in determining whether an interference is necessary in a democratic society, were set out in, *inter alia*, *Üner v. the Netherlands* [GC], no. 46410/99, §§ 54-55 and 57-58, ECHR 2006-XII; *Maslov v. Austria* [GC], cited above, §§ 72-73; *Balogun v. the United Kingdom*, no. 60286/09, § 46, 10 April 2012; *Samsonnikov v. Estonia*, no. 52178/10, § 86, 3 July 2012; and *Salem v. Denmark*, no. 77036/11, § 64, 1 December 2016. They are the following:

> "- 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 elapsed since the offence was committed and the applicant's conduct during that period;
>
> - the nationalities of the various persons concerned;
>
> - the applicant's family situation, such as the length of the marriage, and other factors expressing the effectiveness of a couple's family life;
>
> - whether the spouse knew about the offence at the time when he or she entered into a family relationship;
>
> - whether there are children of the marriage, and if so, their age; and
>
> - the seriousness of the difficulties which the spouse is likely to encounter in the country to which the applicant is to be expelled.

- the best interests and well-being of the children, in particular the seriousness of the difficulties which any children of the applicant are likely to encounter in the country to which the applicant is to be expelled; and

- the solidity of social, cultural and family ties with the host country and with the country of destination."

75. In respect of the applicant's right to family life, the Court reiterates that there will be no family life between parents and adult children or between adult siblings unless they can demonstrate additional elements of dependence (*Slivenko v. Latvia* [GC], cited above, § 97; *Kwakye-Nti and Dufie v. the Netherlands* (dec.), no. 31519/96, 7 November 2000).

76. Moreover, although he had married a Danish national of Moroccan origin under Islamic law in 2013, before the charges were brought against the applicant in February 2014, the Court notes that under Danish law, the applicant did not divorce his second wife until 2015. Moreover, he and his third wife never lived together (see paragraph 9 above). Their daughter was conceived, when the applicant was detained, and she was born in October 2015, after the City Court's judgment of 4 December 2014, and the High Court's judgment of 1 July 2015. The applicant and his new wife therefore knew that their family life in Denmark would from the outset be precarious, and they could not legitimately expect the applicant's deportation order to be revoked on the basis of a *fait accompli* due to their having a child together (see, for example *Udeh v. Switzerland*, no. 12020/09, § 50, 16 April 2013 and *Onur v. the United Kingdom*, no. 27319/07, § 59, 17 February 2009. Nevertheless, even assuming that the applicant can rely on this relationship in the context of the present case, the Court notes that the applicant's wife is of Moroccan origin, and that she has not before the Danish authorities submitted any reason why she and the daughter could not follow the applicant to Morocco.

77. In respect of the applicant's right to respect for his private life, the domestic court took the same elements into account as they had done when assessing the impact on the applicant of a revocation of his Danish citizenship. They found that the conditions in the Danish Aliens Act for expelling him had been met, as expulsion would not be in breach of Article 8 of the Convention.

78. The Court is satisfied that the domestic courts made a thorough assessment of the applicant's personal circumstances, carefully balanced the competing interests, took into account the criteria set out in the Court's case-law and explicitly assessed whether the expulsion order could be deemed to be contrary to Denmark's international obligations. Moreover, the interference with the applicant's family and private life was supported by relevant and sufficient reasons, and cannot be said to be disproportionate given all the circumstances of the case (see, among many others, *Salem v. Denmark*, cited above, § 82; *Hamesevic v. Denmark*, cited above, § 43; *Alam v. Denmark* (dec.), no. 33809/15, § 35, 6 June 2017; *Ndidi v. the*

United Kingdom, no. 41215/14, § 76, 14 September 2017; *Mohammad v Denmark* (dec.), no. 16711/15, § 35, 20 November 2018; and *Yurdaer v. Denmark* (dec.), 42517/15, § 30, 20 November 2018).

79. Consequently, this part of the application must be rejected as manifestly ill-founded within the meaning pursuant to Article 35 § 3(a) and 4 of the Convention.

C. Article 10 of the Convention

80. Finally the applicant complained that his conviction, which became final with the High Court's judgment of 1 July 2015, ran counter to Article 10 of the Convention. Having regard to all the material in its possession, and in so far as this complaint complies with the criteria set out in Article 35 § 1, the Court finds that it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention (see also, *ROJ TV A/S v. Denmark*, 24683/14, 17 April 2018). It follows that this complaint must also be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For the reasons above, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 14 February 2019.

Hasan Bakırcı
Deputy Registrar

Paul Lemmens
President