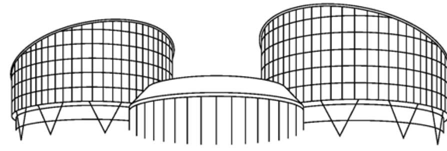

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

DECISION

Application no. 20579/20
Betim ABDULJI
against Denmark

The European Court of Human Rights (Second Section), sitting on 22 February 2022 as a Committee composed of:
Branko Lubarda, *President,*
Jovan Ilievski,
Diana Sârcu, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*
Having regard to the above application lodged on 19 May 2020,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Betim Abdulji, is a citizen of the Republic of North Macedonia born in Denmark in 1994. He was represented before the Court by Mr Eddie Omar Rosenberg Khawaja, a lawyer practising in Copenhagen.

A. The circumstances of the case

2. The facts of the case, as submitted by the applicant, may be summarised as follows.

3. The applicant has had a criminal record since 2014, when he was 20 years old. He has been convicted on five occasions, notably for drug and traffic offences, but also by a District Court judgment of 22 January 2018 for robbing a pharmacy, for which he was sentenced to one year and three months' imprisonment, of which ten months were suspended with two years' probation. In addition, a suspended expulsion order was issued against him with two years' probation.

4. By a District Court (*Københavns Byret*) judgment of 16 April 2019, the applicant was convicted on three counts, two of them drug offences committed on 28 May 2018 concerning the sale of 137 g of hashish, 32 g of

weed and 34 joints. Moreover he was convicted for serious disruption of public order, threats and attempt of aggravated violence, committed on 25 July 2018, by having joined a group which turned on police on duty in an action against organised sales of drugs, and by having thrown a stone at the police. The applicant was sentenced to one year and two months' imprisonment (as a consecutive sentence to the one from January 2018) and issued with an expulsion warning.

5. For the purposes of the criminal proceedings, the Immigration Service (*Udlændingestyrelsen*) and the Prison Service (*Kriminalforsorgen*) had gathered information about the applicant's personal circumstances which included the following. He was born and raised in Denmark. He lived with his parents and two siblings. He had lived legally in Denmark for twenty-four years. He was unmarried and had no children. He lived on public welfare. He had an uncle in the Republic of North Macedonia, whom he had visited for at least two weeks every year until 2017. The applicant spoke Albanian but not Macedonian.

6. In the meantime, on 10 January 2019 the applicant was convicted anew for drug and traffic offences, for which he was fined and deprived of his driving licence for three years and six months. Moreover, on 28 January 2019 the applicant was charged and detained on remand in another case, the outcome of which is unknown to the Court.

7. On appeal, by a judgment of 8 August 2019, the High Court (*Østre Landsret*) upheld the conviction by the District Court of 16 April 2019, but increased the sentence to one year and ten months' imprisonment (as a cumulative sentence, including the ten months suspended from the judgment of January 2018), and ordered the applicant's expulsion with a re-entry ban of twelve years.

8. The High Court had regard to Article 8 of the Convention and pointed out that very serious reasons were required to justify the expulsion of the applicant, being a settled migrant who had been born in Denmark and lawfully spent his whole childhood and youth in the host country.

9. In respect of the nature and seriousness of the offences the High Court noted that the applicant had anew been convicted of drug offences, and now also of having obstructed a police action against organised sales of drugs by having joined a group which had turned on the police and thrown a stone at the latter. The offences had been committed in May and July 2018, only a few months after his conviction for robbery and the suspended expulsion order in January 2018, and thus within the two-year probation period. Moreover, having regard to the applicant's criminal past, the High Court found that there was a risk that the applicant would continue to commit crimes in Denmark in the future.

10. The High Court took into account the applicant's personal circumstances, including the fact that he spoke Albanian, which is spoken by a minority in the Republic of North Macedonia. The High Court found it established that the applicant's link with Denmark was stronger than his link

with the Republic of North Macedonia, but that he had the prerequisites for establishing a life there.

11. Having made an overall assessment the High Court considered that unconditional expulsion with a re-entry ban of twelve years would not be in breach of Article 8 of the Convention.

12. Leave to appeal to the Supreme Court (*Højesteret*) was refused on 21 November 2019.

13. It is not known whether the deportation order has been enforced.

B. Relevant domestic law

14. The relevant provisions of the Aliens Act (*Udlændingeloven*) relating to expulsion have been set out in detail, for example in *Munir Johana v. Denmark* (no. 56803/18, §§ 22-26, 12 January 2021) and *Salem v. Denmark*, (no. 77036/11, §§ 49-52, 1 December 2016).

COMPLAINT

15. The applicant complained that the High Court's decision of 8 August 2019 to expel him with a re-entry ban of twelve years was in breach of Article 8 of the Convention.

THE LAW

A. General principles

16. In a case like the present one, where the person to be expelled is a settled migrant who has not yet founded a family of his own, the principles to be applied have recently been set out in, for example, *Munir Johana v. Denmark* (cited above, §§ 42-47).

B. Application of the principles to the present case

17. 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*, cited above, § 61).

18. 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* ([GC], no. 1638/03, §§ 72-73, ECHR 2008) 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).

19. The High Court gave particular weight to the nature and seriousness of the crime committed and the sentence imposed, including the applicant's criminal past, the fact that he had previously been issued a suspended expulsion order and that he had continued to commit crimes (see paragraph 9).

20. The Court finds reason to add that the crimes committed by the applicant, including the final ones leading to the unconditional expulsion order, were such as to have serious consequences for the lives of others (see, for example, *Khan v. Denmark*, no. 26957/19, § 72, 12 January 2021; *Samsonnikov v. Estonia*, no. 52178/10, § 89, 3 July 2012; and *Salem v. Denmark*, cited above, § 66).

21. The High Court properly took into account the criterion "the solidity of social, cultural and family ties with the host country and with the country of destination" and found that expulsion from Denmark combined with a re-entry ban of twelve years would be a particular burden on the applicant due to his ties with Denmark. However, having regard to his knowledge of the customs and culture, and the Albanian language which is spoken by a minority in the Republic of North Macedonia, the High Court found that the applicant had the prerequisites for establishing a life there.

22. Finally, the High Court found that the expulsion order, combined with a twelve year re-entry ban, was a proportionate measure to prevent disorder and crime. The Court notes in this context that the duration of a ban on re-entry, in particular the fact that such a ban is limited, is an element to which it has attached importance in its case-law (see, for example, *Külekci v. Austria*, 30441/09, § 51, 1 June 2017 and *Khan v. Denmark*, cited above, § 79).

23. Having regard to 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 High Court when assessing the applicant's case, and that his expulsion was not disproportionate in the light of all the circumstances of the case. It notes that the High Court explicitly and thoroughly assessed whether the expulsion order could be deemed to be contrary to Denmark's international obligations. The Court points out in that regard that, in accordance with the principle of subsidiarity, although opinions may differ on the outcome of a judgment, "where the balancing exercise has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for that of the domestic courts" (see *Levakovic v. Denmark*, no. 7841/14, § 45, 23 October 2018; and *Ndidi v. the United Kingdom,* no. 41215/14, § 76, 14 September 2017).

24. 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 17 March 2022.

Hasan Bakırcı Deputy Registrar	Branko Lubarda President