



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

Information Note on the Court's case-law 234

November 2019

M.A. v. Denmark (relinquishment) - 6697/18

Article 8

Article 8-1

Respect for family life

Denial of family reunion to beneficiary of temporary protection: *relinquishment in favour of the Grand Chamber*

Article 14

Discrimination

Beneficiaries of temporary protection required to wait longer than refugees or international protection beneficiaries to become eligible for family reunion: *relinquishment in favour of the Grand Chamber*

The applicant, a Syrian national, entered Denmark in January 2015 and requested asylum. On June 2015 he was granted temporary protection status for one year under section 7, subsection 3 of the Aliens Act, concerning "individuals who face capital punishment, torture or inhumane or degrading treatment or punishment due to severe instability and indiscriminate violence against civilians in their home country". His residence permit was subsequently prolonged for one year at a time.

However, the authorities found that the applicant did not fulfil the requirements for being granted protection under section 7, subsection 1 of the Act, concerning "individuals falling under the protection of the UN Refugee Convention" or under subsection 2, concerning "individuals, who do not qualify as refugees, but who are facing capital punishment, torture or inhumane or degrading treatment or punishment, if returned to their home country". Residence permits under subsections 1 and 2 were normally granted for five years.

In November 2015 the applicant requested a family reunion with his wife, whom he had married in 1990. His request had been refused by a final decision of September 2016 of the Immigration Appeals Board because the applicant had not possessed a residence permit for the last three years and because there had been no special reasons, including concern for the unity of the family, to justify a family reunion.

The applicant had instituted proceedings before the courts complaining that the refusal to grant him a family reunion with his wife had been in breach of Article 14 taken in conjunction with Article 8, and of Article 8 taken alone. He submitted in particular that the legislation discriminated against those who had been granted temporary protection, such as himself, because they only became eligible for a family reunion after three

years, whereas others who were granted a higher degree of protection were eligible after one year of lawfully residing in Denmark.

The High Court of Eastern Denmark had found against him in a judgment of May 2017, upheld on appeal by the Supreme Court on November 2017. The Supreme Court had found in particular that the difference in treatment in the right to a family reunion had been justified by the fact that some groups of individuals had required greater protection. For example, those who were personally at risk of persecution in their country of origin required more protection than those who had fled a general situation, such as war, which could quickly change and make those individuals' needs more temporary.

On 19 November 2019 the Chamber of the Court to which the case had been allocated decided to relinquish jurisdiction in favour of the Grand Chamber.

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This summary by the Registry does not bind the Court.

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