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Committee on the Rights of Persons with Disabilities

Views adopted by the Committee under article 5 of the Optional Protocol, concerning communication No. 64/2019*,**

Communication submitted by:	N.I. (represented by the Swedish Refugee Law Centre)
Alleged victim:	The author
State party:	Sweden
Date of communication:	4 August 2019 (initial submission)
Document references:	Decision taken pursuant to rules 64 and 70 of the Committee's rules of procedure, transmitted to the State party on 9 August 2019 (not issued in document form)
Date of adoption of views:	19 March 2025
Subject matter:	Deportation of a person with disabilities to Lebanon
Procedural issues:	Substantiation of claims; admissibility *ratione materiae*
Substantive issues:	Non-refoulement; right to life; freedom from torture or cruel, inhuman or degrading treatment or punishment;
Articles of the Convention:	10 and 15
Articles of the Optional Protocol:	1, 2(e)

1.1 The author of the communication is N.I., a national of Lebanon born on 26 May 1983. The author claims that by deporting him to Lebanon, the State party would breach his rights under articles 10 and 15 of the Convention. The Optional Protocol entered into force for the State party on 14 January 2009. The author is represented by counsel.

1.2 On 4 August 2019, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested under article 4 of the Optional Protocol that the State party refrain from removing the author to Lebanon while his communication is under consideration by the Committee. On 9 August 2019, the Swedish Migration Agency

* Adopted by the Committee at its thirty-second session (3–21 March 2025).

** The following members of the Committee participated in the consideration of the communication: Muhannad Salah Al-Azzeh, Magino Corporán Lorenzo, Gerel Dondovdorj, Mara Cristina Gabrilli, Amalia Gamio Rios, Natalia Guala Beathyate, Laverne Jacobs, Rosemary Kayess, Miyeon Kim, Alfred Kouadio Kouassi, Abdelmajid Makni, Floyd Morris, Christopher Nwanoro, Gertrude Oforiwa Fefoame, Markus Schefer and Hiroshi Tamon. Pursuant to rule 60 of the rules of procedure, Inmaculada Placencia Porrero did not participate in the examination of the communication

decided to stay the enforcement of its decision to expel the author and his family until further notice.

1.3 On 31 August 2020, the Committee, acting through its Special Rapporteur on new communications and interim measures, informed the parties of its decision to suspend its consideration of the communication. On 17 November 2021, the Committee, acting through its Special Rapporteur on new communications and interim measures, informed the parties of its decision to resume its consideration of the communication.

A. Summary of the information and arguments submitted by the parties

Facts as submitted by the author

2.1 In Lebanon, the author took part in an armed conflict against the Islamic State of Iraq and Syria, which left him with serious "mental health problems". On an unspecified date, the author arrived in Sweden, where his brother helped him to receive psychiatric care. On 17 September 2015, the author applied for asylum in Sweden. On 21 October 2015, the Migration Agency rejected his application, finding that he was not in need of international protection as his post-traumatic stress syndrome was not life-threatening. On 29 February 2016, the Migration Court in Stockholm rejected the author's appeal, finding that his medical certificates did not show that he had a life-threatening "physical or mental disorder" or a "particularly severe" disability. The Migration Court found that the author's membership of the Alawite community, which he argued is discriminated against in Lebanon, did not suffice to consider him as requiring international protection. On 8 July 2016, the Migration Court of Appeal decided not to grant him leave to appeal.

2.2 Subsequently, the author's "mental health" continued to decline. On 20 October 2017, when he was about to board a domestic flight for a family trip, he panicked out of fear of being deported to Lebanon and lost consciousness. He was determined unfit for travel at a healthcare facility. A medical certificate dated 27 October 2017 established that in addition to deteriorated post-traumatic stress disorder, the author had developed paranoid schizophrenia. He had started to hear voices telling him to commit suicide and believed himself to be in Lebanon, in life-threatening danger from fighters of the Islamic State. The certificate indicated a severely elevated risk of impulsive suicide that was acute in situations of stress, where he lacks control over his own body. According to medical certificates dated 7 November 2018 and 14 February 2019, his condition is life-threatening and removing him to Lebanon would trigger his symptoms, including his psychosis, and risk provoking a severe fear of dying, followed by an acute risk of unpredictable reactions, including (extended) suicide.

2.3 On an unspecified date, the author applied for a re-examination of his case, referring to the abovementioned certificates. On 22 June 2019, the Migration Agency rejected his application and found that there were no impediments against the enforcement of the expulsion order. The Migration Agency noted that according to a report on Lebanon published by the Swedish Ministry of Foreign Affairs, "it is possible to obtain high-quality healthcare, it is however often expensive". According to the author, the report disregards healthcare for persons with "mental health issues". On 17 July 2017, the Migration Court rejected his appeal, reasoning that his "illness" was not of such a grave character as to raise issues under article 3 of the European Convention on Human Rights. On 22 August 2017, the Migration Court of Appeal denied his request for leave to appeal.

2.4 On 10 January 2018, the Migration Agency rejected the author's second application for re-examination. Among others, the author referred to an academic article according to which there is no mental health authority in Lebanon, involuntary admissions to a psychiatric institution are not subject to a reviewing authority and persons assessed to be "mentally ill" do not receive a personalised and holistic treatment or protection from harm and unnecessary treatment. According to the author, mental health legislation in Lebanon therefore raises serious human rights concerns. In its decision, the Migration Agency recognised that his deteriorated health constituted a "new circumstance" in the terms of the Aliens Act but did not accept a medical certificate dated 27 October 2017 as evidence of the impossibility of

deporting him to Lebanon. The Migration Court rejected the author's appeal on 13 February 2018.

2.5 The author's "mental health" continued to deteriorate. A medical certificate dated 7 November 2018 stated that his psychotic problems had worsened to the extent that he was at times a danger to his wife and children, from whom he sometimes had to live separately and that he required stronger medication, including stronger anti-depressive treatment and admission to a psychiatric clinic. A certificate dated 14 February 2019 stated that his post-traumatic stress disorder and paranoid schizophrenia were caused by his experiences as a fighter in Lebanon, that he was in a psychotic state of mind, continually hallucinating that he was in Lebanon and that fighters of the Islamic State were coming to murder him. The voices now told him to kill not only himself but also his children, as that would be preferable to letting them be captured and tortured by the Islamic State. The certificate stated that any attempt to deport the author could provoke uncontrollable behaviour including sudden and unexpected suicidal acts of violence and that given his strength, any unpredictable event could quickly escalate.

2.6 On an unspecified date, the author submitted a third request for re-examination, in which he referred to the two aforementioned certificates. The author argued that any attempt to enforce his expulsion, which would require the use of force, would cause him such severe distress that it would constitute inhuman or degrading treatment under article 3 of the European Convention on Human Rights.[1] The author also argued that his elevated fear of death and risk of suicide would continue upon his arrival and stay in Lebanon, and that medical experts agreed that, if removed, he would most likely never recover from his "mental disorders". His removal would therefore amount to inhuman and degrading treatment. Moreover, he argued that the previous decisions lacked country-of-origin information on access to healthcare in Lebanon. He invoked severe deficiencies in the psychiatric healthcare system in Lebanon that are in breach of human rights standards. He requested the Migration Agency to collect up-to-date information to rebut his claims.

2.7 On 28 February 2019, the Migration Agency rejected the author's application for re-examination, referring to the aforementioned report by the Ministry of Foreign Affairs on the availability of healthcare in Lebanon. The Migration Agency did not respond to his request to gather more information. On 18 March 2019, the Migration Court rejected his appeal. On 17 May 2019, the Migration Court of Appeal denied his request for leave to appeal.

The complaint

3.1 The author submits that his deportation to Lebanon would breach his rights under articles 10 and 15 of the Convention. He notes that in *Paposhvili v. Belgium*, the European Court of Human Rights stated that "situations involving the removal of a seriously ill person in which substantial grounds have been shown for believing that he or she, although not at imminent risk of dying, would face a real risk, on account of the absence of appropriate treatment in the receiving country or the lack of access to such treatment, of being exposed to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering or to a significant reduction in life expectancy" fall within the scope of the prohibition of inhuman or degrading treatment.[2] He also notes that the Court of Justice of the European Union, the decisions of which are binding on the State party, has held that "[i]t follows that Article 4 and Article 19(2) of the Charter [of Fundamental Rights of the European Union], as interpreted in the light of Article 3 of the [European Convention on Human Rights], preclude a Member State from expelling a third-country national where such expulsion would, in essence, result in significant and permanent deterioration of that person's mental health disorders, particularly where (…) such deterioration would endanger his life." The author argues that his medical certificates clearly establish that his "mental illness" is life-threatening. Without medication and a safe environment with support from his family

[1] European Court of Human Rights, *Bouyid v. Belgium* (application No. 23380/09), judgment of 28 September 2015.

[2] European Court of Human Rights, *Paposhvili v. Belgium* (application No. 41738/10), judgment of 13 December 2016.

members, he would be at imminent risk of death by suicide. He has no one who can care for him except for his wife and brother in Sweden.

3.2 The author argues that his medical certificates show that adequate and appropriate mental healthcare is unavailable in Lebanon and that he would probably never recover or stabilise his situation there, the environment and surroundings being intrinsically connected to the cause of his "mental disorders". Even if there is a theoretical possibility to treat him in Lebanon, it is up to the State party to dispel remaining doubts concerning the state of the country's mental healthcare system and its respect of human rights standards. According to the author, his medical certificates demonstrate that any attempt to deport him would risk provoking a severe fear or agony of dying in him, followed by an acute risk of suicide or extended suicide. Upon removal to Lebanon, he would face a real risk of being exposed to a serious, rapid and irreversible decline in his state of health resulting in intense suffering or to a significant reduction in life expectancy, on account of the absence of or lack of access to appropriate treatment there, in breach of articles 10 and 15 of the Convention.

3.3 The author argues that the domestic authorities have not carefully assessed his disabilities and did not conduct an adequate individual assessment of whether he would receive the necessary treatment upon arrival in Lebanon to prevent him from committing suicide or extended suicide, including by refusing his request to gather more information about possibilities to treat "mental health problems" in Lebanon.

State party's observations on admissibility and merits

4.1 In its observations of 5 February 2020, the State party provides a summary of relevant domestic legislation and of the author's immigration procedures in Sweden. The State party observes that in his asylum application, the author argued that he risked being sentenced, on false grounds, to a disproportionately long prison sentence for terrorist crimes upon return to Lebanon. In addition, he argued that he risked being killed by Sunni extremists against whom he had fought and since he is Alawite. The Swedish Migration Agency interviewed him twice and received a certificate mentioning his symptoms of a post-traumatic stress disorder and was receiving trauma treatment. Following queries with the Swedish Embassy in Amman, the Migration Agency was informed that he had not been prosecuted and was not sought after or known by the Lebanese authorities. On 21 October 2015, the Migration Agency rejected his asylum application. In its decision, the Agency noted that it did not follow from the medical documentation submitted that the author had a life-threatening "physical or mental illness" or "a serious disability". Therefore, the Migration Agency found that there were no exceptionally distressing circumstances under the Aliens Act that could warrant granting a residence permit pursuant to Chapter 5, Section 6 of the Aliens Act. On appeal, the author claimed that he would not receive the necessary specialised trauma therapy in Lebanon. He submitted a medical certificate stating that he regularly met with a psychologist due to his symptoms of a post-traumatic stress disorder. On 29 February 2016, the Migration Court rejected the author's appeal, concurring with the Migration Agency's findings.

4.2 The State party notes that in his first application for a re-examination, the author claimed that he had a life-threatening condition for which treatment in Lebanon was unavailable. The Migration Agency found that the author's evidence that his physical health had deteriorated constituted a new circumstance in the meaning of Chapter 12, Section 19 of the Aliens Act. The Agency noted that according to country information, quality care is available in Lebanon, albeit often at a high cost. It considered that his wife's family members in Lebanon could be expected to support them upon their return, and that nothing suggested that he would be unable to fly there. In an overall assessment, the Agency found no impediments to the enforcement of the removal order. On 17 July 2017, the Migration Court rejected the author's appeal, finding that his medical condition was not so severe that his removal would constitute a breach of article 3 of the European Convention on Human Rights.

4.3 The State party notes that in his second application for a re-examination, the author argued that he would be unable to receive appropriate care for his deteriorating and life-threatening "mental health problem" in Lebanon. He also claimed that he would be unable to fly to Lebanon and submitted a certificate stating that he had panicked and fainted while boarding a domestic flight, in addition to two further medical certificates. On 10 January 2018, the Migration Agency rejected the author's application. It accepted that his deteriorated

health constituted a new circumstance but found no evidence that his "mental health" precluded him from travelling to Lebanon. The Agency reiterated the availability of quality healthcare in Lebanon and the existence of the author's and his wife's social networks in Lebanon. On 13 February 2018, the Migration Court rejected the author's appeal, based on an extensive and detailed assessment of applicable legislation and case-law concerning the author's medical condition. Referring to jurisprudence of the European Court of Human Rights, the Migration Court assessed whether the author would face a real risk, due to the absence of appropriate treatment or the lack of access to such treatment, of being exposed to a serious, rapid and irreversible decline in his state of health resulting in intense suffering or a significant reduction in life expectancy in Lebanon.[3] The Court found that the author's medical condition could not be regarded as a lasting impediment to the enforcement of the removal order. The Court stated that it assumed that the authorities responsible for his removal would consider whether his health had deteriorated further or whether individual and personal guarantees must be obtained from Lebanon that he would be able to receive care there.

4.4 The State party notes that in his third request for re-examination, the author argued that he would not receive adequate mental healthcare in Lebanon and submitted additional medical certificates. The Migration Agency rejected his request on 28 February 2019, finding that his deteriorated health constituted a new circumstance, but not a practical impediment to the enforcement of the expulsion order. It had also not been demonstrated that he would be unable to receive care in Lebanon. Moreover, he had a social network there. The Migration Court upheld this decision on 18 March 2019. In an extensive assessment, the Migration Court found that he had insufficiently substantiated that he would not be able to receive the appropriate healthcare in Lebanon and that his expulsion would not breach article 3 of the European Convention on Human Rights.

4.5 The State party submits that the communication is inadmissible *ratione materiae*, as the author's allegations do not concern any treatment he would suffer in Sweden owing to the conduct of the Swedish authorities. The State party argues that its responsibility under the Convention for acts or omissions contrary to the Convention on another State's territory is to be considered an exception to the main rule that a State party's responsibility for Convention obligations is limited to its territory, thus requiring certain exceptional circumstances. The State party notes that its right to expel aliens is inherent. The removing State is responsible under the applicable treaty only if the foreseeable consequence of the removal is that the alien risks the most serious human rights violations.

4.6 The State party questions whether articles 10 and 15 of the Convention, invoked by the author, encompass the principle of non-refoulement. In considering whether this is the case, it invites the Committee to consider that non-refoulement claims can already be lodged with several international human rights bodies. If the Committee takes the view that articles 10 and 15 of the Convention include an obligation of non-refoulement, the State party considers that this obligation should apply only to claims relating to an alleged risk of torture.

4.7 The State party submits that the communication is inadmissible as insufficiently substantiated and without merit. The State party understands that the author complains of his removal on the grounds that (1) he suffers from post-traumatic stress disorder, depression, paranoid schizophrenia, spectrum disorder and other psychotic disorders, and would not receive adequate medical care in Lebanon; and (2) his expulsion would give rise to a chronic state of agony and fear in him, manifesting in an imminent risk of suicide. According to the State party, the author has failed to substantiate that he would personally face a real risk of being subjected to treatment in violation of articles 10 and 15 of the Convention upon return to Lebanon.

4.8 The State party notes that Lebanon is a party to the International Covenant on Civil and Political Rights and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The State party does not underestimate legitimate concerns regarding the human rights situation in Lebanon, but the latter does not suffice to

[3] European Court of Human Rights, D. v. United Kingdom of Great Britain and Northern Ireland, application No. 30240/96, 2 May 1997; Paposhvili v. Belgium.

establish his need for international protection. The State party's authorities evaluated the security situation in Lebanon in relation to the author's individual circumstances and found that he had not substantiated that he needs international protection because he is Alawite.

4.9 The State party argues that in this light, the Committee must focus on the foreseeable consequences of the author's removal in light of his personal circumstances. The State party observes that in May 2014, the Lebanese National Mental Health Programme was launched to reform mental healthcare and to provide services beyond medical treatment at community level. In May 2015, the Programme launched a Mental Health and Substance Use Prevention, Promotion and Treatment Strategy for 2015-2020. The Head of the Programme stated that there are two large psychiatric hospitals that provide most mental health services in Lebanon, but that university hospitals have recently started opening psychiatric wards for short admissions, so that patients can be reintegrated into their families and communities. The Programme is evidence-based and takes a human rights approach, addressing the needs of vulnerable groups. Laws and regulations on mental health services are being revised and developed. In addition, the Institute for Development, Research, Advocacy and Applied Care, a non-profit organisation located in Beirut, delivers free community services, including trauma counselling. The State party concludes that notwithstanding concerns regarding accessibility, there is appropriate mental healthcare in Lebanon.

4.10 The State party contends that the author's removal to Lebanon would not entail a breach of his rights under articles 10 or 15 of the Convention, in the absence of any reason to conclude that the decisions taken by its authorities were inadequate, arbitrary or amounted to a denial of justice. The Migration Agency and the Migration Court thoroughly examined the author's asylum application as well as, on three occasions, his claimed impediments to the enforcement of the expulsion order. The author had several opportunities to file submissions. The domestic authorities therefore had sufficient information to make a well-informed, transparent and reasonable risk assessment.

4.11 The State party observes that according to the treaty bodies, a medical condition must be of an exceptional nature for it to trigger the obligation of non-refoulement,[4] and the aggravation of a person's health by virtue of a deportation is generally insufficient to amount to degrading treatment.[5] The State party observes that in *Paposhvili v. Belgium*, the European Court of Human Rights noted that only very exceptional circumstances may raise issues under article 3 of the European Convention on Human Rights in this regard. The State party invites the Committee to adopt a similar approach to claims made under article 15 of the Convention, which cannot oblige States parties to alleviate disparities in the level of treatment available in the sending State compared to that of the receiving State. The State party argues that no separate issues arise under article 10 of the Convention.

4.12 The State party notes that in the present case, the domestic migration authorities examined the author's health status on several occasions and concluded that his expulsion would not breach article 3 of the European Convention on Human Rights, given the availability of appropriate healthcare in Lebanon. Nothing had emerged to indicate that such care would not be provided. In this regard, the domestic authorities considered that the author's claim that he would not have access to healthcare in Lebanon due to his ethnicity was insufficiently substantiated. The author's and his wife's social network in the country could be expected to support him upon return.

Author's comments on the State party's submission

5.1 In his comments dated 20 April 2020, the author argues that the Committee can examine his arguments regarding the extraterritorial effects of his expulsion to Lebanon, and that articles 10 and 15 of the Convention cover the principle of non-refoulement.[6]

5.2 The author asserts that the State party has not presented any arguments to demonstrate that his communication fails to rise to the minimum level of substantiation. The author does

[4] *Z. v. Australia* (CCPR/C/111/D/2049/2011), para. 9.5.

[5] *G.B.R. v. Sweden* (CAT/C/20/D/83/1997), para. 6.7; *T.M. v. Sweden* (CAT/C/31/D/228/2003), para. 6.2; *Y.G.H. and others v. Australia* (CAT/C/51/D/434/2010), para. 7.4.

[6] The author refers, among others, to *O.O.J. v. Sweden* (CRPD/C/18/D/28/2015).

not seek to obtain a re-evaluation of the facts and evidence in his case, but rather to assert that his rights under the Convention would be violated upon expulsion to Lebanon.

5.3 The author argues that being Alawite, he could be subjected to societal discrimination in Lebanon, and this should be considered when assessing his possibilities to access healthcare. According to the author, the State party's observations regarding the Lebanese National Mental Health Programme say little about the availability of adequate mental healthcare and whether such care respects the rights enshrined in the Convention. The background of the Strategy on Mental Health and Substance Use Prevention, Promotion and Treatment and its comprehensive list of measures suggest that the Lebanese mental healthcare system has major flaws. The Strategy notes that stigma affects all aspects of care including service development, delivery and utilisation and results in discrimination. It also indicates that chronic underfunding and the inclination of funding to curative hospital-based treatment has led to a scarcity of specialised human resources and services in the private sector, whereas the public sector is overstretched due to the crisis in the Syrian Arab Republic. The fact that the integration of mental healthcare into primary care is one of the Strategy's objectives shows that this is not currently a reality. The statements by the Head of the National Mental Health Programme describe the objectives of the Strategy rather than reality and confirm the challenge of stigma towards "mental disorders" and the Strategy's unsustainable funding sources. Further, the website of the Institute for Development, Research and Applied Care states that it can provide free trauma counselling when stressful events occur, which would not be adequate for the author given his diagnoses and their direct link to his experiences in Lebanon. According to the author, the State party's observations suggest that it underestimates the lack of available and adequate mental healthcare in Lebanon and the necessity thereof for him. The State party has not presented updated country information.

5.4 The author asserts that the domestic proceedings were flawed, as country information was "close to non-existent". He notes that the State party presents no information on measures taken to ensure that the asylum procedure was adapted to his "mental health status". He notes that the European Court of Human Rights and the Committee against Torture have "on many occasions" exposed shortcomings in asylum procedures in Sweden that rendered them inadequate or arbitrary or that amounted to a denial of justice. Legislative changes made in 2016 and the recruitment of many new staff members by the Migration Agency are likely to exacerbate inadequacies and shortcomings.

5.5 The author argues that in assessing his claim under article 15 of the Convention, the Committee should apply the standard set by the European Court of Human Rights in *Paposhvili v. Belgium* in light of the purpose of the Convention. The author argues that the threshold for the applicability of article 3 of the European Convention on Human Rights should not be too high, as the provision would otherwise become illusory, and that its interpretation should render the rights protected practical and effective.[7] In *Paposhvili v. Belgium*, the European Court of Human Rights noted the obligation of Contracting Parties to "verify on a case-by-case basis whether the care that is generally available in the receiving State is sufficient and appropriate in practice for the treatment of the applicant's illness so as to prevent him or her from being exposed to treatment contrary to Article 3 [of the European Convention on Human Rights]".[8] The author asserts that at no point did the domestic authorities conduct an adequate individual assessment in his case to verify whether he would receive the necessary treatment to prevent him from committing suicide or extended suicide upon arrival in Lebanon. The State party has not understood that his disorder is life-threatening.

5.6 The author argues that the conclusion in his medical certificates that he would probably never be able to recover or stabilise his situation shows that medical care is not available in Lebanon. Even if there were a "theoretical possibility" of treatment, the author has "serious doubts" regarding the mental healthcare system in Lebanon. The author

[7] European Court of Human Rights, *Paposhvili v. Belgium*, para. 181.
[8] Ibid., para. 189.

reiterates that besides his wife and brother in Sweden, he has no other family members who could care for him.

Additional observations from the State party

6. In its additional observations dated 25 June 2020, the State party notes that the decision to expel the author would become statute-barred on 8 July 2020. He could then apply anew for asylum and his removal would no longer be enforceable. A new application would involve a full examination of all arguments advanced by him. Any adverse decision would entail the right to file a suspensive appeal. In the absence of an enforceable removal decision, the State party therefore invites the Committee to declare the communication inadmissible for failure to exhaust domestic remedies.

Additional comments from the author

7.1 In his additional comments dated 29 October 2021, the author notes that on 10 July 2020, he submitted a second application for asylum, including a new medical certificate indicating that his condition is life-threatening due to a risk of suicide, and that his delusions and unexpected reactions to stress endanger himself and others. The author also invoked a 2020 report by Human Rights Watch according to which Lebanon's health sector is struggling to provide urgent and necessary life-saving medical care due to the government's failure to reimburse funds owed to private and public hospitals. According to the author, the report contradicts the State party's statements regarding the availability of high-quality healthcare in Lebanon.

7.2 On 30 September 2020, the Migration Agency rejected the author's second application for asylum. The Migration Agency acknowledged the content of the medical report but considered that no new circumstances had emerged since the previous proceedings that could give rise to a different assessment than those previously made. According to the author, the Migration Agency disregarded the consequences of the deteriorating economic and humanitarian situation in Lebanon on its healthcare system. Before the Migration Court, the Migration Agency submitted medical country of origin information regarding the availability of mental healthcare in Lebanon concerning another person. The Migration Agency acknowledged that the document lacked information regarding the availability of psychotic treatment but stated that inward treatment for depression should cover psychotic disorders too. The author contested this assumption, but in its decision of 16 April 2021, the Migration Court accepted it, concluding that he had not shown that he would face a risk of inhumane or degrading treatment upon return. On 26 July 2021, the Migration Court of Appeal decided not to grant leave to appeal.

7.3 The author argues that the migration authorities failed to adequately assess whether he would receive the required treatment upon arrival in Lebanon. He reiterates that his health conditions are linked to his experiences there and that he would lack support from his family, to whom he would constitute a threat. He argues that the burden of proof does not involve requiring clear proof, as a certain matter of speculation is inherent in the preventative purpose of the principle of non-refoulement.[9] His removal would trigger a severe fear or agony of dying. However, the authorities failed to fully assess the multitude of risk factors linked to his expulsion. The author reiterates that his acute risk of suicide or extended suicide is strongly linked to his psychotic disorder. The assessment of his access to the required treatment must be based on his specific diagnosis. It is therefore essential to confirm the general availability of treatment for psychotic disorders in Lebanon. However, by assuming that availability of treatment for depression suggests the availability of treatment for psychotic disorders without any information supporting this assumption, the authorities failed to properly assess the availability of the required treatment.

7.4 The author argues that the migration authorities also failed to ascertain whether he would actually have access to the required care. The author reiterates that persons with psychotic disorders suffer from stigma and discrimination in Lebanon and that he would likely not recover as he would find himself in what he perceives to be a hostile environment.

[9] *Z.H. v. Sweden* (CRPD/C/25/D/58/2019), para. 10.9.

The Migration Court had the possibility of ordering the Migration Agency to obtain medical country information on his personal circumstances. It failed to do so despite the absence of information on treatment for psychotic disorders and the deteriorating healthcare situation in Lebanon, with respect to which the World Health Organisation has raised concerns. He argues that the State party's authorities should have dispelled any serious doubts or obtained individual and sufficient assurances from Lebanon to avert a violation of article 3 of the European Convention on Human Rights.[10] The author reiterates that, upon return to Lebanon, he would be at risk of imminent death by suicide.

Additional observations from the State party

8.1 In its observations of 17 January 2022, the State party notes that following the author's second asylum application, its authorities considered the general situation of Alawites in Lebanon and assessed anew whether he would face a real or personal risk of being persecuted on account of his previous political activities or because of a personal threat from Sunni extremists or the so-called Islamic State. The Migration Agency noted that the author had not exhausted possibilities for national protection in Lebanon and that he had not demonstrated that the Lebanese authorities would not be willing or able to protect him. Moreover, a considerable period had elapsed since his departure from Lebanon. He was therefore not deemed to need international protection.

8.2 The State party argues that it follows from *Paposhvili v. Belgium* that it is for the applicant to adduce evidence for their claims. Concerning the question whether the author suffers from a "serious mental illness" sufficient to bring him within the scope of article 15 of the Convention, the State party acknowledges that he is unwell and requires comprehensive care, but argues, referring to country information, that he would have access to appropriate treatment in Lebanon, including psychiatric care as well as Olanzapine and Venlafaxine. Treatment for depression, including psychiatric care, is considered to also cover treatment for unspecified organic psychosis, even if this is not specified in the medical country information. Propavan or an equivalent substitute would reasonably be available in Lebanon. Further, there is no reason to assume that his ethnicity would affect his access to care. The migration authorities concluded that his expulsion would not breach his rights under article 3 or, in light of a proportionality assessment conducted, article 8 of the European Convention on Human Rights. The State party argues that there is no reason to conclude that these assessments were inadequate or clearly arbitrary or that they amounted to a manifest error or denial of justice. The State party therefore reiterates that the author has not substantiated that he runs a foreseeable, present, personal and real risk of being subjected to treatment contrary to articles 10 or 15 of the Convention upon return to Lebanon.

Additional comments from the author

9.1 In his additional comments dated 16 March 2022, the author argues that the State party has not contested the seriousness of his state of health, the possibility of obtaining individual medical country of origin information, or the causal link between his psychotic disorder and the risk of suicide. According to the author, it would have taken around two weeks to obtain medical country of origin information, which would not have significantly delayed the processing of his case. The author reiterates that he can be a danger to himself and others in stressful situations and that he requires professionally trained personnel capable of handling aggressive behaviour combined with hallucinatory delusions to prevent suicide. The author reiterates that persons with "psychotic illnesses" face stigma and abuse in Lebanon, that healthcare there is inadequate for him and that persons considered "mentally ill" have no right to personalised and holistic treatment in Lebanon. According to the author, the migration authorities did not consider these circumstances when assuming that treatment for depression in Lebanon also covers adequate care for his psychotic disorder. The author stresses that that assumption was made without any corroborating information and that available information about healthcare in Lebanon and the situation of persons considered "mentally ill" contradicts it.

[10] European Court of Human Rights, *Savran v. Denmark*, judgment of 7 December 2021, application No. 57467/15.

9.2 The author reiterates that the State party has not verified whether the care generally available in the receiving State is sufficient and appropriate in practice for the treatment of his condition. The authorities assessed whether his membership of the Alawite community would limit his access to care, but its finding that the high cost of the healthcare is not a particularly distressing circumstance is incoherent with the judgment of the European Court of Human Rights in *Paposhvili v. Belgium*. The authorities did not assess the actual accessibility of the care given the personal circumstances of the author, who is of low cognitive function and is unable to work. The author argued before the domestic authorities that he lacks a support network or family in Lebanon. In 2019, the unemployment rate in Lebanon was at 50% amid challenging humanitarian, political and financial circumstances. According to the author, it is obvious that there are serious obstacles for his wife to be the sole breadwinner and to pay for the high cost of his healthcare. However, the domestic authorities did not consider this.

B. Committee's consideration of admissibility and the merits

Consideration of admissibility

10.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with article 2 of the Optional Protocol and rule 65 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

10.2 The Committee notes the State party's submission that the communication is inadmissible *ratione materiae*, as the author's allegations do not concern any treatment he would suffer in Sweden owing to the conduct of the Swedish authorities. The Committee refers to its jurisprudence according to which the removal by a State party of an individual to a jurisdiction where he or she would risk facing violations of the Convention may, under certain circumstances, engage the responsibility of the removing State under the Convention.[11] The Committee considers that the principle of non-refoulement imposes a duty on a State party to refrain from removing a person from its territory when there is a real risk that the person would be subjected to serious violations of Convention rights amounting to a risk of irreparable harm, including but not limited to those enshrined in articles 10 and 15 of the Convention.[12] The Committee therefore considers that the principle of extraterritorial effect would not prevent it from examining the present communication under article 1 of the Optional Protocol.

10.3 The Committee considers that the author has sufficiently substantiated his claims, for the purposes of admissibility, that his removal to Lebanon would breach his rights under articles 10 and 15 of the Convention as the State party's authorities did not adequately assess the availability of the medical treatment he requires for his psychotic disorders, whether he would actually have access to such treatment in Lebanon and that he would be at imminent risk of death by suicide, including extended suicide, in the absence of such treatment.

10.4 In the absence of any other challenges to the admissibility of the communication, the Committee declares the communication admissible, insofar as it concerns the author's claims under articles 10 and 15 of the Convention and proceeds with its consideration of the merits.

Consideration of the merits

11.1 The Committee has considered the present communication in the light of all the information that it has received, in accordance with article 5 of the Optional Protocol and rule 73 (1) of the Committee's rules of procedure.

11.2 The Committee recalls that the removal by a State party of an individual to a jurisdiction where he or she would risk facing violations of the Convention may, under certain circumstances, engage the responsibility of the removing State under the

[11] *O.O.J. v. Sweden* (CRPD/C/18/D/28/2015), para. 10.3; *Z.H. v. Sweden* (CRPD/C/25/D/58/2019), para. 9.4.

[12] Human Rights Committee, general comment No. 31 (2004), para. 12

Convention.[13] The Committee considers that the principle of non-refoulement imposes a duty on a State party to refrain from removing a person from its territory when there is a real risk that the person would be subjected to serious violations of Convention rights amounting to a risk of irreparable harm, including but not limited to those enshrined in articles 10 and 15 of the Convention.[14] Accordingly, the Committee recalls that States parties are obliged not to extradite, deport, expel or otherwise remove a person from their territory where there are substantial grounds for believing that there is a real risk of irreparable harm.[15] The risk must be personal[16] and there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists. Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.[17] Considerable weight should be given to the assessment conducted by the State, and it is generally for the organs of States to review or evaluate the facts and evidence of the case in order to determine whether such a risk exists, unless it can be established that the evaluation was clearly arbitrary or amounted to a manifest error or denial of justice.[18]

11.3 The Committee considers that the removal of a person with disabilities in need of ongoing medical treatment may, in certain circumstances, raise issues under the Convention when the lack of access to that treatment would expose the person to an imminent and real risk to their lives and/or health. may, in certain cases, raise issues under the Convention.[19] It is for the author to adduce evidence capable of demonstrating that there are substantial grounds for believing that he or she would be exposed to a real risk of ill-treatment if removed. 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 in the course of which the authorities in the returning State must consider the foreseeable consequences of removal for the individual concerned in the receiving State, in the light of the general situation there and the individual's personal circumstances. The assessment of the risk must therefore take into consideration general sources, such as reports of the World Health Organization or of reputable non-governmental organizations, and the medical certificates concerning the person in question.[20] As regards the factors to be taken into consideration, the authorities in the returning State must verify on a case-by-case basis whether the care generally available in the receiving State is sufficient and appropriate in practice for the author's treatment. The authorities must also consider the extent to which the individual in question will actually have access to care and facilities in the receiving State.[21]

11.4 In the present case, the Committee notes, on the one hand, the author's claim that, by deporting him to Lebanon, the State party would breach his rights under articles 10 and 15 of the Convention, as the State party's authorities did not adequately assess the availability of the medical treatment he requires for his post-traumatic stress disorder, depression, paranoid schizophrenia, spectrum disorder and other psychotic disorders, whether he would actually have access to such treatment in Lebanon and that he would be at imminent risk of death by suicide, including extended suicide, in the absence of such treatment. On the other hand, the Committee notes the State party's submission that the author's removal to Lebanon would not entail a breach of his rights under articles 10 or 15 of the Convention. The Committee takes note of the State party's argument that its domestic authorities concluded on several occasions that the author would be able to access adequate treatment in Lebanon

[13] *O.O.J. v. Sweden* (CRPD/C/18/D/28/2015), para. 10.3; *N.L. v. Sweden* (CRPD/C/23/D/60/2019), para. 6.4; and *Z.H. v. Sweden* (CRPD/C/25/D/58/2019), para. 9.4.

[14] *N.L. v. Sweden* (CRPD/C/23/D/60/2019), para. 6.4; and *Z.H. v. Sweden* (CRPD/C/25/D/58/2019), para. 9.4.

[15] *N.L. v. Sweden*, para. 7.3; *Z.H. v. Sweden*, para. 10.3; *Z.R. and S.R. v. Sweden* (CRPD/C/31/D/94/2021), para. 7.2.

[16] Ibid.

[17] Ibid.

[18] Ibid.

[19] See, in this regard, *Z.H. v. Sweden* (CRPD/C/25/D/58/2019), *N.L. v. Sweden* (CRPD/C/23/D/60/2019), *Z.R. v. Sweden* (CRPD/C/31/D/94/2021).

[20] European Court of Human Rights, *Paposhvili v. Belgium*, paras. 183–187.

[21] *Ibid.*, paras. 189–190.

based on country information, and that there is no reason to conclude that said decisions were inadequate, arbitrary or amounted to a denial of justice.

11.5 The Committee must therefore determine in the present case, taking into account the factors set out above, whether there are substantial grounds for believing that the author would face a real risk of irreparable harm as contemplated in articles 10 and article 15 of the Convention if he were to be removed to Lebanon, such as being exposed to a serious, rapid and irreversible decline in his health resulting in intense suffering or to a significant reduction in life expectancy.[22] The Committee notes that according to the medical reports submitted to it, the author's condition is life-threatening due to a risk of suicide or extended suicide. The Committee also notes that according to the author's medical documentation, his removal to Lebanon would trigger his psychotic disorders and result in an acute risk of unpredictable reactions, including suicide or extended suicide.

11.6 The Committee notes that the parties disagree as to whether the domestic authorities adequately assessed whether he would be able to receive the required treatment in Lebanon. The Committee notes the author's submission that while the domestic authorities found that the required treatment is available in Lebanon, the Migration Agency acknowledged in the most recent proceedings that medical country information submitted to the Migration Court lacked information regarding the availability of psychotic treatment in Lebanon and did not explain the basis for its assumption that treatment for depression covers his psychotic condition. The Committee notes, however, that in its submission to the Migration Court, the Migration Agency explained that whereas country information lacked information on F29.0, i.e. unspecified psychosis on the International Classification of Diseases of the World Health Organisation, the information on F32, i.e. depression, also covers psychiatric care. The Committee does not consider it arbitrary, manifestly unreasonable or a denial of justice for the domestic authorities to have assessed that care for depression and psychiatric care should cover unspecified psychosis and to have accordingly concluded that the treatment available in Lebanon is sufficient and appropriate in practice for the author.

11.7 In relation to the author's access to the required treatment in Lebanon, the Committee notes that the State party's authorities concluded that it had not been shown that the author lacked access to care in Lebanon, that his membership of the Alawite community did not lead to another assessment, and that his relatives could be expected to support him. The Committee notes that the author has not provided further information to substantiate that his membership of the Alawite community may hinder his access to medical treatment. The Committee further notes that in its decision of 30 September 2020, the Migration Agency summarily noted that the high cost of quality healthcare in Lebanon and the family's lack of contact with their relatives cannot constitute exceptionally distressing circumstances. The Migration Court confirmed the Migration Agency's reasoning on 16 April 2021. However, the Committee considers that beyond finding that the height of medical costs does not constitute an exceptional circumstance, it is not clear that the State party's authorities considered the extent to which the author would actually have access to the required care, taking into account the high cost of treatment, his low cognitive function and inability to work, the documented assessment that his condition would aggravate upon return to Lebanon, his lack of contact with relatives in Lebanon, stigma surrounding mental health in Lebanon and the impact of the challenging circumstances in the country on the actual provision of healthcare, including mental healthcare. In this regard, the Committee notes that the European Court of Human Rights mentioned the need to consider the cost of medication and treatment and the existence of a social and family network as being among the factors to be considered when assessing accessibility of medical treatment.[23] In the absence of an analysis examining the possible impact of said elements on the author's access to the required treatment, and the life-threatening nature of his condition, the Committee considers that the State party's authorities have inadequately considered the extent to which he would actually have access to the required care in Lebanon.

[22] *N.L. v. Sweden*, para. 7.5; *Z.H. v. Sweden* (CRPD/C/25/D/58/2019), para. 10.7.

[23] European Court of Human Rights, *Paposhvili v Belgium*, para. 190.

11.8 In light of the foregoing, the Committee considers that the author's removal to Lebanon would, if implemented, violate his rights under articles 10 and 15 of the Convention.

C. Conclusions and recommendations

12. The Committee on the Rights of Persons with Disabilities, acting under article 5 of the Optional Protocol, is of the view that the State party has failed to fulfil its obligations under articles 10 and 15 of the Convention. The Committee therefore makes the following recommendations to the State party:

(a) With respect to the author, the State party is under an obligation to:

(i) To provide him with an effective remedy, including compensation for any legal costs incurred in filing the present communication;

(ii) To review his case, taking into account the State party's obligations under the Convention and the Committee's present Views;

(iii) To publish the present Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

(b) In general, the State party is under an obligation to take measures to prevent similar violations in the future. In this regard, the Committee requires the State party to ensure that the rights of persons with disabilities, on an equal basis with others, are properly considered in the context of asylum decisions.

13. In accordance with article 5 of the Optional Protocol and rule 75 of the Committee's rules of procedure, the State party should submit to the Committee within six months a written response, including information on any action taken in the light of the present Views and recommendations of the Committee.