

## Denmark - the Refugee Appeals Board's decision of 20 January 2017

**Country of Decision:**

Denmark

**Country of Applicant:**

Somalia

**Date of Decision:**

20-01-2017

**Court Name:**

The Refugee Appeals Board

**Keywords:**

Assessment of facts and circumstances

Country of origin

Country of origin information

Gender Based Persecution

Internal protection

Non-state actors/agents of persecution

Personal circumstances of applicant

Real risk

Relevant Facts

Subsidiary Protection

**Relevant Legislative Provisions:**

Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [1] > [Article 3](#) [2]

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**Headnote:**

The applicant, an ethnic Somali and a Sunni Muslim belonging to the Darood Clan and Ogaden Sub-Clan, was born and raised in Libya.

The Board found that the applicant was, as her parents and siblings, a Somali citizen. Further, considering that Somali was not the applicant's mother tongue, that she only with difficulty was able to speak, read or write in this language, that she in reality had never been to Somalia, that she does not know anyone in this country, and is a single mother with a son of five years old,

the Board found that, in accordance with the ECtHR judgement *R.H. v. Sweden*, she would face a real risk of living in conditions constituting inhuman or degrading treatment under Article 3 of the ECHR. The Board therefore granted her subsidiary protection under the Danish Aliens Act Art. 7 (2).

**Facts:**

The applicant, born in 1985, is an ethnic Somali and a Sunni Muslim belonging to the Darood Clan and Ogaden Sub-Clan. She was born and raised in Murzoq in Libya, had lived and had taken a master degree in IT network in Malaysia, and had never, apart from a short visit as a child, been in Somalia.

The applicant entered Denmark in July 2014 and applied for refugee status in September. She stated that she feared persecution and abuse if she returned to Somalia or Ethiopia.

The applicant's mother was born in Ogaden in Ethiopia. Her father was born in Somalia. When the father was seven years old he moved with his family to Mogadishu. In 1963, he moved to Egypt and later to Libya. The applicant's parents were married in Mogadishu in 1978 and then moved to Libya. The parents and five of the applicant's siblings came to Denmark as quota refugees in 2012. The applicant is a Somali Citizen, as her parents and grandparents. The nationality of the applicant and her parents had not been questioned before she came to Denmark. The applicant had only been in Somalia on a short visit when she was a child attending her grandfather's funeral. From 2009 to 2014 the applicant lived in Malaysia, where she took a master degree in IT network. In 2010 the applicant was married to her son's father, a US citizen. She last saw her husband in 2012 when he left for the USA. She was divorced in 2013. In 2014 the applicant's mother fetched the applicant's son in Malaysia and together with the son entered Denmark.

The Danish Immigration Service rejected the asylum application in August 2016.

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**Decision & Reasoning:**

The account of the applicant has been established by the Refugee Appeals Board.

Despite some inconsistencies between the parents account to the UNHCR regarding their whereabouts before the applicant was born and her account regarding this issue, the Board accepted the applicant's account as a whole. The Board found that the applicant was, as her parents and siblings, a Somali citizen and that she did not have any male family members or network which could protect her in Mogadishu or anywhere else in Somalia.

The ECtHR in its ruling of 10 September 2015 in the case *R.H. v Sweden*, para 70 stated: ?? In the Court's view, it may be concluded that a single woman returning to Mogadishu without access to protection from a male network would face a real risk of living in conditions constituting inhuman or degrading treatment under Article 3 of the Convention?.

The Danish Immigration Service emphasised that the applicant had an uncle in Somalia and that she was highly educated and economically resourced. The Board noted that it had accepted that the applicant last spoke with her uncle in 2005, that she did not know where he lived earlier, and that her mother had told her that the uncle had moved to Ogaden. The Board found that the applicant could have better social possibilities due to her education. According to the applicant she is not wealthy and no information in the case sheds light on this issue. Considering that as Somali

was not the applicant's mother tongue, that she only with difficulty was able to speak, read or write in this language, that she in reality had never been to Somalia, that she does not know anyone in this country, and that she is a single mother with a five-year old son, the Board found that there were no grounds for departing from the above-mentioned ECtHR judgment.

Consequently, the applicant was granted subsidiary protection under the Danish Aliens Act Art. 7 (2).

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**Outcome:**

The applicant was granted subsidiary protection under the Danish Aliens Act Art. 7 (2).

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**National / Other Legislative Provisions:**

[Denmark - The Danish Aliens Act Art. 7](#) [3]

[\(2\)](#) [4]

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**Links:**

[1] <http://www.asylumlawdatabase.eu/en/content/en-european-convention-protection-human-rights-and-fundamental-freedoms-echr>

[2] [https://www.asylumlawdatabase.eu/node/195#toc\\_12](https://www.asylumlawdatabase.eu/node/195#toc_12)

[3] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/denmark-danish-aliens-act-art-7>

[4] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8133>