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The rights of the child and family reunification

The Office of the High Commissioner for Human Rights (OHCHR) has by e-mail of 7 October 2021 requested inputs from the Danish Institute for Human Rights for the OHCHR report to the Human Rights Council on the rights of the child and family reunification.

The comments from the Institute relate to the following questions of the table:

* How can the right to family life be upheld for children in cross-border situations, particularly migrant children who are separated from their families (taking into consideration Article 10 of the Convention on the Rights of the Child)?

B. How can the best interests of children separated from their families in cross-border situations, in particular migrant children, be more effectively upheld without discrimination?

On 9 July 2021, the Grand Chamber of the European Court of Human Rights handed down its judgment on Denmark’s legislative tightening of family reunification rules for temporary protection holders in the case of [M.A. v Denmark](https://hudoc.echr.coe.int/fre#{%22fulltext%22:[%22MA%20v%20denmark%22],%22itemid%22:[%22001-211178%22]}).[[1]](#footnote-1) In a clear sixteen-to-one decision, the Court declared that the statutory requirement of three years waiting time for family reunification for a Syrian national with ‘temporary protection status’ status in Denmark breached his right to respect for family life under Article 8 of the European Convention on Human Rights.

The [Danish Institute for Human Rights](https://menneskeret.dk/nyheder/danmark-doemt-tre-aar-lang-tid-vente-paa-familiesammenfoering) has intervened in the case before the applicant, and expects that the decision will have implications and that Ministry of Immigration and Integration should initiate an amendment to the Danish Aliens Act.[[2]](#footnote-2)

The judgment from the court can also affect children’s rights as some refugees with temporary protection status have children in their home countries with whom they want to be reunited with.

Yours sincerely,

Trine Otto Hansen

Legal adviser

1. European Court of Human Rights, M.A. v. Denmark, 9 July 2021, application no. 6697/18 [↑](#footnote-ref-1)
2. The Danish Institute for Human Rights, press release with reference to the written submission before the court, 10 June 2020, available in Danish, at: <https://menneskeret.dk/nyheder/sag-ved-menneskerettighedsdomstolen-familiesammenfoering-tre-aar-lang-tid-vente> [↑](#footnote-ref-2)