



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General  
9 January 2024

Original: English

## Committee against Torture

### Decision adopted by the Committee under article 22 of the Convention, concerning Communication No. 1052/2021<sup>\*, \*\*</sup>

<i>Communication submitted by:</i>	H. U. (represented by counsel, Marjaana Laine, Finnish Refugee Advice Centre)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Finland
<i>Date of complaint:</i>	27 January 2021 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rules 114 and 115 of the Committee's rules of procedure, transmitted to the State party on 3 February 2021 (not issued in document form)
<i>Date of adoption of decision:</i>	17 November 2023
<i>Subject matter:</i>	Deportation to the Democratic Republic of the Congo of a person claiming to be at risk of torture
<i>Procedural issue:</i>	Level of substantiation of claims
<i>Substantive issue:</i>	Non-refoulement
<i>Article of the Convention:</i>	3

1.1 The complainant is H. U., a national of the Democratic Republic of the Congo born in 1987. She claims that the State party would violate her rights under article 3 of the Convention if it removed her to the Democratic Republic of the Congo. The State party has made the declaration pursuant to article 22 (1) of the Convention, effective from 30 August 1989. The complainant is represented by counsel.

1.2 On 31 May 2021, pursuant to rule 114 (1) of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party not to expel the complainant while the communication was being considered by the Committee.

1.3 On 19 August 2021, the Committee, acting through its Rapporteur on new complaints and interim measures, decided to examine the admissibility of the communication together with its merits.

\* Adopted by the Committee at its seventy-eighth session (30 October–24 November 2023).

\*\* The following members of the Committee participated in the examination of the communication: Todd Buchwald, Claude Heller, Erdogan Iscan, Liu Huawen, Maeda Naoko, Ilvija Pūce, Ana Racu and Bakhtiyar Tuzmukhamedov.



**Facts as submitted by the complainant**

2.1 The complainant is a Christian woman and a citizen of the Democratic Republic of the Congo. In 2014, she started to work for a non-governmental organization (NGO). She was entrusted with the investigation of the State's responsibility for the disappearances of *kulunas* (violent organized gangs). The investigation included an analysis of links among the State's response to the *kulunas*, the increasing disappearances of young men and a mass grave in Maluku, which was discovered in March 2015. The complainant was motivated personally to carry out the investigation because her sibling and her boyfriend had both been arrested during protests against President Joseph Kabila in January 2015 and had not been found since. The complainant intended to prepare a report and present it to both the Ministry of Internal Affairs and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

2.2 In February 2016, the complainant started to receive threatening phone calls and text messages from unknown phone numbers. In the calls and text messages, she was told not to present her report to the ministry and to "act like other people" or she would be killed. On 20 February 2016, the complainant was leaving her home when she was stopped by three men who forced her into a car, where a fourth man was waiting. When the complainant asked the men to identify themselves, one of them showed her that he was hiding a firearm under his shirt. The complainant was taken to an unknown location.

2.3 The complainant was taken to a dark room, where she was beaten and threatened by the four men. One of the men mentioned that the complainant had been defending the oppressed but would now need to defend herself. The leader of the group of men ordered the others to tie the complainant up, whereupon they raped her. The complainant was later taken to a cell containing eight women and two men. She noted that at least one woman was also a human rights activist and that, among the prisoners, were young people interested in politics. The complainant was kept in the cell for five or six days, without adequate food or access to medical care or sanitation. Three Kiswahili-speaking guards took turns to beat and rape her and the other women in separate cells. The two men who had been in the cell upon her arrival were tortured and eventually killed. The complainant assumes that the group that was holding her captive was linked to the authorities, as they spoke Kiswahili and used many nicknames and codes when they communicated with each other.

2.4 The complainant managed to escape from detention with the help of one of the guards who, at the moment that he was about to rape her, realized that he and she had the same family name. According to the complainant, the guard decided not to rape his "sister", but to help her to escape. The complainant was returned to her cell and the guard told her that it was important to know with whom she was dealing and that it was very difficult to leave the place in which she was detained alive. The guard later returned and led her out of the building and into a car, in which another man was sitting in the driver's seat. The complainant was requested to lie down on the floor and was covered with a carpet. Accompanied by the guard, she was driven to a big, mansion-like building, where she was introduced to a human rights activist, who advised her to leave the country. The guard who had rescued her told her that she was in good hands with the activist. The complainant has never learned the real identity of that guard, apart from the nickname "B52", which the other guards had used during her detention.

2.5 On 27 February 2016, the complainant was asked by the activist to accompany him and two other men to the N'djili Airport. The complainant voiced her concern about the risks of leaving the country through an airport. The activist arranged a meeting between the complainant and two men, who were dressed as immigration officers. The two men had a conversation with the activist in English, which the complainant did not understand. On 28 February 2016, at around 3 a.m., the complainant was given a French passport and told to present herself as a French woman from Côte d'Ivoire. She later boarded an aircraft with the passport without a problem and noticed that the activist was on the same airplane. The complainant was told by the activist that the flight was heading to Moscow, but that the intention was to eventually arrange a trip for her to Canada. Once she arrived in the Russian Federation, the complainant did not feel safe in that country. She travelled from Moscow to Saint Petersburg and subsequently left for Finland by train.

2.6 The complainant applied for asylum in Finland on 19 March 2016. The Finnish Immigration Service interviewed her on two occasions in April 2016. The interviews were relatively short, with the first one lasting less than two hours and the second one lasting a little longer. In May 2017, the Immigration Service arranged two new interviews for the complainant. During the four interviews, the complainant described her experiences in detail. During the interviews held in 2016, the complainant cried while describing her experiences. She declared several times that she was suffering from both psychological and physical symptoms. A male lawyer, who had been assigned to her ex officio, did not appear during any of her interviews. In May 2016, a lawyer sent a short email to correct some sentences in one of her declarations. In 2017, another male attorney from a public legal aid office was appointed to handle her case, but it is unclear to the complainant what he did regarding the case, as they spoke only once by phone.

2.7 On 28 June 2017, the Immigration Service rejected the complainant's asylum application and ordered her to be returned to the Democratic Republic of the Congo. The Immigration Service accepted the complainant's statements regarding her nationality and place of origin. It noted that it had not been able to find information about the NGO in the available country of origin information but that it did not exclude the possibility of the organization's existence, in view of the limited nature of the available sources. The Immigration Service considered that the complainant's statements regarding the NGO, for which she had worked for about two years, had been brief, superficial and imprecise, that the complainant had not presented any documentary evidence of her employment with the NGO, information about how the organization worked or details of her involvement in the investigation or the organization. The Immigration Service did not accept as fact that the complainant had worked for the NGO. Although it noted that the complainant's account of the threatening messages that she had received had been coherent, it did not accept that information as fact, either, given its previous conclusion about the complainant's work for the NGO. Regarding the complainant's capture and rape, the Immigration Service considered that her statements were mechanical and repetitive, despite requests for clarification. The Immigration Service did not accept as fact that the complainant had been apprehended, assaulted and raped in the manner that she had described. Regarding the complainant's account of her release, the Immigration Service reached a similar conclusion on the basis of the supposed vagueness of the information provided and the lack of details. It also stated that it was implausible that an unknown person who had initially planned to rape her would have refrained from the act and subsequently released her from prison and helped her to escape the country just because of the fact that they shared a last name. It determined that the complainant's account of her release and the journey arranged for her was not credible. In conclusion, the Immigration Service did not accept the complainant's account of her work and the threats related to it nor the contention that she was captured and raped and determined that the complainant would not face any risk from the authorities if she were to be returned to the Democratic Republic of the Congo.

2.8 On 14 January 2019, the Administrative Court of Eastern Finland rejected the complainant's appeal and her request for an oral hearing. She had been represented by an attorney and had provided documents regarding the existence of the NGO in addition to a health certificate attesting to a severe depressive disorder and post-traumatic stress disorder, dissociative auditory hallucinations, insomnia, anxiety, suicidal thoughts and somatic symptoms. The Court considered the complainant's statements to have been broad and repetitive, including due to the manner in which she had presented information about the NGO and her work therein. The Court questioned the documents relating to the NGO and did not accept that the complainant had worked for it. It also questioned the complainant's account regarding the threats that she had received and the allegations relating to her capture and rape. The Court concluded that the complainant's statements about the threat that she faced in her country of origin were implausible in their entirety and stated that it could not be considered that she would be a person of interest to the authorities upon her return. The complainant requested leave to appeal to the Supreme Administrative Court and also requested an interim measure from that court to halt the enforcement of the deportation decision. The complainant referred to her medical condition, invoked the fact that the traumatic experiences had affected her capacity to explain her case in detail in an asylum interview and referred to the principle of the benefit of the doubt, which she said should be

granted in her case. The Supreme Administrative Court rejected her application for leave to appeal on 11 April 2019.

2.9 The complainant notes that procedural shortcomings in the different proceedings relating to her first asylum application affected the decisions of the competent authorities. She argues that the Immigration Service, in spite of the information that she had provided, did not ask for evidence relating to her health at any stage of the process and failed to recognize her vulnerability as a victim of severe sexual violence and torture and the impact that that could have on her ability to provide a detailed and precise account of her case. Moreover, the complainant was not accompanied by legal counsel at any of the asylum interviews, which had been arranged in a way that did not support her ability to provide a clear overview of the reasons for her request for asylum. The complainant highlights that the interviews were organized shortly after her arrival and were rather short and that the interpreter was male. Moreover, the Immigration Service lost the transcript of the first interviews, held in 2016, and the transcript of the subsequent interviews, held in 2017, was incomplete, demonstrating that the interpreter had not diligently complied with his task. The complainant stresses that her request for a new interview was rejected, even though her application had been rejected partly due to matters of credibility and although she had mentioned that she had been traumatized and suffered from post-traumatic stress disorder.

2.10 On 3 June 2019, the complainant filed a second asylum application, based on the same grounds, providing more evidence relating to her medical condition, which supported the claim that she had been tortured and traumatized. The Immigration Service did not examine her new application in detail, arguing that it related to old matters and was linked to issues that it had already decided upon. The Immigration Service added that the complainant had not presented new facts or grounds that could change the assessment that had previously been made. It repeated that the complainant could not be considered as a person of interest to the authorities in the Democratic Republic of the Congo. On 19 June 2019, the Immigration Service denied the request for a new interview and rejected the complainant's application. It ordered the complainant's return to the Democratic Republic of the Congo and imposed a re-entry ban for a period of two years.

2.11 The complainant, represented by the Finnish Refugee Advice Centre, filed an appeal with the Administrative Court of Helsinki and provided additional evidence of the violence that she had experienced and its effects on her, which had not been examined by the Immigration Service. She supplemented the evidence with a medical report dated 13 September 2019 and requested an oral hearing, given that her previous application had been rejected on credibility grounds. The complainant repeated that traumatic experiences could affect a person's ability to speak about their experiences in various ways and that trauma could also affect a person's memory and ability to recollect the order of events. She complained that, even though she had invoked her arrest, torture and health issues at every hearing since the beginning of her first asylum case, the authorities had not asked her to produce a doctor's statement or other evidence concerning her health at any stage of the proceedings. The complainant referred to the Committee's decisions in *X and Z v. Finland*<sup>1</sup> and *E.K.W. v. Finland*<sup>2</sup> in her argument about the importance of the medical evidence. She also submitted that she had not had a lawyer during the interviews and that the interpreter had been male.

2.12 On 17 April 2020, the Administrative Court of Helsinki refused to grant the request for an oral hearing and rejected the appeal. It noted that the authorities had considered that a medical examination was not necessary to assess the complainant's application for international protection and added that the assessment by the Immigration Service, in June 2019, of the complainant's health had been based on the earlier decision of the Administrative Court of Eastern Finland, which had ruled that the complainant's state of health could have affected her statements but that it considered, nonetheless, that her statements contained implausible elements. The documentary evidence submitted to the Immigration Service in the new application was not deemed to trigger a different assessment. The Court also declared that the complainant had had the chance to clarify her case in her asylum interviews and also

---

<sup>1</sup> CAT/C/52/D/483/2011-CAT/C/52/D/485/2011.

<sup>2</sup> CAT/C/54/D/490/2012.

during the appeal proceedings, noting that she had had legal counsel during her first asylum proceedings. It stated that it had assessed the complainant's need for international protection on the basis of her statements, including the clarifications submitted in the appeal. The new medical statements submitted showed that the complainant's diagnoses had remained the same. Therefore, the Court did not find it necessary to return the case to the Immigration Service for further review, adding that the fact that applicants stated in their asylum interview that they had been subjected to torture or rights violations in their home country did not mean that the authorities had a duty to arrange a medical examination *ex officio*, unless they deemed it necessary to assess their application for international protection. It therefore concluded that the complainant's new request for asylum did not contain new grounds that would have had an effect on the decision concerning her remaining in Finland.

2.13 The complainant requested the Supreme Administrative Court to grant her leave to appeal and to issue interim measures to stop her deportation. She argued that she was a victim of torture and that her asylum application had been rejected on the grounds of credibility, with the medical statements that she had presented having been ignored, even though she had presented her vulnerable situation and special needs in the first four asylum interviews. The complainant contended that the rejection of her asylum application had left her without the procedural safeguards intended for survivors of torture and sexual violence. She added that, even though she had had a male lawyer assigned to her, she had been alone in the interviews and had not received help from her lawyer to enable her to submit medical evidence before the first appeal. On 8 May 2020, the Supreme Administrative Court rejected the request for interim measures. However, on 30 June 2020, it issued an interlocutory decision to stop the deportation. On 30 November 2020, the Supreme Administrative Court rejected the application for leave to appeal and the order for return became enforceable.

2.14 The complainant argues that the case should be declared admissible as the matter is not being and has not been examined by another procedure of international investigation or settlement and as she has exhausted all domestic remedies.

2.15 Regarding the human rights situation in the Democratic Republic of the Congo, the complainant refers to a report of the United Nations High Commissioner for Refugees, issued in the context of the universal periodic review of the Democratic Republic of the Congo,<sup>3</sup> according to which the justice system in the country suffered considerably from a lack of independence, was faced with problems regarding impartiality and the separation of powers and had inadequate human and financial resources to ensure its effective functioning, depriving victims of avenues to seek justice and obtain remedies for violations. The complainant also refers to a report of the Department of State of the United States of America, of 2017, in which it was noted that the most significant human rights problems in the Democratic Republic of the Congo included unlawful killings, torture and other cruel, inhuman and degrading treatment and punishment and sexual and gender-based violence, including rape and abduction.<sup>4</sup>

## **Complaint**

3.1 The complainant contends that her forcible return to the Democratic Republic of the Congo would constitute a violation of article 3 of the Convention, as there are substantial grounds to believe that there is a real, personal and imminent risk that she would be subjected to torture again upon her return to the country.

3.2 The complainant notes that her applications for international protection were rejected solely on the basis of credibility issues, even though her accounts had been constant, coherent and plausible throughout the process. The complainant adds that, as a young, female lawyer and human rights activist, she falls into a category of people that are targeted in the Democratic Republic of the Congo. She reiterates that she is a traumatized victim of torture, a characterization that is supported by medical documents, and that her medical situation

---

<sup>3</sup> Office of the United Nations High Commissioner for Refugees, submission on the Democratic Republic of the Congo for the universal periodic review, third cycle, thirty-third session, May 2019, available at <https://www.refworld.org/docid/5ccabdd87.html>.

<sup>4</sup> United States, Department of State, "Democratic Republic of the Congo", 2016 Country Reports on Human Rights Practices (Washington, D.C., 2017).

could have affected the way in which she presented the information and recounted her experiences.

3.3 The complainant claims that her statements are further substantiated by the relevant country of origin information, which demonstrates that there is a challenging human rights situation in the Democratic Republic of the Congo, where violence against women, in particular rape and gang rape committed by men with guns and by civilians, remains a serious concern, including in areas not affected by armed conflict. The complainant refers to prior jurisprudence of the Committee,<sup>5</sup> in which the Committee was unable to identify any area in the Democratic Republic of the Congo that could be considered safe for the complainant and stated that violence against women, including rape by armed groups and security and defence forces, was taking place in conflict-affected and rural areas but was also occurring in other parts of the country.

3.4 The complainant contends that the Finnish authorities failed to consider and acknowledge her personal situation in the light of the country of origin information when assessing her risk. She adds that the assessment was flawed and argues that the burden of proof was determined in an erroneous manner, as it should shift from the applicant to the State when the applicant has suffered serious harm of torture prior to departure from the country of origin.<sup>6</sup> The complainant stresses that the human rights situation in the Democratic Republic of the Congo has not improved and that human rights violations are continuing. She points out that members of civil society are one of the targeted groups and adds that women in particular suffer from sexual violence. The complainant refers to general comment No. 1 (1997), in which the Committee noted that the risk of torture must be assessed on grounds that went beyond mere theory or suspicion but that the risk did not have to meet the test of being highly probable.<sup>7</sup>

3.5 The complainant highlights that, considering the torture and detention to which she was subjected in her country of origin, the objective medical evidence and the relevant country of origin information that supports her account, there are substantial grounds to believe that she would be subjected to torture and inhuman treatment if returned to the Democratic Republic of the Congo.

#### **State party's observations on admissibility**

4.1 On 4 June 2021, the State party presented its comments on the admissibility of the communication. It informed the Committee that it had followed up on the request for interim measures issued by the Committee and had refrained from returning the complainant to the Democratic Republic of the Congo while her complaint was under consideration by the Committee. The State party requested the Committee to examine the question of admissibility separately from the merits.

4.2 The State party lists the complainant's submissions to the different proceedings in the country. Regarding the identification of the complainant's particularly vulnerable position, it notes that, when filling in the forms for the complainant's first application, the police did not tick the data box for "asylum-seeker in a vulnerable position" in its case management system for immigration matters, while in the complainant's subsequent asylum application, in 2019, the police did tick the relevant box and recorded, in its report, that the complainant had been subjected to torture, rape or other serious mental, physical or sexual violence. The State party notes that, in its current instructions, the Immigration Service states that the interviewers and interpreters for interviews with female asylum-seekers must, in principle, be female if the interview deals with themes of gender-based violence and that the interview may be interrupted, if necessary, if a male interpreter has been arranged for a female asylum-seeker when there has been no prior knowledge of indications of vulnerability. It adds that, under the current practice, an interview of a whole day is, in principle, arranged for asylum-seekers who present some indications of vulnerability to ensure sufficient time for inquiring into the

---

<sup>5</sup> See *E.K.W. v. Finland and Balikosa v. Sweden* (CAT/C/44/D/322/2007).

<sup>6</sup> The complainant refers to Council of the European Union, Directive No. 2004/83/EC, 29 April 2004, art. 4 (4).

<sup>7</sup> General comment No. 1 (1997) on the implementation of article 3 of the Convention in the context of article 22 (superseded by general comment No. 4 (2017)).

matter and that half-day interviews are avoided to ensure that vulnerable and possibly traumatized asylum-seekers do not have to attend multiple interviews. The State party notes that it is obvious from the current instructions, which are more precise than the previous ones, that an asylum interview should have been arranged for inquiring appropriately into the indications of the complainant's particular vulnerability. It adds that, as the information provided by the complainant indicated that she might no longer have a safety network in her home country, such a circumstance should have been examined in more detail. Such need for detailed examination is another factor that would have supported the holding of an interview.

4.3 The State party notes that the core of the present case is the personal danger for the complainant of being subjected to torture if she were to be returned to her home country. The State party contends that the complainant has failed to present well-founded arguments to substantiate that she would be in personal danger of being subjected to torture if she were to be returned to her home country. It adds that the burden of proof rests with the complainant and that the account that she presented during the asylum interviews was brief, superficial and imprecise. The State party also adds that there was no information in the sources of country information on the Democratic Republic of the Congo about the organization for which the complainant was allegedly working. It notes that, even though she had worked in the organization for two years and was close to qualifying as a lawyer, the complainant could not give a more detailed account of her work, did not provide any documentary evidence and remained unspecific in her account of the investigation in which she was reportedly engaged. The State party points out that the complainant's statements about her arrest, rape and release remained unspecific and did not convince the Immigration Service or the appellate courts of the credibility of her account. The State party notes, therefore, that the relevant authorities considered that the account of the alleged violence against the complainant and the reasons for it, namely, her activity in the organization, was implausible. The State party asserts that there was no clear information as to whether the persons who reportedly arrested and assaulted her were public authorities or private persons.

4.4 The State party notes that the complainant did not present evidence of her health status until she filed her subsequent application for international protection and adds that one of the medical statements that she presented had come to the attention of the authorities only when she appealed to the Administrative Court of Helsinki against the decision on her second application for asylum. The State party also notes that the complainant had an opportunity to provide evidence of her health status as early as in her first application for international protection. It recognizes that victims of torture often have difficulties in describing their experiences in detail but it considers that the alleged deficiencies in the asylum process do not suffice to explain the superficiality and lack of specificity of the complainant's account. The State party notes that, in her submission to the Committee, the complainant does not make more profound or precise the account that she gave in the asylum interviews and does not present any new facts. It argues that the communication does not contain any well-founded arguments that substantiate the alleged danger that is threatening the complainant in her home country, the reasons for that danger or that the danger is specific to her.

4.5 The State party emphasizes that the domestic authorities are best placed to judge the credibility of the complainant and her account. It reiterates that the Committee is not a judicial or appellate body and that it must give considerable weight to the findings of fact that are made by organs of the State party concerned. The State party notes that it is not the role of the Committee to act as a fourth instance to domestic courts and that it considers that the complainant is attempting to use the Committee as an appellate body to obtain a reassessment of the factual circumstances of her asylum claim. The State party concludes that the communication is manifestly ill-founded within the meaning of rule 113 (b) of the Committee's rules of procedure and should be declared inadmissible pursuant to article 22 (2) of the Convention. The State party adds that it is of the view that the facts of the communication before the Committee do not reveal any breach of article 3 of the Convention.

#### **Complainant's comments on the State party's observations on admissibility**

5.1 On 13 September 2021, the complainant submitted comments on the State party's observations on admissibility. The complainant contends that she has sufficiently detailed the facts and the basis for her claims under article 3 of the Convention and argues that the

claims are sufficiently substantiated for the purpose of admissibility. She adds that the State party fails to present any reasons for claiming that the communication is ill-founded and notes that the State party's observations reaffirm that the Finnish authorities failed to identify her particularly vulnerable position and did not consider her individual situation and credibility in a rigorous and proper manner. The complainant notes that, even after the authorities had recorded her vulnerable position in her asylum application, on 3 June 2019, the subsequent proceedings did not take that information into account in an appropriate way.

5.2 The complainant argues that the State party's observations confirm that there were several shortcomings in the asylum process, which prevented her case from being fairly and thoroughly examined. She notes that the first asylum interview lasted less than four hours and was spread out over two days, while the subsequent interview by the Immigration Service was also spread out over two days and lasted less than six hours. The complainant points out that, in all her interviews, the interpreter was male. She highlights that the State party observes that it is obvious from the current, more-precise national instructions that an asylum interview should have been arranged in such a way as to enable appropriate inquiry into the indications of the complainant's particular vulnerability, including that she no longer had a safety network in her home country. However, the Immigration Service did not arrange a new interview when assessing her second application and the Administrative Court of Helsinki did not arrange an oral hearing.

5.3 The complainant states that the State party initially recognizes that there were shortcomings in the proceedings, but then contends that she failed to present well-founded arguments to substantiate that she would be in personal danger of being subjected to torture if she were to be returned to her home country. She notes that those two assertions are contradictory and that the State party does not acknowledge that the shortcomings impeded a fair and thorough examination of her case. The complainant adds that she presented information and documents regarding the NGO in the first appeal stage and highlights that she provided coherent statements about her activities and past persecution from the beginning of the procedure. She adds that complete accuracy is seldom to be expected from victims of torture and that the inconsistencies in her presentation of the facts should not raise doubts about the general veracity of her claims, especially since it has been demonstrated that she suffers from post-traumatic stress disorder. The complainant notes that she submitted statements about her health situation during the first appeal stage, even though the Immigration Service had not asked the complainant for a doctor's statement or other evidence concerning her health. She recalls that the Aliens Act of Finland and the directive of the European Union<sup>8</sup> regarding asylum procedures contain the provision that, when applicants have been identified as being in need of special procedural guarantees, the authorities must ensure that the applicants are provided with adequate support, including when such a need becomes apparent at a later stage of the procedure. The complainant also recalls the problems with the transcripts of her interviews and with the performance of the interpreter.

5.4 The complainant refers to the State party's argument that the domestic authorities are best placed to judge her credibility and notes that, while the Committee gives considerable weight to the findings of fact that are made by organs of the State party, it is not bound by such findings and instead has the power to make a free assessment of the facts based upon the full set of circumstance in every case. She reiterates that the State party fails to fully acknowledge the several shortcomings in the national procedure and, most importantly, that the failure of the authorities to recognize her vulnerability as a victim of severe sexual violence and torture affected the entire investigation into her case. The complainant reiterates that the country of origin information clearly supports her claims and her contention that she has a real risk of being subjected again to torture in the Democratic Republic of the Congo. She concludes that her deportation to her country of origin would constitute a violation of article 3 of the Convention.

#### **State party's observations on the merits**

6.1 On 4 October 2021, the State party submitted its observations on the merits of the communication. Regarding the first asylum proceeding, the State party restates the facts as

---

<sup>8</sup> Council of the European Union, Directive No. 2004/83/EC, 29 April 2004.



presented by the complainant and specifies that, in its decision of 28 June 2017, the Immigration Service accepted her logical account of her citizenship and place of residence as established facts and examined her application for international protection. The Immigration Service held that the complainant had not been subjected to acts considered to be persecution nor would she be at risk of such acts. It noted that the complainant was a lawyer by education and an educated woman capable of work and free from illnesses and considered to have a safety network in her home country, which implied that there were no reasons for issuing a residence permit to her on a discretionary basis on humanitarian grounds. The Immigration Service determined that the complainant could be returned to the Democratic Republic of the Congo.

6.2 Referring to the decision of the Administrative Court of Eastern Finland, the State party observes that, in her appeal, the complainant invoked her traumatization, which had affected her answers in the interview and her ability to remember details. It acknowledges that the complainant enclosed two patient records and a medical statement according to which she had been diagnosed with post-traumatic stress disorder and medium-level depression and that she suffered from fears, panic attacks and problems with memory and concentration. The patient records showed that the complainant had been treated in a hospital twice because of severe depression and suicidal ideation. The State party notes that, in its decision of 14 January 2019, the Administrative Court of Eastern Finland repeated that it considered the complainant's account to be implausible, as the documents presented relating to the NGO had a low level of plausibility and the complainant's account of her detention, her time in prison and her release remained superficial and impersonal and had many implausible features. The Court concluded that the complainant would not be of any particular interest to the authorities in her home country and could not be granted asylum. The Court held that mental health services to treat post-traumatic stress disorder were available in the Democratic Republic of the Congo and took into consideration that the complainant had a safety network, including siblings and other relatives, which implied that denying her a residence permit would not be manifestly unreasonable. It decided that it had been justified for the Immigration Service to reject the complainant's application for international protection. The State party notes that, on 11 April 2019, the Supreme Administrative Court denied the complainant's request for leave to appeal.

6.3 The State party explains that, in the complainant's new application for international protection, of 3 June 2019, she invoked the same grounds as previously and presented health reasons as new grounds, including two medical statements to supplement her earlier account and to document the traumatic impact of the acts of violence against her. The State party notes that the complainant explained that she had been unable to present the medical statements in support of her application earlier because she had received them only gradually over a long period of time. The State party notes that, on 19 June 2019, the Immigration Service declared the complainant's application inadmissible and considered that the grounds presented by the complainant had already been examined in connection with her first asylum procedure. The Immigration Service held that there were no new circumstances or grounds so substantial that they would influence its decision on her need for international protection. In addition, it noted that the complainant's additional claim about her health situation did not present any circumstances that would warrant changing the denial by the Administrative Court of the request for a residence permit and considered that the complainant could be returned to the Democratic Republic of the Congo.

6.4 Regarding the complainant's appeal to the Administrative Court of Helsinki, the State party notes that the complainant contended that she had argued that the Immigration Service could not invoke the earlier decision of the Administrative Court of Eastern Finland to justify neglecting its own obligation to acquire evidence, as that decision had taken into account only the documents that had been provided to the Court at the time of the earlier decision. According to the State party, the complainant alleges that the Service failed to identify her vulnerable position, which affected the entire investigation into the matter, as the Service failed to consider the impact of her traumatic background on her ability to present evidence. The State party notes that, according to the decision of the Administrative Court of Helsinki, of 20 April 2020, the complainant had suggested that the Immigration Service should have arranged a medical examination for her ex officio and that the Immigration Service had failed to comply with its obligation to acquire evidence to assess her health status. The Court noted,

however, that the Immigration Service had concluded that a medical examination was not necessary and also noted that that decision had been based on the previous decision of the Administrative Court of Eastern Finland, which had concluded that the complainant's health status could have affected her account, but that the account had also shown implausible features. The Administrative Court of Helsinki held that the documentary evidence presented later to the Immigration Service, including the statements on injuries resulting from torture, did not warrant a different conclusion. The Court concluded that the complainant's application had to be considered as a subsequent application, which did not contain any new grounds that would influence the ruling on the matter.

6.5 The State party elaborates on the complainant's arguments relating to the medical certificates and her health situation and recalls that, before the first asylum decision, the complainant had not been requested to present a medical certificate and that she had not been specifically informed about her opportunity to provide additional evidence. It notes that the complainant's health issues were discussed during the interviews held on 15 April 2016, 21 April 2016, 4 May 2017 and 23 May 2017. The State party clarifies that the officials who examined the complainant's first asylum application held that there had been no need to request a medical statement because they considered the complainant's account to be implausible. The State party emphasizes that medical statements are not requested as a matter of course from all asylum-seekers who have experienced torture, although such statements can be relevant for assessing the plausibility of the asylum-seeker's account. The current instructions advise that, if the Immigration Service does not request a medical examination from an asylum-seeker, the person must be informed that he or she may have a medical examination conducted at his or her own expense. The State party recognizes that, because the complainant's account was considered implausible as a whole, a medical statement would have had real relevance in the matter and would probably have influenced the general conclusions regarding the complainant's account and the plausibility of her claims for the purposes of the decision. The State party asserts that, taking into account the complainant's grounds for seeking asylum and her account of her health problems and the serious violations of her rights, a medical statement should have been requested in the first asylum process before a decision was made.

6.6 Referring to the assessment of the complainant's vulnerability, the State party observes that, when examining the complainant's first asylum application, the Asylum Unit of the Immigration Service was aware of the factors indicating her vulnerable position, namely, her gender, the reported physical and sexual violence and the health problems discussed during the interview. It notes that, in the absence of a medical statement, the assessment of her vulnerable position remained deficient when the first decision was made, as it assessed the complainant's educational background and safety network but could not take into account her true health status. The State party notes that, in the subsequent application process, the Immigration Service based its decision on the earlier conclusion of the Administrative Court of Eastern Finland that the complainant's health status did not make her vulnerable in such a manner that she could be granted a residence permit. It recalls that, in the absence of a medical statement, the Immigration Service was unable to identify the complainant's traumatization before making the first asylum decision or assess its impact on her account, which resulted in the decision that the Immigration Service considered the complainant's account to be implausible in its entirety. The State party emphasizes that the current instructions of the Immigration Service advise that the interviewers and interpreters in interviews with female asylum-seekers must be female if the interview deals with themes of gender-based violence and that an entire day's interview should be, in principle, arranged for asylum-seekers with some indications of vulnerability. It also highlights that, currently, the Immigration Service takes into account the understanding that asylum-seekers are often unaware that indications of vulnerability resulting from gender-based violence have relevance in the asylum process and notes that, in recent years, it has provided a good amount of training on dealing with vulnerability.

6.7 The State party notes that the complainant's public legal aid attorneys were male and were not present during the asylum interviews in 2016 and 2017. It adds that, after the first decision of the Supreme Administrative Court, the complainant's counsel was replaced by a female lawyer from the Finnish Refugee Advice Centre. The State party also recognizes that the transcripts of the interviews held on 15 and 21 April 2016 were missing and that the

transcript of the interviews of 4 May 2017 was incomplete. The State party notes that, at that time, there were problems with the recording of data in the Immigration Service. Regarding the deficiencies in the quality of the interpretation, the State party observes that the interpreter in question interprets Arabic, English and French, and notes that, while the quality of the professional's interpretation of French has not been assessed, his Arabic interpretations have been rated as either excellent or good. The State party notes that, during the asylum interview, the interpreter and the complainant said that they understood each other's speech.

6.8 The State party recalls that the complainant filed a new asylum application on 3 June 2019 and provided a number of statements and patient records as additional evidence. It reports that a legislative amendment concerning the inadmissibility of subsequent applications had entered into force on 1 June 2019, but had not yet been transposed into a policy on the interpretation of the new legislative provisions at the time that the new asylum application was filed, so that the Immigration Service had applied old instructions that did not pay particular attention to considering an asylum-seeker's vulnerable position and to ensuring procedural safeguards. The State party observes that the new instructions of the Immigration Service on the admissibility of subsequent applications have been supplemented with a checklist, prepared later in 2019. The checklist includes the provision that the examination must take into account whether possible indications of a particular vulnerability have been examined appropriately, including such traumatic experiences as rape and torture and the possible health problems ensuing from those experiences. The State party adds that, under the current instructions, a preliminary examination would be carried out as to whether the asylum-seeker could be considered to be vulnerable and that that investigation must assess whether the asylum-seeker's vulnerable position has been taken into account appropriately in assessing the plausibility of the person's account. It also adds that, under the current instructions, the Immigration Service must take into account whether the necessary medical examinations of the applicant have been arranged to examine factors relating to earlier persecution or serious harm. The State party considers that, on the basis of the current, more precise instructions, an asylum interview should have been arranged for inquiring appropriately into indications of the complainant's particular vulnerability. It adds that the evidence indicates that the complainant might no longer have a safety network in her home country, which is another factor that would have supported the holding of another interview.

6.9 The State party refers to the jurisprudence of the Committee relating to the absolute nature of the non-refoulement obligation and contends that the Committee has stated that, if the risk of torture stems from a non-governmental entity and occurs without the consent or acquiescence of the Government, the issue falls outside of the scope of the Convention. The State party recalls that the Committee has held that there must be substantial grounds for believing that the applicant is facing a foreseeable, personal, present and real risk of being subjected to torture, that the existence of a pattern of gross, flagrant or mass violations of human rights in a country does not constitute a sufficient reason for determining that a person would be at risk and that the burden of proof falls on the complainant, who must present an arguable case. The State party also refers to the practice of the Human Rights Committee and that of the European Court of Human Rights.

6.10 The State party reiterates that the complainant failed to present well-founded arguments to substantiate her claim that she would be in personal danger of being subjected to torture if she were to be returned to her home country. It stresses that the complainant has the burden of proof and that the alleged deficiencies in the asylum process do not suffice to explain the superficiality and lack of specificity of her account. The State party contends that the communication is manifestly unfounded and should be declared inadmissible pursuant to article 22 (2) of the Convention and adds that the facts of the present communication before the Committee do not reveal any breach of article 3 of the Convention.

#### **Complainant's comments on the State party's observations on the merits**

7.1 On 19 October 2022, the complainant provided comments on the State party's observations on the merits of the communication. She contends that the State party clearly reaffirms in its observations that the complainant's asylum procedure included several shortcomings and that it failed to identify her particularly vulnerable position as a severely traumatized victim of torture. She contends that the result is that her vulnerability and special

needs were not examined or considered appropriately during the proceedings. The complainant adds that the authorities neglected their obligation to investigate all the relevant facts in the case and did not organize a new asylum interview or an oral hearing in court, despite the evidence presented by her about the torture that she had experienced. She adds that post-traumatic stress disorder does not only limit the ability to talk about torture or sexual violence but has an overall impact on the victim, who is often unable to give detailed accounts of the grounds for asylum.

7.2 The complainant highlights that the State party admits that a medical statement should have been requested in the first asylum process before the decision was made, as such a statement would probably have influenced the general conclusions regarding the complainant's account and its plausibility. She adds that the State party admits that, in the absence of such a medical statement, her true health status could not be taken into account and the assessment of her vulnerable position remained deficient. The complainant contends that, in practice, the Finnish authorities failed in the credibility and risk assessment, which was affected by serious shortcomings in the asylum process. She recalls that, in all the interviews, the interpreter and lawyers were male and notes that the State party's reference to new instructions, which were not followed in her case, implies that it admits the shortcomings. The complainant notes that the State party recognizes that the transcripts of her asylum interviews were lost. She adds that she felt, during the interviews, that the lack of clear understanding between the interpreter and herself made it even more difficult for her to provide more details about her account. She states that the refusal of the Finnish authorities to hear her in the appeals procedure and to arrange an oral hearing implies that the overall credibility of her account should not have been disputed in the way that it has been by the State party in its observations sent to the Committee. The complainant highlights that the State party acknowledges that, on the basis of the current, more precise instructions of the Immigration Service, an asylum interview should have been arranged for inquiring appropriately into the indications of her particular vulnerability.

7.3 The complainant argues that the case law invoked by the State party supports the complainant's position rather than the State party's claims and refers to the fact that the Committee has stated that complete accuracy is seldom to be expected from victims of torture and that inconsistencies in a complainant's presentation of the facts should not raise doubts about the general veracity of the claim. The complainant notes that this is especially relevant in her case, since it has been demonstrated that she suffers from post-traumatic stress disorder.

7.4 The complainant repeats that the credibility assessment was not made properly by the State party since it did not appropriately consider her status as a victim of torture when assessing her account and her future risk. She states that the burden of proof shifts from the applicant to the State when the applicant has already suffered serious harm or torture prior to his or her flight.<sup>9</sup> The complainant reiterates that she has a real risk of being subjected again to torture if she were to be returned to the Democratic Republic of the Congo and adds that, as a young, female lawyer and human rights activist, she falls into a category of people who are targeted in the country.

## **Issues and proceedings before the Committee**

### *Consideration of admissibility*

8.1 Before considering any complaint submitted in a communication, the Committee must decide whether it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22 (5) (a) of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

8.2 In accordance with article 22 (5) (b) of the Convention, the Committee shall not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. The Committee notes that, in the present case,

---

<sup>9</sup> The complainant refers to Council of the European Union, Directive No. 2004/83/EC, 29 April 2004, art. 4 (4); and European Court of Human Rights, *R.C. v. Sweden*, Application No. 41827/07, Judgment, 9 March 2010.

the State party has not contested that the complainant has exhausted all available domestic remedies. The Committee therefore finds that it is not precluded from considering the communication under article 22 (5) (b) of the Convention.

8.3 The State party submits that the communication is inadmissible as manifestly ill-founded. The Committee considers, however, that the arguments put forward by the complainant raise substantive issues, which should be dealt with on the merits. Accordingly, the Committee declares the communication admissible and proceeds with its consideration of the merits.

#### *Consideration of the merits*

9.1 The Committee has considered the communication in the light of all the information made available to it by the parties, in accordance with article 22 (4) of the Convention.

9.2 In the present case, the issue before the Committee is whether the forcible removal of the complainant to the Democratic Republic of the Congo would constitute a violation of the State party's obligation under article 3 of the Convention not to expel or to return (*refouler*) a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

9.3 The Committee must evaluate whether there are substantial grounds for believing that the complainant would be personally in danger of being subjected to torture upon return to the Democratic Republic of the Congo. In assessing that risk, the Committee must take into account all relevant considerations, pursuant to article 3 (2) of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights. However, the Committee recalls that the aim of such determination is to establish whether the individual concerned would be personally at a foreseeable and real risk of being subjected to torture in the country to which he or she would be returned. It follows that the existence of a pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute sufficient reason for determining that a particular person would be in danger of being subjected to torture on return to that country; additional grounds must be adduced to show that the individual concerned would be personally at risk. Conversely, the absence of a consistent pattern of flagrant violations of human rights does not mean that a person might not be subjected to torture in his or her specific circumstances.

9.4 The Committee recalls its general comment No. 4 (2017), according to which the Committee will assess "substantial grounds" and consider the risk of torture as foreseeable, personal, present and real when the existence of credible facts relating to the risk by itself, at the time of its decision, would affect the rights of the complainant under the Convention in the case of his or her deportation. Indications of personal risk may include, but are not limited to: (a) the complainant's ethnic background; (b) political affiliation or political activities of the complainant or his or her family members; (c) arrest or detention without guarantee of fair treatment and trial; (d) sentence in absentia; and (e) previous torture.<sup>10</sup> With respect to the merits of a communication submitted under article 22 of the Convention, the burden of proof is upon the complainant of the communication, who must present an arguable case, that is, submit substantiated arguments showing that the danger of being subjected to torture is foreseeable, present, personal and real.<sup>11</sup> The Committee also recalls that it gives considerable weight to findings of fact made by organs of the State party concerned, however, it is not bound by such findings, as it can make a free assessment of the information available to it in accordance with article 22 (4) of the Convention, taking into account all the circumstances relevant to each case.<sup>12</sup>

9.5 The Committee takes note of the complainant's claim that, upon return to the Democratic Republic of the Congo, she would face a foreseeable, personal, present and real risk of being subjected again to torture or other ill-treatment. The Committee also takes note of the complainant's contention that, as a young, female lawyer and human rights activist, she falls into a category of people that are targeted in the Democratic Republic of the Congo.

<sup>10</sup> General comment No. 4 (2017), para. 45.

<sup>11</sup> *Ibid.*, para. 38.

<sup>12</sup> *Ibid.*, para. 50.

The Committee further takes note of the complainant's claim that the Finnish authorities failed to consider her personal situation and her vulnerability as a victim of severe sexual violence and torture and the fact that she was suffering from post-traumatic stress disorder. The Committee notes that the complainant argues that this failure led to shortcomings in the proceedings, including a lack of the necessary procedural safeguards, such as a reassessment of her claim, the lack of the presence and assistance of a female lawyer and the refusal to grant an oral hearing, which had an impact on the assessment of the plausibility of her account and the credibility of her story and the ensuing risk assessment. The Committee also takes note of the complainant's contention that the State party recognizes some of those shortcomings in its communication to the Committee but that the State party still contends that she failed to present well-founded arguments to substantiate her claim.

9.6 The Committee takes note of the State party's argument that the complainant failed to present well-founded arguments to substantiate that she would be in personal danger of being subjected to torture if she were to be returned to her home country and that, while the complainant has the burden of proof, the alleged deficiencies in the asylum process do not suffice to explain the superficiality and lack of specificity of her account. The Committee also notes that the State party emphasizes that the domestic authorities are best placed to judge the credibility of the complainant and of her account. The Committee further notes that the State party reports that the officials who examined the complainant's first asylum application held that there had been no need to request a medical statement because they considered the complainant's account to be implausible. The Committee takes note, however, of the fact that the State party recognizes that a medical statement would have had real relevance in the matter and would probably have influenced the general conclusion in the decision regarding the complainant's account and plausibility and that, taking into account the complainant's grounds for seeking asylum and her account of her health problems and the serious violations of her rights, a medical statement should have been requested in the first asylum process before the decision was made. The Committee also takes note of the State party's recognition that, in the absence of a medical statement, the assessment of the complainant's vulnerable position remained deficient when the first decision was made, as the State party had assessed the complainant's educational background and safety network, but could not take into account her true health status. The Committee notes that the State party confirms that, on the basis of the current, more precise instructions, an asylum interview should have been arranged for inquiring appropriately into indications of the complainant's particular vulnerability.

9.7 Having taken account of the arguments presented by the parties, the Committee considers that the complainant has submitted sufficient elements to suggest that she would be at risk of being subjected to treatment that violates article 1 of the Convention if she were to be returned to the Democratic Republic of the Congo. This determination is based primarily on the claim that the complainant was subjected to sexual violence, torture, arbitrary detention and harassment due to her work for a human rights organization. The Committee recalls that victims of post-traumatic stress disorder can suffer from various symptoms, which may affect their ability to disclose all relevant details or to relay a consistent story throughout the proceedings.<sup>13</sup> The Committee observes that the complainant's credibility was questioned on the basis of inconsistencies in her statements during the asylum interviews and recalls that complete accuracy can seldom be expected from victims of torture and that in order to provide victims of torture with an effective remedy, States parties should refrain from following a standard credibility assessment process to determine the validity of a non-refoulement claim.<sup>14</sup> The Committee also recalls that the inconsistencies in the complainant's presentation of the facts do not raise doubts about the general veracity of her claims, especially since it has been demonstrated that she suffers from post-traumatic stress disorder.<sup>15</sup> The Committee further recalls that the State party should provide the person concerned with fundamental guarantees and safeguards, especially if the person has been deprived of liberty or is in a particularly vulnerable situation, as is the case

---

<sup>13</sup> *Ibid.*, para. 42.

<sup>14</sup> *Ibid.*

<sup>15</sup> *E.K.W. v. Finland*, para. 9.6.

for a woman who has been subjected to violence.<sup>16</sup> The Committee has stated that such safeguards should include linguistic, legal and medical assistance and that an examination by a qualified medical doctor, including as requested by the complainant to prove the torture that the complainant has suffered, should always be ensured, regardless of the authorities' assessment of the credibility of the allegation.<sup>17</sup> The Committee takes note of the fact that the State party has acknowledged that certain shortcomings in the proceedings might have had an impact on the risk assessment and the determination of the credibility of the complainant's account and has suggested that, under the current legislative framework and instructions of the Finnish Immigration Service, the assessment of the complainant's case would possibly have had a different outcome. Accordingly, the Committee considers that, while the State party has raised concerns about the credibility and plausibility of the complainant's account, it drew an adverse conclusion concerning credibility without exploring a fundamental aspect of the complainant's claim.<sup>18</sup>

9.8 The Committee has previously voiced its concern about reports that the practice of rape in custody is endemic in the Democratic Republic of the Congo, particularly where women have been detained on account of their participation, direct or indirect, in some form of political opposition or human rights defence activities.<sup>19</sup> The Committee takes note that ongoing sexual violence against women has been documented by several United Nations mechanisms and entities.<sup>20</sup> The Committee is of the view that the challenging context in the country and the particularly vulnerable situation of the complainant, a young, female lawyer working in human rights, who was previously subjected to rape and detention for reasons linked to her work and is suffering from post-traumatic stress disorder, should have caught the attention of the State party and constituted sufficient grounds for investigating the alleged risks more thoroughly.<sup>21</sup>

9.9 On the basis of all the information submitted to it and taking into account the human rights situation in the country, including the widespread violence against women and the endemic practice of rape in custody, the Committee is of the view that the complainant has provided sufficient evidence and an arguable case for it to consider that a possible foreseeable consequence of her forced return to the Democratic Republic of the Congo would be that she would be exposed to a foreseeable, personal, present and real risk of being subjected to torture within the meaning of article 3 of the Convention. The Committee considers that the State party has not sufficiently considered the particularly vulnerable situation of the complainant, did not provide her with the necessary safeguards and did not adequately assess the medical statements relating to the torture to which she had been submitted and failed to sufficiently investigate whether there were substantial grounds for believing that she would be in danger of being subjected to torture if returned to her country of origin.<sup>22</sup>

10. The Committee, acting under article 22 (7) of the Convention, concludes that the return of the complainant to the Democratic Republic of the Congo would constitute a breach of article 3 of the Convention by the State party.

11. The Committee is of the view that, pursuant to article 3 of the Convention and in the light of the present findings, the State party has an obligation to reassess the complainant's asylum application, taking into account her particularly vulnerable situation, and to provide her with the necessary safeguards. The Committee is also of the view that, pursuant to

<sup>16</sup> General comment No. 4 (2017), para. 40.

<sup>17</sup> *Ibid.*, para. 41.

<sup>18</sup> *M.B. et al. v. Denmark* (CAT/C/59/D/634/2014), para. 9.6.

<sup>19</sup> CAT/C/COD/CO/2, para. 32.

<sup>20</sup> See, for example, Office of the United Nations High Commissioner for Human Rights (OHCHR), Democratic Republic of the Congo: High Commissioner update, 30 March 2023; OHCHR and MONUSCO, "Rapport sur la torture et autres peines ou traitements cruels, inhumains ou dégradants en République démocratique du Congo du 1<sup>er</sup> avril 2019 au 30 avril 2022" (October 2022) (in French), para. 56; OHCHR, "Bachelet says new Government has 'window of opportunity' after peaceful political transition", press release, 29 January 2020; A/HRC/48/47; and A/HRC/51/60.

<sup>21</sup> *Nijimbere v. Sweden* (CAT/C/76/D/984/2020), para. 7.8.

<sup>22</sup> *M.B. et al. v. Denmark* (CAT/C/59/D/634/2014), para. 9.8.

article 3 of the Convention, the State party has an obligation to refrain from expelling the complainant while her asylum application is being reassessed.

12. Pursuant to rule 118 (5) of its rules of procedure, the Committee invites the State party to inform it, within 90 days of the date of transmittal of the present decision, of the steps it has taken to respond to the above observations.

---