



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

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## Committee against Torture

### Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 1036/2020\* \*\*

<i>Communication submitted by:</i>	L.S. (represented by counsel, Vadim Drozdov)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	30 October 2020 (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 2 November 2020 (not issued in document form)
<i>Date of adoption of decision:</i>	1 November 2024
<i>Subject matter:</i>	Deportation to Sri Lanka
<i>Procedural issue:</i>	Level of substantiation of claims
<i>Substantive issue:</i>	Risk to life or risk of torture or other cruel, inhuman or degrading treatment or punishment, if deported to country of origin (non-refoulement)
<i>Article of the Convention:</i>	3

1.1 The complainant is L.S., a national of Sri Lanka born in 1994. He applied for asylum in the State party, but his application was rejected. He is facing deportation to Sri Lanka and submits that his deportation would constitute a violation by the State party of article 3 of the Convention. The State party has made the declaration pursuant to article 22 (1) of the Convention, effective from 2 December 1986. The complainant is represented by counsel.

1.2 On 2 November 2020, pursuant to rule 114 of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party not to deport the complainant to Sri Lanka while the communication was being considered by the Committee.

#### Factual background

2.1 The complainant is of Tamil ethnicity. Three of his uncles were members of the Liberation Tigers of Tamil Eelam (LTTE). One of the uncles was an ordinary fighter, another was the head of the LTTE agricultural department and a third was the leader of an LTTE unit.

\* Adopted by the Committee at its eighty-first session (28 October–22 November 2024).

\*\* The following members of the Committee participated in the examination of the communication: Todd Buchwald, Jorge Contesse, Claude Heller, Erdogan Iscan, Peter Vedel Kessing, Liu Huawen, Maeda Naoko, Ana Racu and Abderrazak Rouwane.



The three of them have been missing since 2007 or 2008.<sup>1</sup> The complainant's father joined the Tamil National Alliance in 2010.<sup>2</sup> The complainant was also involved in the Alliance's activities: he helped to organize meetings, put up election posters, distributed flyers and participated in other activities within the election campaign.

2.2 In 2013, the complainant participated in two pro-Tamil demonstrations in Jaffna in connection with the visits of the United Nations High Commissioner for Human Rights and of the Prime Minister of the United Kingdom of Great Britain and Northern Ireland. He also accompanied his aunts to assist them with filing missing person complaints with the police and non-governmental organizations regarding their missing husbands.

2.3 In April 2014, the Tamil National Alliance commissioned the complainant's father to collect testimonies of war crimes committed against Tamils. The complainant helped him by collecting the names of witnesses and meeting with persons who had resettled in other villages. He conducted 50 to 60 interviews and transmitted his notes to the leader of the Tamil National Alliance regional branch, who, in turn, sent them to the International Committee of the Red Cross and to the Human Rights Council.<sup>3</sup>

2.4 On 10 July 2014, four security service agents in civilian clothes found the complainant at a playing field and took him to an old, dilapidated building. The agents accused the complainant of working against the Government by gathering information on war crimes. They interrogated him for almost two hours. They repeatedly beat him, stepped on his stomach, pressed his head against a wall, punched him and threatened him with a pistol. After the agents had left, the complainant remained lying on the ground, crying from pain, until his father came and took him to hospital, where his wounds were treated.<sup>4</sup>

2.5 On 22 July 2014, two of the complainant's aunts and one of his cousins were abducted by unidentified people in plain clothes who drove a white van. At the same time, the complainant's mother called his father and informed him that unknown people in a white van had come to their home and had asked about the complainant's whereabouts. The same day, the complainant's father and one of his uncles organized his departure. On 23 July 2014, the complainant arrived in Colombo and, on 18 August 2014, he left Sri Lanka by plane, assisted by a smuggler to whom he handed over his passport. He arrived in Switzerland on 20 August 2014 and applied for asylum.

2.6 On 30 June 2015, the State Secretariat for Migration rejected the complainant's asylum application and ordered his return to Sri Lanka. It found the complainant's statements to be superficial and contradictory regarding the number of secret service agents who had mistreated him. It further noted that the complainant had not been able to describe in detail his work of documenting war crimes and to explain how his father had known to come to the old, dilapidated building after he had been ill-treated by the agents. During the hearing before the State Secretariat, the complainant also gave a general description of the treatment inflicted by the security agents and avoided questions about the details of his experience. The State Secretariat noted that, according to his own statements, the complainant had travelled legally from his village to Colombo in July 2014 and had presented his own identity card at the control post. He had then left the country legally, on his own passport, which the State Secretariat doubted would have been possible had he been wanted by the Sri Lankan authorities.

2.7 The State Secretariat for Migration admitted that the complainant's origins in the north of Sri Lanka, his age, two small scars – one on his arm and another near his left eye – and the fact that he was related to LTTE members might attract the attention of the Sri Lankan

<sup>1</sup> The complainant produces a copy of the confirmation of receipt of a missing person complaint, issued by the Human Rights Commission of Sri Lanka on 27 February 2008, and a copy of the confirmation of receipt of a missing person report, issued by the Presidential Commission to Investigate into Complaints regarding Missing Persons on 15 February 2014.

<sup>2</sup> He helped in election campaigns, spoke at meetings and participated in events with Members of Parliament.

<sup>3</sup> The complainant produces a letter issued by a Tamil National Alliance regional branch leader on 8 November 2015, which attests that the complainant helped in collecting information about war crimes.

<sup>4</sup> No evidence of a stay in hospital is provided.

authorities in the context of his return and reintegration. However, there was no reason to believe that he would be subjected to measures that went beyond a background check. For the State Secretariat, there were no concrete indications that the complainant would be personally at risk because of his relatives' connections with LTTE. It could not be assumed that the Sri Lankan authorities would suspect him of being an LTTE member, because he had been only 15 years old at the end of the war in 2009. Moreover, due to his age, it could not be assumed that his scars would raise suspicion that he had worked for LTTE or another opposition group. Lastly, the State Secretariat noted that the complainant's father was a member of the Tamil National Alliance, which was a lawful party with several seats in the provincial and national parliaments and which had helped Maithripala Sirisena to win the 2015 presidential election.

2.8 On 15 September 2015, the Federal Administrative Court dismissed the complainant's appeal for his failure to demonstrate a risk of persecution if deported.

2.9 On 9 November 2015, the complainant requested the State Secretariat for Migration to review its decision of 30 June 2015. He produced a medical report dated 28 July 2015,<sup>5</sup> explaining that the report had been transmitted to his family doctor in Switzerland, but the doctor had failed to transmit it, in turn, to the complainant's former legal representative, and it had therefore not been possible to submit it earlier in the proceedings.

2.10 On 15 March 2016, the State Secretariat for Migration rejected the complainant's request for reconsideration because he had merely repeated the arguments already raised under the ordinary procedure. As for the medical report, and particularly the diagnosis of post-traumatic stress disorder, the State Secretariat considered that these were not elements that demonstrated the credibility of his claims regarding the traumatizing event, his reasons for leaving the country or his current risk in case of return. The State Secretariat further noted that the complainant had not been undergoing any medical treatment either before or after the diagnosis. The medical report showed that he did not appear to suffer from any serious illness, and the attending doctor did not consider psychopharmacological treatment to be urgently required. The report also showed that the complainant's symptoms had been triggered or intensified by the negative asylum decision. However, for the State Secretariat, it could not in any way be concluded that the enforcement of the removal order and thus the return of the complainant to his home country would be unreasonable for medical reasons.

2.11 On 6 December 2016, the Federal Administrative Court rejected the complainant's appeal because there had not been any significant change in the relevant legal situation, and no decisive evidence had been produced that would justify re-examination. With regard to the complainant's health situation, the Court noted that, since the State Secretariat for Migration had made substantive comments on the medical report of 28 July 2015, it had implicitly reconsidered that aspect of the complainant's request, but the Court did not accept his argument that his health problem was a reason for finding that the enforcement of the expulsion order would be unreasonable.

2.12 On 8 September 2017, the complainant submitted a second application for asylum, which was rejected by the State Secretariat for Migration on 23 February 2018. On 20 August 2018, the Federal Administrative Court dismissed the complainant's appeal.<sup>6</sup>

2.13 On 29 November 2018, the complainant introduced a third application for asylum in which he invoked the deterioration of the human rights situation in Sri Lanka for the Tamil minority and those with real or perceived connections to LTTE. Proceedings had been initiated against the complainant in Sri Lanka, and his father had received an arrest warrant against the complainant.<sup>7</sup>

2.14 On 5 December 2019, the State Secretariat for Migration dismissed the complainant's request for asylum. It pointed out that, since his submission of 29 November 2018, approximately one year previously, no further details had been provided and that neither the

<sup>5</sup> In the report, the complainant was assessed as having adjustment disorder and post-traumatic stress disorder with delayed onset.

<sup>6</sup> The complainant does not provide details about these proceedings.

<sup>7</sup> Before the Committee, the complainant produces a copy of a court summons in his name, dated 10 April 2019, and a copy of an arrest warrant in his name, dated 3 September 2019.

arrest warrant nor other new evidence had been added to the file, although the possibility of doing so had remained open. The State Secretariat deemed that, if the complainant's father had indeed been handed an arrest warrant against the complainant, the complainant would be in a position to submit the document and comment on the proceedings allegedly brought against him. Since the very existence of these proceedings and of the arrest warrant was in question, the State Secretariat concluded that these allegedly new elements of fact and the associated proceedings had not been even remotely substantiated and were therefore not credible. Lastly, it noted that the complainant had not shown why the Sri Lankan authorities would now be interested in him.

2.15 On 10 January 2020, the complainant filed a new application for asylum, invoking the consequences arising from the outcome of the 2019 presidential election in Sri Lanka. In addition, he claimed that the Sri Lankan authorities were looking for him and, in support of this allegation, he produced a summons in his name dated 10 April 2019, according to which he was accused of participating in terrorist activities against the Government of Sri Lanka, in Sri Lanka and abroad, and an arrest warrant dated 3 September 2019 for the same charges. The State Secretariat for Migration forwarded this asylum application to the Federal Administrative Court, which invited the complainant to clarify whether he intended to lodge an appeal against the State Secretariat's decision of 5 December 2019 and, if this was the case, to file the appeal, which he did on 9 April 2020.

2.16 On 18 June 2020, the Federal Administrative Court dismissed the complainant's appeal. It noted that the documents produced were copies of two documents drawn up in 2019, according to which proceedings had been pending against the complainant for terrorist activities since 2014. However, the Court pointed out that the summons and the arrest warrant must be assessed in the light of the fact that they had been dubiously obtained and of the implausibility of the alleged legal proceedings. It therefore considered their probative value to be low. Regarding the 2019 presidential election, the Court held that the complainant had not made a plausible claim about the existence of a personal risk of persecution.

## Complaint

3.1 The complainant submits that, if returned to Sri Lanka, he would face a real risk of being tortured and suffering cruel, inhuman or degrading treatment or punishment, in violation of article 3 of the Convention, due to his documentation of war crimes and peaceful pro-Tamil political activity under the auspices of the Tamil National Alliance and the assistance that he provided to his aunts in establishing the whereabouts of their missing husbands, who had been LTTE members. He claims that, according to publicly available information about the human rights situation in Sri Lanka, persons with actual or perceived ties – even remote ones – to LTTE risk being abducted and tortured, and even low-level political work for the Tamil National Alliance is a risk factor.<sup>8</sup>

3.2 The complainant contests the assessment made by the Swiss authorities of the facts and evidence in his case. In particular, he submits that the dismissal by the Federal Administrative Court of the copies of the arrest warrant of 3 September 2019 and of the court summons of 10 April 2019 was arbitrary because the Court took no measures to verify the genuineness of these documents. The Court also did not ask him to submit the originals of the documents in question. The complainant asserts that similar arguments by the Swiss authorities have previously been rejected by the Committee<sup>9</sup> and by the European Court of Human Rights<sup>10</sup> and considers that the Swiss authorities failed to take measures to verify the genuineness of the copies.

3.3 Lastly, the complainant invokes paragraph 13 of the Committee's general comment No. 4 (2017) to complain that the Swiss authorities failed to provide him with effective domestic remedies to bring to the national authorities' attention facts that emerged after the

<sup>8</sup> CAT/C/LKA/CO/5, para. 11; International Truth and Justice Project, "Unstopped: 2016/17 torture in Sri Lanka", July 2017, pp. 10, 11 and 14; Freedom from Torture, "Too little change: ongoing torture in security operations in Sri Lanka", February 2019, p. 9; and *V.M. v. Australia* (CAT/C/67/D/723/2015), para. 7.8.

<sup>9</sup> *M.G. v. Switzerland* (CAT/C/65/D/811/2017), para. 7.4.

<sup>10</sup> *M.A. v. Switzerland*, Application No. 52589/13, Judgment, 18 November 2014, paras. 65 and 68.

judgment of the Federal Administrative Court of 15 September 2015, because his request for re-examination and his new application of 29 November 2018 – together with the corresponding appeals – did not have automatic suspensive effect.

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

4.1 On 25 August 2021, the State party submitted its observations on the merits. It reiterates the arguments made by the Swiss asylum authorities. It acknowledges that the human rights situation in Sri Lanka is worrying in many respects<sup>11</sup> but points out that the Federal Administrative Court has already thoroughly examined that situation and the risk of torture in the event of return in a landmark judgment,<sup>12</sup> according to which not all returnees with a real or supposed, present or past link to LTTE necessarily risk persecution. Only persons accused of rekindling ethnic conflict face such a risk. The same applies to Sri Lankan nationals who have engaged in political activities in exile. In the present case, the complainant has failed to plausibly argue that he attracted the attention of the Sri Lankan authorities.

4.2 As regards the diagnosis of post-traumatic stress disorder, the State party asserts that the complainant does not explain either how his disorder could be linked to the alleged torture or why the State Secretariat for Migration had been wrong to classify his claim of arrest and subsequent torture as implausible. The State party notes that, despite the alleged LTTE membership of three of his uncles, there are no sufficiently substantiated grounds on which to believe that the complainant himself is in danger. Given his age, it cannot be assumed that the Sri Lankan authorities would suspect him of being a member of LTTE, especially as he was 15 years old when hostilities ended in 2009.

4.3 The State party further notes that the complainant produced the original of the arrest warrant. However, the original of a document of this type is never given to the person who is the subject of the warrant, meaning that he or she cannot be in possession of the original. In addition, the file number mentioned on the arrest warrant did not conform to the format used by the courts in Sri Lanka. Similarly, the field on the reverse side had not been filled in, and the necessary stamp or signature was missing. For the State party, these formal errors militate against the authenticity of the document. The summons is available only in the form of a scanned image. It is therefore not possible to check the security features and appraise the authenticity of the original. However, the file number does not correspond to the usual format of file numbers used by Sri Lankan courts. Equally striking is that, according to the dates on the two documents, they were issued in 2019, but the complainant did not explain why he had not submitted them until numerous sets of proceedings had ended.

4.4 In addition, the two documents relate to proceedings initiated in 2014. The fact that the complainant was able to leave his country without difficulty in August 2014 and that the arrest warrant was apparently not issued until September 2019 confirms for the State party the assessment that no proceedings are currently pending against the complainant in Sri Lanka. There is therefore nothing to suggest that he was targeted by the Sri Lankan security apparatus prior to his departure. Moreover, he has failed to make plausible his claim that he engaged in political activities, and there are no other indications that he could have been of interest to the Sri Lankan authorities. There is therefore no reason to believe that there is a present and real risk that he would be subjected to torture if deported.

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

5.1 On 20 July 2022, the complainant submitted comments in which he contested the State party's arguments. He considers that the Swiss authorities failed to verify the authenticity of the court summons and arrest warrant in a manner compatible with article 3 of the Convention. He notes that, in its observations, the State party claimed new grounds on which to challenge the authenticity of the summons and of the arrest warrant, which had not been presented during the asylum proceedings: the format of the file numbers on the summons and the arrest warrant, the fact that the complainant could not possess the original of the arrest warrant, the

<sup>11</sup> See [CAT/C/LKA/CO/5](#).

<sup>12</sup> Federal Administrative Court, Judgment E-1866/2015, 15 July 2016.

fact that the field on the reverse side was blank and the absence of the necessary stamp or signature.

5.2 The complainant recalls that, in his initial submission, he cited the Committee's jurisprudence and the case law of the European Court of Human Rights, which outline the manner in which the authorities must verify the authenticity of evidence: through specialists or with the assistance of the Swiss embassy in Sri Lanka. However, in its observations, the State party failed to explain what measures it had taken to verify the authenticity of the two documents in the light of that jurisprudence and case law.

5.3 The complainant notes that, while the State party alleges in its observations that he produced the original of the arrest warrant and challenges its authenticity on that ground, in its decision of 18 June 2020, the Federal Administrative Court dismissed the complainant's appeal on the basis, *inter alia*, that the two documents produced were copies. As to the format of such official documents, the complainant notes that the State party does not mention the source of the information on which it bases its conclusion that they were inconsistent with those used in Sri Lanka.

5.4 In response to the State party's allegation that he left Sri Lanka without any difficulties, the complainant reiterates that he left illegally, with the help of a smuggler. For him, the fact that the arrest warrant and the court summons were issued in 2019, in connection with criminal proceedings initiated in 2014, confirms that his risk of torture and other ill-treatment in Sri Lanka has remained personal and real after his departure from the country.

5.5 The complainant points out that, in July 2015, he was diagnosed with post-traumatic stress disorder with delayed onset, which means that symptoms arose at least six months after the traumatizing event. He was tortured in Sri Lanka in July 2014, and the negative asylum decision was rendered in June 2015, that is, around a month before his diagnosis. Thus, he affirms that torture in Sri Lanka, and not the negative asylum decision, was the traumatizing event that caused the disorder.

5.6 The complainant refers to a psychotherapist's report of 16 May 2022 to support his contention that torture in Sri Lanka is the main reason for his post-traumatic stress disorder. The psychotherapist found the complainant's statements concerning torture and ill-treatment to be credible and underlined that the threat of a negative asylum decision was not classified as a trauma, that is, as a trigger for post-traumatic stress disorder.

5.7 Lastly, as to the State party's argument that the Sri Lankan authorities would not suspect him of being a member of LTTE, as he had been 15 years old at the end of the civil war in 2009, the complainant refers to reports in which cases of the torture of pre-teen children with no armed group affiliation are mentioned.<sup>13</sup> Thus, the State party's statement that he could not be perceived as being linked with LTTE because of his young age at the end of the civil war in Sri Lanka reflected ignorance of the country's context.

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

### *Consideration of admissibility*

6.1 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.

6.2 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, the State party has not contested that the complainant has exhausted all available domestic

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<sup>13</sup> The complainant refers to the International Truth and Justice Project, "Sri Lanka: torture and sexual violence by security forces 2020–21" (September 2021), p. 24.

remedies. The Committee therefore finds that it is not precluded from considering the communication under article 22 (5) (b) of the Convention.

6.3 The Committee notes the complainant's reference to paragraph 13 of its general comment No. 4 (2017) to claim that the fact that he did not benefit from automatic suspension of his deportation as a result of his re-examination request and a subsequent, new application amounts to a violation of article 3 of the Convention because the State party failed to provide him with effective domestic remedies. The Committee first notes that it is not mentioned in paragraph 13 of its general comment No. 4 (2017) that the suspensive effect of an appeal should be automatic. It then notes that the complainant does not complain of the lack of suspensive effect of his appeal in the main asylum proceedings. Lastly, the Committee notes that the complainant has had the possibility of lodging four applications for asylum and a request for re-examination without being deported. The Committee therefore considers that the complainant has failed to substantiate – for the purpose of admissibility – his allegation under article 3 of a lack of a possibility to benefit from effective remedies.

6.4 As the Committee finds no further obstacles to admissibility, it declares admissible the complaint submitted under article 3 of the Convention with respect to the risk of torture or other cruel, inhuman or degrading treatment or punishment that the complainant would face if deported to his country of origin, and proceeds with its consideration of the merits.

#### *Consideration of the merits*

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

7.2 In the present case, the issue before the Committee is whether the return of the complainant to Sri Lanka 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.

7.3 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 Sri Lanka. 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. Moreover, although past events may be of relevance, the principal question before the Committee is whether the complainant would currently run a risk of torture if returned to Sri Lanka.<sup>14</sup>

7.4 The Committee refers to its general comment No. 4 (2017), according to which the risk of torture must be assessed on grounds that go beyond mere theory or suspicion. Although the risk does not have to be shown to be "highly probable", the burden of proof generally falls on the complainant, who must present an arguable case establishing that he or she faces a foreseeable, real and personal risk.<sup>15</sup> The Committee also recalls that it gives considerable weight to findings of fact made by organs of the State party concerned, while, at the same time, it is not bound by such findings and instead has the power, under article 22 (4) of the Convention, to make a free assessment of the information available to it, taking into account all the circumstances relevant to each case.<sup>16</sup>

<sup>14</sup> *N.K. v. Switzerland* (CAT/C/77/D/989/2020), para. 7.3.

<sup>15</sup> Inter alia, *Dadar v. Canada* (CAT/C/35/D/258/2004), para. 8.4; and *A.R. v. Netherlands* (CAT/C/31/D/203/2002), para. 7.3.

<sup>16</sup> General comment No. 4 (2017), paras. 11, 39 and 50.

7.5 In the present case, the Committee notes the complainant's claims that he would be in danger of facing treatment contrary to article 3 of the Convention if returned to Sri Lanka, as he would risk torture and ill-treatment because of his perceived connections to LTTE, as a relative of former LTTE members, particularly given the human rights situation in Sri Lanka, his work for the Tamil National Alliance and his Tamil ethnicity. It also takes note of the complainant's assertions that he was interrogated and ill-treated and that the Sri Lankan authorities have since been looking for him. In that regard, the Committee takes note of the two documents submitted to the Swiss authorities by the complainant to support his claims.

7.6 The Committee notes the State party's reference to the contradictions that the asylum authorities identified in the complainant's account and their conclusion that the complainant failed to plausibly argue that he had attracted the attention of the Sri Lankan authorities due to his relatives' links with LTTE or his and his father's activities for the Tamil National Alliance. The Committee notes that the Swiss authorities duly examined the complainant's allegations in support of his request for asylum but highlighted the inconsistencies therein and expressed doubts as to their credibility.

7.7 The Committee notes in particular that the Swiss authorities have apparently not called into question the credibility of the complainant's claims regarding his past ill-treatment at the hands of the Sri Lankan authorities. They have, however, contested the credibility of his claims that his activities for the Tamil National Alliance or his relatives' membership of LTTE led to his persecution by the Sri Lankan authorities, which was allegedly the direct cause of his flight from the country. The Committee observes that the complainant has provided no convincing evidence to challenge the specific arguments given by the Swiss authorities for rejecting the evidence that he adduced in support of his allegations. The Committee also notes the conclusion of the State Secretariat for Migration that a medical report attesting that the complainant suffers from post-traumatic stress disorder cannot be considered to be evidence of the alleged ill-treatment.

7.8 The Committee notes that the complainant contests the way in which the domestic authorities examined the two documents that he produced to support his claims that he is still wanted by the Sri Lankan authorities for terrorist activities: a court summons of 10 April 2019 and an arrest warrant of 3 September 2019. However, in the new asylum application filed on 29 November 2018, the complainant mentioned an arrest warrant in his name that had been served to his father and was related to his work documenting war crimes committed by the army. The Committee observes that, in his communication, the complainant mentioned and produced a copy of the arrest warrant of 3 September 2019 only, without mentioning the other arrest warrant, the existence of which had allegedly been known to him as early as 29 November 2018.

7.9 The Committee then notes that the Swiss authorities deemed the two documents to be of low probative value because they were of a simple nature and did not contain the formal elements that were characteristic of such documents. In that respect, the Committee notes that, while the parties disagree as to whether the complainant produced the original of the arrest warrant in the domestic proceedings, the State party contests the authenticity of the document, invoking mainly formal errors. The Committee observes that, although the complainant contests this assessment, he has provided no evidence to challenge the specific arguments given by the Swiss authorities for assigning a low probative value to the evidence that he adduced in support of his allegations. The Committee notes the absence from these documents of any security feature that can be checked, especially given that they were supposedly issued in another country.

7.10 With respect to the argument relating to the worsening of the human rights situation in Sri Lanka, the Committee recalls that the occurrence of human rights violations in the complainant's country of origin is not, in itself, sufficient for it to conclude that the complainant is personally at risk of being tortured there. The Committee notes that the complainant had ample opportunity to provide the State Secretariat for Migration and the Federal Administrative Court with supporting evidence and more information about his claims during the four asylum proceedings and in his request for re-examination. However, it cannot be concluded on the basis of the evidence provided that the complainant would personally be at risk of torture or inhuman or degrading treatment if he returned to Sri Lanka. The Committee recalls that, even if it were to accept the claim that the complainant was



subjected to acts of torture or ill-treatment in the past, as is allegedly supported by his medical examination, the question is whether he remains, at present, at risk of torture in Sri Lanka in the event of his forcible return there.<sup>17</sup> The Committee also notes that, according to its jurisprudence, it is normally for the complainant to present an arguable case.<sup>18</sup>

7.11 In the present case, the Committee is of the view that the complainant has not provided credible information suggesting that the Sri Lankan authorities are currently interested in him. In that regard, it notes that the complainant did not demonstrate before the Swiss asylum authorities that he is currently wanted by the Sri Lankan authorities. The complainant also did not demonstrate that his family is currently being persecuted due to his own past activities.

8. On the basis of the above, and in the light of the material before it, the Committee considers that the complainant has not provided sufficient evidence to enable it to conclude that his deportation to his country of origin would expose him to a real, foreseeable, personal and present risk of being subjected to treatment contrary to article 3 of the Convention.

9. The Committee, acting under article 22 (7) of the Convention, concludes that the return of the complainant to Sri Lanka would not constitute a violation of article 3 of the Convention by the State party.

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<sup>17</sup> *N.K. v. Switzerland*, para. 7.10.

<sup>18</sup> See, for example, *N.B.-M. v. Switzerland* (CAT/C/47/D/347/2008), para. 9.9; *C.A.R.M. et al. v. Canada* (CAT/C/38/D/298/2006), para. 8.10; and *M.A.K. v. Germany* (CAT/C/32/D/214/2002), para. 13.5.