



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

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Committee against Torture

Follow-up report on decisions relating to communications submitted under article 22 of the Convention*

Introduction

1. The present report is a compilation of information received from States parties and complainants that was processed since the sixtieth session of the Committee against Torture (18 April–12 May 2017) in the framework of its follow-up procedure on decisions relating to communications submitted under article 22 of the Convention.

A. Communication No. 477/2011¹

Aarrass v. Morocco

Decision adopted on: 19 May 2014

Violation: Articles 2 (1), 11–13 and 15

Remedy: The Committee urged the State party to inform it, within 90 days from the date of transmittal of the decision, of the measures taken in accordance with the Committee's observations, including the initiation of an impartial and in-depth investigation into the complainant's allegations of torture. Such an investigation must include the conduct of medical examinations in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

2. On 26 September 2017, the Committee requested the State party to provide information, within two months, on the measures taken to implement the Committee's decision in the present case.

3. The Committee decided to keep the follow-up dialogue open and to request a meeting with a representative of the Permanent Mission of the Kingdom of Morocco to the United Nations Office and other international organizations in Geneva during its sixty-third session (23 April–18 May 2018) to discuss possible measures to be taken by the State party's authorities to implement the Committee's decision in the present case.

* Adopted by the Committee at its sixty-second session (6 November–6 December 2017).

¹ See CAT/C/60/4, paras. 14–16.



B. Communication No. 490/2012

E.K.W. v. Finland

Decision adopted on: 4 May 2015

Violation: Articles 3 and 22

Remedy: The Committee concluded that the complainant's removal to the Democratic Republic of the Congo by the State party would constitute a breach of article 3 of the Convention.

4. Following the third reminder of 21 August 2017 sent to the complainant's counsel for comments (by 21 September 2017) on the State party's submission of 20 October 2015, the counsel agreed to close the follow-up dialogue, since her clients had been recognized as refugees in Finland.

5. The Committee decided to close the follow-up dialogue with a note of satisfactory resolution.

C. Communication No. 500/2012

Ramírez et al. v. Mexico

Decision adopted on: 4 August 2015

Violation: Articles 1, 2 (1), 12–15 and 22

Remedy: The Committee urged the State party to: (a) launch a thorough and effective investigation into the acts of torture; (b) prosecute, sentence and punish appropriately the persons found guilty of the violations; (c) order the immediate release of the complainants; and (d) award fair and adequate compensation to the complainants and their families and provide rehabilitation. The Committee also reiterated the need to repeal the provision concerning preventive custody in domestic legislation, and to ensure that military forces were not responsible for law and order.

6. In its observations of 3 August and 7 September 2017, the State party reported that the Executive Commission for Victim Support had taken a number of measures to implement the Committee's decision in the present case, including:

(a) The provision of legal, medical, psychological and social assistance to two of the four victims (Orlando Santaolaya Villareal and Ramiro Ramírez Martínez);

(b) Updates on pending preliminary investigations into the acts of torture, the outcomes of which are not yet clear;

(c) As regards compensation for the victims, recognition, by the Government, of the victim status of the four complainants, who were placed on the National Registry of Victims.

7. On 29 September 2017, the State party's submissions were transmitted to the counsel for comments (by 29 November 2017).

8. The Committee decided to keep the follow-up dialogue open and to request a meeting with a representative of the Permanent Mission of Mexico to the United Nations Office and other international organizations in Geneva to discuss possible measures to be taken by the State party's authorities to implement the Committee's decision in the present case.

D. Communication No. 573/2013*D.C. and D.E. v. Georgia*

Decision adopted on:	12 May 2017
Violation:	Articles 1, 12–13 and 16
Remedy:	The Committee found violations of articles 12 and 13, read in conjunction with article 1 of the Convention, with regard to both complainants, and of article 16 (1) of the Convention with regard to the second complainant. It called on the State party to conduct an impartial investigation into the case, with a view to bringing those responsible for the victims' treatment to justice, and to provide the complainants with an effective remedy, including fair and adequate compensation for the suffering inflicted, as well as medical rehabilitation. The Committee also requested the State party to prevent similar violations in the future.

9. On 4 September 2017, the State party submitted a report on measures taken to implement the Committee's decision in the present case, and to remedy the violations found by the Committee.

10. The State party referred to the amendments to the Administrative Procedure Code, pointing out that the complainants could submit a claim for financial compensation with the Administrative Cases Panel of Tbilisi City Court. However, it was unable to confirm whether the complainants had resorted to a request for remedy. Nonetheless, the complainants had been provided with an explanation of the procedure for filing an action with the national court to obtain compensation within six months of the date of the Committee's decision. The State party pledged to furnish relevant information to the Committee should the complainants turn to the domestic courts for financial compensation.

11. The State party indicated that approximately 16 witnesses had been interrogated since the adoption of the decision in the present case, and offered to provide the Committee with an update on the progress made regarding the investigation. In addition, the complainants were reportedly provided with medical rehabilitation, in the form of clinical examinations conducted at the place of deprivation of liberty, as well as at civil medical establishments.

12. With regard to general measures taken to prevent similar violations in the future, the State party submits that torture is no longer a systemic issue, as affirmed by the reports of the Public Defender of Georgia and by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and that the investigative bodies enjoy institutional independence. In recent years, the number of instances of ill-treatment of detainees by prison service officials has been significantly reduced. Moreover, the Prosecutor's Office will become an independent constitutional body, operating independently of the Ministry of Justice. A number of initiatives have been launched to ensure greater equality of arms, including enhanced rights to information regarding ongoing investigations, and the rights to be heard and to appeal. Other initiatives have been put in place to ensure more frequent training activities for penitentiary staff and improved conditions for detainees, including access to general medical care.

13. On 6 November 2017, the complainants expressed their gratitude for the Committee's decision in their favour. They submitted that, through order No. 12/10/01, the President of Georgia had pardoned them and had remitted the remaining two years of their sentences. They reiterate that the charges against them and their convictions were unfair, biased and falsified, as they were subjected to forced medication and torture by the officials of the Prosecutor's Office and the criminal police department of the Ministry of Internal Affairs. Fearing that the Government of Georgia would not comply with the Committee's decision, the complaints forwarded it to the Public Defender of Georgia and to other mechanisms.

14. The complainants also indicated that translations of all the documents that they had received from the Prosecutor's Office in the context of two trials before the administrative board of the Tbilisi City Court and that were to be submitted to the Committee would shortly be finished. They claim that those documents prove that the Prosecutor's Office has not been investigating the alleged acts of torture effectively.

15. Consequently, they requested the Committee to urge the Government of Georgia to promptly comply with the Committee's decision in the present case, with a view to securing its prompt and effective implementation.

16. On 23 November 2017, the complainants' comments were transmitted to the State party for observations (by 23 January 2018).

17. The Committee decided to keep the follow-up dialogue open, and to consider further steps in the light of the Government's response, if any.

E. Communication No. 580/2014

F.K. v. Denmark

Decision adopted on:	23 November 2015
Violation:	Articles 3, 12 and 16
Remedy:	The Committee was of the view that the State party has an obligation, in accordance with article 3 of the Convention, to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of being expelled or returned to Turkey. The Committee also found that the State party has violated the requirements of article 12, read in conjunction with article 16, of the Convention.

18. On 11 April 2017, the State party submitted that the additional comments from the complainant of 23 March 2016, in which he submitted that his application for a residence permit had been rejected by the Danish authorities and that he had been told to leave Denmark immediately, did not give rise to further observations on its part. The State party referred to its follow-up observations of 4 April 2016.

19. On 29 September 2017, the submission of the State party was transmitted to the complainant's counsel, for information.

20. The Committee decided to keep the follow-up dialogue open and, having met with a representative of the Permanent Mission of Denmark to the United Nations Office and other international organizations in Geneva to discuss possible measures to be taken by the State party's authorities to implement the Committee's decision in the present case, and having received the State party's written information during the meeting, to request the counsel for comments thereon (within two months).

F. Communication No. 606/2014

Asfari v. Morocco

Decision adopted on:	15 November 2016
Violation:	Articles 1 and 12–16

Asfari v. Morocco

Remedy: The Committee was of the view that the State party has an obligation to: (a) provide the complainant with a remedy, including fair and adequate compensation and the means for as full rehabilitation as possible; (b) initiate an impartial and thorough investigation of the alleged events, in full conformity with the requirements of the Istanbul Protocol, in order to establish accountability and bring those responsible for the complainant's treatment to justice; and (c) refrain from any pressure, intimidation or reprisals against the physical or moral integrity of the complainant or his family, which would otherwise violate the State party's obligations under the Convention to cooperate with the Committee in good faith, to facilitate the implementation of the provisions of the Convention and to allow family visits of the complainant in prison.

21. On 14 September 2017, one of the complainant's counsels informed the Committee that, on 19 July 2017, Mr. Asfari and his co-defendants had again been sentenced to terms of imprisonment (30 years in the case of Mr. Asfari) seven months into a renewed trial relating to the events in Gdeim Izik that was marked by many irregularities, including the taking into account of confessions obtained by torture.

22. In addition, the court authorized forensic medical examinations of the defendants to assess whether they had been subjected to acts of torture, seven years after those alleged acts took place. Several of the defendants, including Mr. Asfari, feared that those examinations would be biased and refused to submit to them. Those who accepted were subjected to expert assessments that clearly violated the standards contained in the Istanbul Protocol. Several international experts assessed the examinations and confirmed their non-compliance with the Protocol. The findings of the national medical experts, who were not accompanied by an independent and impartial international expert with forensic expertise in the implementation of the Istanbul Protocol when they carried out their work, have been called into question, the examinations did not attest to torture and judges of the Court of Appeal of Rabat used them to justify again taking into account forced confessions signed by the defendants when in custody.

23. Furthermore, Ms. Mangin, the wife of Mr. Asfari, continues to be denied the right to visit her husband, a situation that the complainant considers to be a form of ongoing reprisal.

24. On 27 September 2017, a reminder was sent to the State party for observations on the measures taken to implement the Committee's decision in the present case.

25. On 6 November 2017, the complainant's counsels referred to the above-mentioned observations with regard to the alleged shortcomings of the forensic medical examinations, a renewed conviction on the basis of confessions extracted by torture, the absence of any investigation of the acts of torture, unfair trial and reprisals against the complainant's family. The counsels requested the Committee to urge the State party to ensure prompt and effective implementation of the Committee's decision in the present case.

26. On 23 November 2017, the complainant's comments were transmitted to the State party for observations (by 23 December 2017).

27. Although an investigation of the complainant's allegations of torture has been undertaken, the complainant was yet again sentenced, reportedly on the basis of the initial confessions obtained by torture. The Committee therefore decided to keep the follow-up dialogue open and to request a meeting with a representative of the Permanent Mission of the Kingdom of Morocco to the United Nations Office and other international organizations in Geneva during its sixty-third session (23 April–8 May 2018) to discuss possible measures to be taken by the State party's authorities to implement the Committee's decision in the present case.

G. Communication No. 625/2014

G.I. v. Denmark

Decision adopted on:	10 August 2017
Violation:	Article 3
Remedy:	The Committee concluded that the complainant's removal to Pakistan by the State party would constitute a violation of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

28. On 27 October 2017, the State party submitted that, on 8 September 2017, the Danish Refugee Appeals Board decided to reopen the complainant's asylum case before a new panel of the Board, in order to reconsider his asylum application in the light of the Committee's decision. At the same time, the Board decided to suspend the deadline for his departure.

29. On 20 September 2017, the Board was notified that, on 16 June 2015, the Danish Immigration Service had granted a request from the complainant for financial support through a voluntary assisted return programme, and that the complainant had returned voluntarily to Pakistan on 22 July 2015 with financial support from the Government of Denmark. On 21 September 2017, the Board received an email from the International Organization for Migration (IOM), with the complainant's itinerary and flight ticket attached. Through the email, IOM confirmed that the complainant had returned voluntarily from Denmark to Pakistan with the support of IOM under a special support programme. Consequently, the Board decided, on 21 September 2017, to discontinue the proceedings relating to the complainant's case. Against that background, the State party considers that no further steps are necessary to comply with the Committee's decision.

30. On 7 November 2017, the State party's submission was transmitted to the complainant's counsel for information.

31. The Committee decided to close the follow-up dialogue, as the complainant had returned voluntarily from Denmark to Pakistan.

H. Communication No. 634/2014

M.B. et al. v. Denmark

Decision adopted on:	25 November 2016
Violation:	Article 3
Remedy:	The Committee was of the view that the State party has an obligation, in accordance with article 3 of the Convention, to refrain from forcibly returning the complainants to the Russian Federation or to any other country where there was a real risk of them being expelled or returned to the Russian Federation.

32. On 12 June 2017, the complainants' counsel commented on the State party's submission of 21 March 2017, arguing that the adult male complainant had been diagnosed with post-traumatic stress disorder and therefore had difficulties remembering and giving an account of the events that surfaced in his memory in a non-chronological manner. The counsel recalled that, on 29 September 2015, Amnesty International's Danish Medical Group had presented a statement attesting to torture, which was disregarded by the Danish Refugee Appeals Board and the State party.

33. The counsel considered it regrettable that the State party has not respected the Committee's decision in the present case, instead considering the complainants to be

unreliable on the basis of the first evaluations carried out by the Board. The counsel denounced the State party's disregard for the Committee's decision, pointing out that, initially, the Board had not wanted to conduct an examination to check for signs of torture, and that, once the examination had been carried out, the State party continued to fail to abide by the Committee's decision. The counsel concluded that, if the family were to return to Ingushetia, they would face a significant risk of persecution, for which reason they should have been granted asylum, and that their deportation to the Russian Federation would amount to a violation of article 3 of the Convention. Beyond the comments of 12 June 2017, the counsel has provided no further updates, including on the issue of whether or not the complainants were in fact removed from Denmark.

34. The Committee decided to keep the follow-up dialogue open and, having met with a representative of the Permanent Mission of Denmark to the United Nations Office and other international organizations in Geneva to discuss possible measures to be taken by the State party's authorities to implement the Committee's decision in the present case, and having received the State party's written information during the meeting, to request the counsel for comments thereon (within two months).

I. Communication No. 639/2014

N.A.A. v. Switzerland

Decision adopted on: 2 May 2017

Violation: Article 3

Remedy: Since the Committee concluded that the deportation of the complainant to the Sudan would amount to a breach of article 3 of the Convention, the State party should refrain from removing the complaint to his country of origin.

35. On 20 July 2017, the State party submitted that the complainant had been granted temporary admission, and that the Committee's decision had therefore been implemented.

36. On 19 October 2017, the counsel confirmed that the complainant had been granted temporary admission, although individuals in similar circumstances had previously been granted refugee status. Since the complainant cannot be removed to his country of origin, the Committee's decision has been implemented in practice.

37. The Committee decided to close the follow-up dialogue, with a note of satisfactory resolution.

J. Communication No. 651/2015

Ushenin v. Kazakhstan

Decision adopted on: 12 May 2017

Violation: Articles 1, in conjunction with 2 (1) and 12–14

Remedy: The Committee found violations of the above-mentioned articles and urged the State party to conduct a proper, impartial and independent investigation in order to bring to justice those responsible for the complainant's treatment, to provide the complainant with redress and fair and adequate reparation for the suffering inflicted, including compensation and full rehabilitation, and to prevent similar violations in the future.

38. On 2 October 2017, the State party submitted its observations, addressing the complainant's allegations that he was subjected to torture in the form of physical violence

during the pretrial investigation of his case. The State party argued that the complainant's allegations had been examined by the court at the request of the Prosecutor's Office.

39. The court concluded that the charges against the complainant were based on a combination of evidence, including the testimony of victims, eyewitnesses and other witnesses, identification protocols, the seizure of material evidence and ballistic expertise.

40. As can be seen from the judicial decisions, the complainant was repeatedly convicted of serious crimes, the most recent of which he committed after being freed on parole. The higher courts concluded that there had been no violations of the law that would require revision of the verdict on appeal. Given that, during the investigation and before the court, the complainant did not confess to committing any crime, the State party considered his allegations of the use of torture to obtain confessions to be unsustainable, claiming that his guilt was confirmed by other reliable and objective evidence.

41. According to the Committee on the Penal Correction System, the complainant was released on 27 February 2017 from prison No. 164/4 in North Kazakhstan Province, where he had served a sentence handed down by Terektinsky District Court, West Kazakhstan Province, on 17 January 2012.

42. On 9 October 2017, the State party's submission was transmitted to the complainant's counsel for comments (by 9 November 2017).

43. The Committee decided to keep the follow-up dialogue open.

K. Communication No. 682/2015

Alhaj Ali v. Morocco

Decision adopted on: 3 August 2016

Violation: Article 3

Remedy: The Committee concluded that the complainant had sufficiently demonstrated that he faces a foreseeable, real and personal risk of torture if extradited to Saudi Arabia, in violation of article 3 of the Convention. Since the complainant had been in pretrial detention for almost 2 years, the Committee urged the State party to release him or to try him if charges were brought against him in Morocco.

44. On 22 May 2017, the State party submitted, in addition to its observations of 10 March 2017 concerning the alleged forced signature by the complainant of a statement consenting to extradition, that the complainant enjoys all procedural safeguards as a detainee, without any discrimination. Since he cannot enjoy family or consular visits, the State party allowed another Syrian national residing in Morocco to visit him. Moreover, he could be visited by the members of the National Observatory for Prisons in July 2016 and the Office of the United Nations High Commissioner for Refugees delegation in March 2017.

45. As regards the alleged forced signature of a statement consenting to extradition, the State party submits that the complainant retracted his signature and subsequently refused to be extradited. It adds that the complainant ended his hunger strike, and that the allegations of attempted suicide were not substantiated.

46. On 30 June 2017, the complainant's counsel submitted comments on the State party's observations of 10 March 2017 and provided an update on the complainant's situation. It is argued that the said observations do not provide any substantial information on the implementation of the Committee's decision. Mr. Alhaj Ali has remained in extradition detention since 30 October 2014, despite the Committee's decision of 22 August 2015.

47. The complainant remains in indefinite detention, without the possibility of challenging the lawfulness of his detention before an independent judicial authority. Moreover, in the light of the Committee's decision, his detention is devoid of any legal basis and is therefore arbitrary.

48. In the complainant's view, the State party cannot justify his arbitrary detention by stating that he enjoys humane treatment respectful of his dignity, that he is incarcerated under completely normal conditions and that the prison administration was prepared to allow a Syrian citizen residing in Morocco to visit him regularly.

49. The complainant maintains that, on 1 March 2017, he received a visit from a number of officials while he was on hunger strike to protest against his period of continued detention of nearly three years. He maintains that he was told on that occasion that he would never be released, would spend his life in prison in Morocco and it would be better for him to agree to be extradited to Saudi Arabia. It was then suggested that he should sign a statement consenting to his eventual extradition, which was presented as the only alternative to life imprisonment.

50. The complainant adds that, in its observations, the State party does not appear to dispute that version of events, and that it has not implemented the decision of the Committee, as he has remained arbitrarily deprived of liberty since October 2014.

51. On 5 October 2017, the Committee requested the State party to provide further information, within two months, on the measures taken to implement the Committee's decision in the present case.

52. On 23 November 2017, the State party's submission of 22 May 2017 was transmitted to the complainant for comments (by 23 December 2017).

53. The Committee decided to keep the follow-up dialogue open and to request a meeting with a representative of the Permanent Mission of the Kingdom of Morocco to the United Nations Office and other international organizations in Geneva during its sixty-third session (23 April–18 May 2018) to discuss possible measures to be taken by the State party's authorities to implement the Committee's decision in the present case.

L. Communication No. 747/2016

H. Y. v. Switzerland

Decision adopted on: 9 August 2017

Violation: Article 3

Remedy: The Committee concluded that the State party has an obligation, in accordance with article 3 of the Convention, to refrain from extraditing the complainant to Turkey or to any other country where he runs a real risk of being returned to Turkey.

54. On 3 November 2017, the State party submitted that, on 17 August 2017, the Federal Office of Justice released the complainant from extradition detention. Accordingly, it informed the requesting State (Turkey) that the extradition of the complainant to his country of origin could not be effected and proposed that, with the consent of Turkey, the complainant serve the remainder of his criminal sentence, on the basis of which he was subject to the extradition request, in Switzerland. The complainant therefore no longer faces a risk of being extradited to Turkey.

55. On 6 November 2017, the State party's submission was transmitted to the complainant's counsel for comments within one month (by 7 December 2017).

56. The Committee decided to keep the follow-up dialogue open and, subject to the comments of the counsel of the complainant, to eventually close the case, with a note of satisfactory resolution.
