



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. 1039/2020* **

<i>Communication submitted by:</i>	Epitace Nshimirimana (represented by counsel, SOS Torture Burundi)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Burundi
<i>Date of complaint:</i>	18 November 2020 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 115 of the Committee's rules of procedure, transmitted to the State party on 23 November 2020 (not issued in document form)
<i>Date of adoption of decision:</i>	19 April 2024
<i>Subject matter:</i>	Torture or other cruel, inhuman or degrading treatment or punishment; lack of effective investigation and redress
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issues:</i>	Torture; cruel, inhuman or degrading treatment or punishment; prevention of torture; a prompt and impartial investigation; treatment of prisoners; redress
<i>Articles of the Convention:</i>	2 (1), 11, 12, 13 and 14, read in conjunction with articles 1 and 16, and article 16

1. The complainant is Epitace Nshimirimana, a national of Burundi born in 1980. He claims that the State party has violated his rights under articles 2 (1) and 11 to 14 of the Convention, read in conjunction with article 1 or, in the alternative, with article 16, and under article 16 of the Convention, read alone. The State party has made the declaration pursuant to article 22 (1) of the Convention, effective from 10 June 2003. The complainant is represented by counsel, SOS Torture Burundi.

Facts as submitted by the complainant

2.1 The complainant lived in the commune of Gitega and was one of the executive members of Mouvement pour la solidarité et la démocratie, which is an opposition party. On 12 May 2015, at around 10.30 a.m., he was arrested in front of Kamenge University Hospital

* Adopted by the Committee at its seventy-ninth session (15 April–10 May 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, Abderrazak Rouwane and Bakhtiyar Tuzmukhamedov.



by a group of uniformed police officers from the Unit for the Protection of Institutions. The police officers restrained him and beat him violently until he lost consciousness. Then they put him in a police truck and took him to the National Intelligence Service.

2.2 At around 6 p.m., the complainant regained consciousness in a prison. He was lying completely naked on the ground. At this point, police officers beat him on the orders of a criminal investigation officer, who accused him of being the planner and coordinator of demonstrations described as an insurrectionary movement by supporters of the current Government. The Administrator-General of the National Intelligence Service also witnessed the acts of torture, as did two journalists from the Rema FM radio station, who took photos and filmed the scene. The complainant was not informed of his rights as a person deprived of his liberty, and his family was not informed of his place of detention.

2.3 The complainant was detained in a prison that was under construction without his details being entered in the prison register. His cell had an unglazed window and was therefore infested with mosquitoes, while the ground was covered with loose stones. He slept naked on the ground, without a blanket or a mattress. He spent the whole time lying on the ground, being unable to stand up because of the torture he had undergone. The inmates were handcuffed together in pairs and relieved themselves inside the cell, in a bucket. The complainant was forbidden to receive visitors, be assisted by his lawyer or have access to a doctor.

2.4 On 13 May 2015, a commission of inquiry headed by the Deputy Attorney General of the Republic went to question the complainant, who was lying on the ground. The questioning focused on the organization of the demonstrations, their purpose and the source of their funding. During the questioning, the Deputy Attorney General sometimes slapped and kicked the complainant. The session of questioning was filmed and photos were taken.

2.5 The complainant was held in the prison of the National Intelligence Service between 12 May and 9 June 2015 and was therefore tortured and unlawfully detained for almost one month. During the torture sessions, the officers used steel rods and truncheons, beat him with boots, sticks and rifle barrels and pulled him with ropes. He was also stabbed in the toes.

2.6 On 10 June 2015, the complainant was transferred to Mpimba Central Prison. Despite his precarious state of health, he was afforded no official access to health care throughout his incarceration. However, his family found him a private doctor who provided him with medication and health care on the pretext that he was visiting him.

2.7 On 22 June 2015, the complainant was transferred to Rumonge Prison. During the transfer, he was slapped, beaten with a rifle butt and intimidated. At Rumonge Prison, he continued to be deprived of his rights, including the rights to receive visits and have access to health care. During this time, a number of civil society organizations and diplomats, including the representative of the European Union in Burundi and the Ambassador of the United States, called for him to be transferred to Bujumbura and brought before a court.

2.8 On 15 July 2015, the complainant was called to appear in chambers. He was assisted by his lawyers. As he was still suffering from the sequelae of the torture inflicted on him, and was unable to stand or walk, he remained seated throughout the hearing. During the hearing, with the help of the lawyers who had been assisting him since his transfer to the prison, the complainant referred to the acts of torture and cruel, inhuman or degrading treatment to which he had been subjected and showed the still visible wounds and signs of torture.¹

2.9 On 10 August 2015, before learning of the court's decision, the complainant managed to escape from prison and take refuge in Rwanda. He has not yet been informed of the court's decision on his pretrial detention but he recalls that the public prosecutor had requested that he be sentenced to 20 years' imprisonment.

2.10 When the complainant was in prison, his wife and children received intimidating messages from a team led by the member of Parliament representing the National Council for the Defence of Democracy-Forces for the Defence of Democracy in Gitega. On

¹ The complainant submitted a medical report describing his bodily injuries, dated 15 July 2015, to the Committee.

17 August 2015, police officers and Imbonerakure (members of the youth movement affiliated with the National Council for the Defence of Democracy-Forces for the Defence of Democracy party) went to his home again to carry out a search because, according to them, it was being used as a weapons cache. His family members were once again threatened by these police officers and Imbonerakure, who said that they would suffer the consequences if they did not reveal where the complainant was hiding. On 22 September 2015, his family joined him in exile. During his time in exile, the public prosecutor's office seized all the belongings in his house, which is currently occupied by an unknown person.

2.11 Despite the claims of torture made by the complainant during his questioning on 13 May 2015 and his hearing in chambers on 15 July 2015, no investigation was initiated and no investigative measures were taken. As a result, the perpetrators of the violations committed against the complainant have not been identified and the acts relating to his torture remain unpunished. In view of the identity of the perpetrators – members of the National Police and the National Intelligence Service reporting to the Office of the President of the Republic – it would be particularly dangerous for the complainant to take any further steps as he would be subjected to reprisals. The complainant refers to the Committee's concerns about the impunity that the perpetrators of violations appear to have enjoyed in Burundi since the political crisis began in April 2015, which presents an additional barrier to the bringing of legal actions by the victims and their families.² Even after the establishment of a legal and institutional framework to ensure the safety of victims and witnesses in 2016, the ongoing violations and climate of impunity in Burundi³ make it clear to the complainant that the adoption of this new legal framework has had no tangible impact on the situation of victims and their protection.

Complaint

3.1 The complainant claims that the State party has violated his rights under articles 2 (1) and 11 to 14 of the Convention, read in conjunction with article 1 or, in the alternative, with article 16, and under article 16 of the Convention, read alone.

3.2 According to the complainant, the abuse to which he was subjected caused him severe pain and suffering, with a lingering impact on his physical and psychological health. These acts of torture, inflicted by members of the National Police and the National Intelligence Service, were intended to intimidate, punish and pressure him into confessing because of his political affiliation. The complainant maintains that the ill-treatment constituted acts of torture within the meaning of article 1 of the Convention.

3.3 The complainant, invoking article 2 (1) of the Convention, claims that the State party had not taken effective measures to prevent acts of torture in the territory under its jurisdiction. During his questioning at the National Intelligence Service, the complainant was not assisted by a lawyer. Despite the amendment of the Criminal Code, torture remains subject to a statute of limitations of 20 or 30 years, which constitutes a legal obstacle to the effective prevention of acts of torture.

3.4 Invoking article 11 of the Convention and referring to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the complainant argues that the State party has clearly failed in its obligation to keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment. This is evident from the fact that, throughout his detention, the complainant, among other things, was unable to exercise his right to receive visits, his relatives were not informed of his place of detention, he did not benefit from the assistance of a lawyer during the pretrial phase of the proceedings, and he was not informed of his rights as a person deprived of his liberty.

3.5 Furthermore, the complainant claims that, even though he had submitted oral reports to the Burundian authorities to inform them that he had been subjected to torture, they did

² CAT/C/BDI/CO/2/Add.1, para. 26.

³ A/HRC/36/54, para. 13.

not conduct a prompt and effective investigation into the allegations of torture, in violation of article 12 of the Convention. He also alleges that the State party did not respect his right to bring a complaint so as to have his allegations examined promptly and impartially, in violation of article 13 of the Convention.

3.6 With regard to article 14 of the Convention, the complainant considers that, by failing to conduct a criminal investigation, the State party has also deprived him of his right to obtain redress and his right to fair and adequate compensation. In this regard, following the torture to which he was subjected, he did not receive rehabilitation assistance of any kind or the means for as full rehabilitation as possible, as provided for by article 14 of the Convention. In view of the inaction of the judicial authorities, other remedies to obtain redress, such as a civil suit for damages, have no realistic prospect of success. In 2014, the Committee specifically expressed its concern about the failure to apply the provision of the Code of Criminal Procedure providing for compensation for victims of torture, in violation of article 14 of the Convention.⁴ In 2016, it reiterated its concerns about the need to guarantee adequate compensation in accordance with article 14.⁵

3.7 The complainant reiterates that the violent acts inflicted on him constitute torture, in accordance with the definition set out in article 1 of the Convention. Should the Committee not agree to qualify it as such, he maintains that the abuse he endured constitutes cruel, inhuman or degrading treatment and that, on this basis, the State party also has an obligation, under article 16 of the Convention, to prevent public officials from committing, instigating or tolerating such acts and to punish them if they do. In addition, he recalls the conditions of detention that he had to endure in the cells of the National Intelligence Service and in Mpimba and Rumonge prisons. The complainant refers again to the Committee's concluding observations on the reports submitted by the State party under article 19 of the Convention, in which it noted that conditions of detention in Burundi amount to inhuman and degrading treatment.⁶ He therefore concludes that the conditions of detention to which he was exposed amount to a violation of article 16 of the Convention.

State party's observations on admissibility

4.1 On 25 August 2022, the State Party submitted its observations. It argues that the Committee should reject the communication under article 22 (5) (b) of the Convention since the complainant's allegations concern facts that had allegedly occurred in 2015 but he did not submit these allegations to the Committee until 2020, without having made any attempt to bring the matter before a domestic judicial body. If the complainant has brought the matter before a court, the State party would be grateful if he would show that he has exhausted all domestic procedures or, at the very least, filed a formal claim with the appropriate national judicial authorities.

4.2 As for the complainant's objection relating to the exhaustion of domestic remedies, based on the claim that pursuing such remedies would be dangerous and would probably be unsuccessful, the State party replies that it has judicial institutions and non-judicial mechanisms for the protection of human rights in general and the guarantee of fair trials in particular. The State party has a public body responsible for monitoring cases of human rights violations and for protecting and promoting these rights, namely, the National Independent Human Rights Commission.⁷

4.3 According to the State party, it has a piece of legislation that provides sound guarantees of the legal security of its subjects of law in respect of human rights violations, namely, Act No. 1/04 of 27 June 2016 on the protection of victims, witnesses and other persons at risk. In addition, an entire chapter of Act No. 1/27 of 29 December 2017 amending

⁴ CAT/C/BDI/CO/2, para. 18.

⁵ CAT/C/BDI/CO/2/Add.1, para. 27 (d).

⁶ CAT/C/BDI/CO/1, para. 17; and CAT/C/BDI/CO/2, para. 15.

⁷ The State party stresses that other bodies have highlighted the availability of institutions responsible for the protection of human rights. For instance, the Human Rights Council noted that the Global Alliance of National Human Rights Institutions accredited the Commission with category A status, which indicates its independence.

the Criminal Code, in particular articles 206 to 209 of the Act, relate to the punishment of torture and other cruel, inhuman or degrading treatment.

4.4 Consequently, the State party considers the complainant's alleged fear to be unfounded since Act No. 1/04 provides for jurisdictional and non-jurisdictional protective measures for victims, witnesses and other persons involved in criminal proceedings or commissions of inquiry who are at risk. Such measures include the non-disclosure of the identity of witnesses, victims and other persons at risk, as well as the use of pseudonyms or anonymous numbers in official documents to designate persons to be protected.

4.5 On 18 March 2024, the State party reiterated its observations on the inadmissibility of the communication, maintaining that the complainant had used false information with the sole aim of tarnishing the country's image and demonizing the Burundian justice system for unclear reasons. The State party points out that other people have brought cases before the Burundian courts and that these cases have been well handled. In this regard, it refers to its third periodic report, which contains the numbers of five cases relating to torture currently before the courts.⁸ It also points out that four other cases have been finalized and that, in three of these cases, sentences of 5 years, 2 years and 8 months' imprisonment were handed down, respectively.

4.6 With regard to the complainant's false claims that no investigations have been carried out since 2015, the State party affirms that investigations have already been carried out for the various offences committed in 2015 and that the perpetrators are facing justice, while international warrants have been issued for other perpetrators.

Complainant's comments on the State party's observations

5.1 On 21 November 2023, the complainant submitted comments in response to the State party's observations. He considers that, in matters relating to torture in detention, the burden of proof is reversed and that it is up to the State party to show that the persons in its charge have not been subjected to torture. The complainant then restates his arguments relating to the inaccessibility of domestic remedies, the risks inherent in taking action before the Burundian courts and the fact that the judicial outcome would probably not be satisfactory for the victim. He does not dispute the existence of laws establishing torture as an offence, but notes that they are ineffective in practice.

5.2 The complainant notes that the Committee has already declared admissible several communications from Burundian complainants who had considered that the remedies would probably not be satisfactory, notably because of the refusal of the Burundian authorities to conduct an investigation.⁹ He points out that the State party completely fails to show that remedies would have been available and accessible. The complainant considers that the State party is limiting itself to contesting the admissibility of his complaint without providing any information about the legal proceedings brought against his torturers, all of whom have been identified, and that it is well-known that agents of the National Intelligence Service benefit from impunity.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim 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 The Committee notes that the State party contested the admissibility of the complaint on the grounds of non-exhaustion of domestic remedies, as the complainant had not formally raised the allegations of torture with the competent authorities. However, the Committee

⁸ CAT/C/BDI/3, para. 33.

⁹ See, inter alia, *A.N. v. Burundi* (CAT/C/60/D/612/2014), para. 6.2.

notes the complainant's claim, which is not contested by the State party, that he expressly mentioned the torture to which he had been subjected to the Deputy Attorney General during his questioning on 13 May 2015 and to the judge during his hearing in chambers on 15 July 2015, where he appeared, in the presence of his lawyer, bearing visible signs of torture. However, at no time did the authorities launch an investigation. The Committee further notes the complainant's argument that it would have been dangerous for him to take any further steps as the perpetrators of the acts of torture were police officers and agents of the National Intelligence Service under the Office of the President of the Republic. Lastly, the Committee notes that members of the complainant's family have been subjected to threats and intimidation by police officers and representatives of a political party in connection with the complainant's fate and that they have been forced into exile.

6.3 The Committee notes that the State party merely alleged in its observations that torture is punishable under the Criminal Code and that the complainant should take legal action. It notes that, on two occasions, the complainant reported the torture to which he had been subjected to the competent judicial authorities, yet no investigation was carried out. The Committee recalls that, pursuant to article 12 of the Convention, States parties are under an obligation to ensure that the competent authorities proceed to a prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed. It considers that, once a State party has become cognizant of allegations of torture, regardless of which authority has been informed thereof, it is under an obligation to carry out an investigation and, if appropriate, to initiate legal proceedings, which has not been done in the present case. The Committee further considers that the burden of proof should not be borne solely by the complainant, given that the complainant and the State party do not always have the same degree of access to evidence and that frequently the State party alone is in possession of the relevant information. In cases where the allegations are corroborated by credible evidence submitted by the complainant and where further clarification depends on information exclusively in the hands of the State party, the Committee may consider the allegations to have been sufficiently substantiated in the absence of satisfactory evidence or explanations from the State party to the contrary.¹⁰

6.4 In the absence of any pertinent information from the State party in this regard, the Committee rejects the State party's objection to the admissibility of the complaint, as the State party has failed to demonstrate that existing remedies for reporting acts of torture were, in practice, made available to the complainant to enable him to assert his rights under the Convention. The Committee notes that the complainant tried to use domestic remedies but they proved to be ineffective in his case.

6.5 Lastly, the Committee notes that five years elapsed between the facts of the case and the submission of the communication to the Committee. However, it points out that neither the Convention nor its rules of procedure establishes a time limit for submitting a complaint. Accordingly, the Committee finds that it is not precluded by article 22 (2) of the Convention from examining the present communication.

6.6 In the absence of any other obstacle to the admissibility of the communication, the Committee proceeds with its consideration of the merits of the claims submitted by the complainant under articles 2 (1), 11 to 14 and 16 of the Convention.

State party's failure to cooperate

7. On 23 November 2020, 27 July 2022, 29 August 2022 and 3 October 2022, the State party was invited to submit its observations on the merits of the communication. The Committee notes that no clarifications were received. It regrets the State party's refusal to communicate any information on the merits of the complainant's claims.¹¹ It recalls that the State party concerned is required under the Convention to submit to the Committee written

¹⁰ *N'Dour v. Morocco* (CAT/C/58/D/650/2015), para. 8.2.

¹¹ *Ndagijimana v. Burundi* (CAT/C/62/D/496/2012 and CAT/C/62/D/496/2012/Corr.1), para. 7; *Ndarisigaranye v. Burundi* (CAT/C/62/D/493/2012 and CAT/C/62/D/493/2012/Corr.1), para. 7; and *Ntikarahera v. Burundi* (CAT/C/52/D/503/2012), para. 4.

explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Consideration of the merits

8.1 The Committee has considered the present communication in the light of all the information made available to it by the parties, in accordance with article 22 (4) of the Convention. As the State party has not provided any detailed information on the merits, due weight must be given to the complainant's allegations, which have been properly substantiated.¹²

8.2 The Committee notes the complainant's allegation that he was violently beaten by police officers at the time of his arrest, until he lost consciousness. It also notes: (a) that the complainant was made to continue suffering as a result of the lack of appropriate care and the unsanitary conditions of detention; (b) that police officers and officers of the National Intelligence Service repeatedly beat him with steel rods and truncheons, hit him with boots, sticks and rifle barrels, pulled him with ropes and stabbed him in the toes; and (c) that he was detained in appalling conditions at the premises of the National Intelligence Service and was deprived of access to medical care at the Mpimba and Rumonge prisons. The Committee recalls its jurisprudence according to which any persons deprived of their liberty must be provided with prompt and independent legal and medical assistance and must be able to contact their families, in order to prevent torture.¹³ The Committee likewise takes note of the complainant's allegations that the beating to which he was subjected caused him severe suffering, including emotional and psychological suffering, and was deliberately inflicted by State officials to punish and intimidate him. It also notes that these allegations have not been contested by the State party. In these circumstances, the Committee concludes that the facts as presented by the complainant constitute torture within the meaning of article 1 of the Convention.¹⁴

8.3 The Committee takes note of the complainant's claims based on article 2 (1) of the Convention and recalls its conclusions and recommendations in respect of the reports submitted by the State party under article 19 of the Convention, in which it urged it to take effective legislative, administrative and judicial measures to prevent all acts of torture and all ill-treatment and to take steps, as a matter of urgency, to bring all places of detention under judicial control to prevent its officials from making arbitrary arrests and engaging in torture.¹⁵ In the present case, the Committee notes the complainant's allegations about the treatment inflicted on him by State officials during his arrest and detention, throughout which time he was unable to contact his family or have access to counsel or a doctor. The Committee also notes that the State party did not take any measures to protect the complainant. Lastly, the State authorities have taken no steps to investigate the acts of torture to which the complainant was subjected and to adopt the appropriate punitive measures, despite the complaints that he made in this regard to the Deputy Attorney General and the judge. In the light of the foregoing, the Committee finds a violation of article 2 (1), read in conjunction with article 1, of the Convention.¹⁶

8.4 The Committee also notes the complainant's argument that article 11 of the Convention, which requires the State party to keep under systematic review arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction with a view to preventing any cases of torture, was violated. The complainant argues, in particular, that (a) despite his critical condition at the time of arrest, he did not receive appropriate medical care; (b) he did not have access to a lawyer during his first interview at the premises of the National Intelligence Service or during his initial questioning before the public prosecutor; (c) he was arrested

¹² See, inter alia, *N.N. v. Burundi* (CAT/C/74/D/795/2017), para. 6.1.

¹³ See Committee against Torture, general comment No. 2 (2007).

¹⁴ *Ndagijimana v. Burundi*, para. 8.2; *Ndarisigaranye v. Burundi*, para. 8.2; *Kabura v. Burundi* (CAT/C/59/D/549/2013), para. 7.2; and *Ntikarahera v. Burundi* (CAT/C/53/D/514/2012), para. 8.2.

¹⁵ CAT/C/BDI/CO/1, para. 10; and CAT/C/BDI/CO/2, para. 8 ff. See also CAT/C/BDI/CO/3, para. 21.

¹⁶ *Ndagijimana v. Burundi*, para. 8.4; *Ndarisigaranye v. Burundi*, para. 8.3; *Niyonzima v. Burundi*, para. 8.4; and *E.N. v. Burundi* (CAT/C/56/D/578/2013), para. 7.5.

without being informed of the charges against him; (d) he did not have effective remedies to challenge the acts of torture; and (e) he was detained in appalling conditions at the National Intelligence Service and then continued to be deprived of his rights to receive visits and have access to health care and legal counsel at Mpimba and Rumonge prisons. The Committee recalls its concluding observations regarding the second periodic report of Burundi, in which it expressed concern at the excessive length of time during which people can be held in police custody, numerous instances in which the permissible duration of police custody has been exceeded, failures to keep registers on persons in custody or to ensure that such records are complete, failures to comply with fundamental legal safeguards for persons deprived of their liberty, the absence of provisions that guarantee access to a doctor and access to legal assistance for persons of limited means, and the excessive use of pretrial detention in the absence of regular reviews of its legality and of any limit on its total duration.¹⁷ In the present case, the complainant appears to have been deprived of any form of judicial oversight. In the absence of any relevant information to the contrary from the State party, the existence of such deplorable conditions and treatment is sufficient to establish that the State party failed to fulfil its obligation to keep under systematic review arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture, and that this violation resulted in harm to the complainant. The Committee therefore finds a violation of article 11 of the Convention.¹⁸

8.5 With regard to articles 12 and 13 of the Convention, the Committee takes note of the complainant's allegations that, on 12 May 2015, he was arrested and beaten by a group of uniformed police officers from the Unit for the Protection of Institutions, that he was tortured during the first interview at the premises of the National Intelligence Service and that he continued to be subjected to acts of torture during his detention. Although he reported the torture to the Deputy Attorney General and the judge on two occasions and appeared bearing visible signs of torture, no investigation had been carried out nine years after the events in question. The Committee considers that so long a delay in initiating an investigation into allegations of torture is patently unjustified. In this regard, it draws attention to the State party's obligation under article 12 of the Convention to ensure that a prompt and impartial investigation is carried out wherever there is reasonable ground to believe that an act of torture has been committed.¹⁹ The Committee therefore finds a violation of article 12 of the Convention.

8.6 In view of the foregoing findings, the State party also failed to fulfil its responsibility under article 13 of the Convention to guarantee the right of the complainant to lodge a complaint, which presupposes that the authorities provide a satisfactory response by launching a prompt and impartial investigation.²⁰ The Committee notes that article 13 does not require the formal lodging of a complaint of torture under the procedure laid down in national law, nor does it require an express statement of desire that criminal proceedings be instituted. It is sufficient for victims simply to come forward and bring the facts to the attention of a State authority for the State to be under an obligation to consider this as a tacit but unequivocal expression of their wish to have an immediate and impartial investigation initiated, as required by this provision of the Convention.²¹ The Committee concludes that the facts in this case constitute torture within the meaning of article 13 of the Convention.

8.7 Regarding the complainant's claims under article 14 of the Convention, the Committee recalls that this article not only recognizes the right to fair and adequate compensation but also requires States parties to ensure that the victim of an act of torture obtains redress. The Committee recalls that redress must cover all the harm suffered by the victim and encompass, among other measures, restitution, compensation and guarantees of non-repetition of the violations, taking into account the circumstances of each individual

¹⁷ CAT/C/BDI/CO/2, para. 10.

¹⁸ *E.N. v. Burundi*, para. 7.6.

¹⁹ *Ndagijimana v. Burundi*, para. 8.5; *Ndarisigaranye v. Burundi*, para. 8.5; *Kabura v. Burundi*, para. 7.4; and *Niyonzima v. Burundi*, para. 8.4.

²⁰ *Niyonzima v. Burundi*, para. 8.5.

²¹ *Parot v. Spain* (CAT/C/14/D/6/1990), para. 10.4; *Blanco Abad v. Spain* (CAT/C/20/D/59/1996), para. 8.6; and *Ltaief v. Tunisia* (CAT/C/31/D/189/2001), para. 10.6.

case.²² In the present case, in the absence of a prompt and impartial investigation, despite clear material evidence that the complainant had been the victim of acts of torture, which had gone unpunished, the Committee concludes that the State party also failed to fulfil its obligations under article 14 of the Convention.²³

8.8 Regarding the claim under article 16 of the Convention, the Committee takes note of the complainant's claims about the detention conditions in the cells of the National Intelligence Service and in Mpimba and Rumonge prisons. In the absence of any relevant information from the State party in this regard, the Committee concludes that the information provided shows that the conditions constitute inhuman and degrading treatment and discloses a violation by the State party of its obligations under article 16 of the Convention.²⁴

9. The Committee, acting under article 22 (7) of the Convention, concludes that the facts before it reveal a violation by the State party of articles 2 (1) and 11 to 14, read in conjunction with article 1, and of article 16 of the Convention.

10. The Committee deeply regrets that the State party has failed to respond to its repeated requests to comment on the merits of the present communication, thereby preventing the Committee from considering the case and resolving the issues raised in the communication under the Convention. As the State party has failed to respond to the Committee's requests to submit observations on the merits, thereby refusing to cooperate with it and preventing it from effectively considering the elements of the complaint, the Committee, acting under article 22 (7) of the Convention, is of the view that the State party's refusal to cooperate with it constitutes a violation by the State party of article 22 of the Convention. The Committee remains deeply concerned about the State party's failure to cooperate with the individual complaints procedure,²⁵ and invites the State party to re-establish full dialogue and cooperation with the Committee in the examination of individual communications.²⁶

11. The Committee urges the State party to (a) initiate a thorough and impartial investigation into the incidents in question, in full conformity with the guidelines of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol); (b) to prosecute and punish those responsible for the complainant's treatment; (c) to provide the complainant with appropriate redress, including compensation for material and non-material damages, restitution, rehabilitation, satisfaction and guarantees of non-repetition; and (d) ensure that no similar violations occur in the future.

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.

²² *Niyonzima v. Burundi*, para. 8.6. See also *Ntikarahera v. Burundi*, para. 6.5.

²³ *Ndarisigaranye v. Burundi*, para. 8.7.

²⁴ *Ibid.*, para. 8.8; *Niyonzima v. Burundi*, para. 8.8; and *Ntikarahera v. Burundi*, para. 6.6.

²⁵ *CAT/C/BDI/CO/3*, para. 47. See also *Ndarisigaranye v. Burundi*, para. 7; *Ndagijimana v. Burundi*, para. 7; *Ntikarahera v. Burundi*, para. 4; *O.N. v. Burundi* (*CAT/C/71/D/843/2017*), para. 4; *R.M. v. Burundi* (*CAT/C/72/D/793/2017*), para. 4; *M.D. v. Burundi* (*CAT/C/73/D/921/2019*), para. 4; and *Ndayirukiye v. Burundi* (*CAT/C/73/D/952/2019*), para. 7.

²⁶ *CAT/C/BDI/CO/3*, para. 48.