



# 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 fifty-ninth session of the Committee against Torture (7 November to 7 December 2016) in the framework of its follow-up procedure on decisions relating to communications submitted under article 22 of the Convention.

#### A. Communication No. 15/1994

*Khan v. Canada*

Decision adopted on: 15 November 1994

Violation: Article 3

Remedy: The Committee concluded that substantial grounds existed for believing that the author would be in danger of being subjected to torture and, consequently, that the expulsion or return of the complainant to Pakistan in the prevailing circumstances would constitute a violation of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In the light of the above, the Committee was of the view that, in the prevailing circumstances, the State party had an obligation to refrain from forcibly returning the complainant to Pakistan.

2. On 4 April 2016, the complainant submitted that he had received a Temporary Resident Permit and that he would be able to apply for permanent residence early in 2017, with the expectation that he would be a permanent resident by early 2018.

3. On 8 March 2017, the complainant's submission was transmitted to the State party for observations (by 10 April 2017). On 10 April 2017, the State party submitted its follow-up observations, in which it stated that the stay of the complainant's removal, the issuance of a temporary resident permit and his eligibility to apply for permanent residence fully addressed the concerns set out in the Committee's decision. The State party further reiterated that, as already indicated on 27 March 2015, Canada had closed the file relating

\* Adopted by the Committee at its sixtieth session (18 April-12 May 2017), on 9 May 2017, as amended.



to the communication. Consequently, it requested that the Committee close the follow-up consideration of the communication.

4. Since the complainant had received a temporary resident permit and was eligible to apply for permanent residence, the Committee decided to close the follow-up dialogue, with a note of satisfactory resolution. Should the complainant be again subjected to a new decision for forcible removal from Canada, he could resubmit a complaint to the Committee.

## **B. Communication No. 327/2007**

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*Boily v. Canada*

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Decision adopted on: 14 November 2011

Violation: Articles 3 and 22

Remedy: The Committee considered that the extradition of the complainant to Mexico by the State party constituted a violation of articles 3 and 22 of the Convention. It requested that the State party, in accordance with its obligations under article 14 of the Convention, provide effective redress, including: (a) compensate the complainant for violation of his rights under article 3; (b) provide as full rehabilitation as possible by providing, inter alia, medical and psychological care, social services and legal assistance, including reimbursement for past expenditures, future services and legal expenses; and (c) review its system of diplomatic assurances with a view to avoiding similar violations in the future.

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5. On 27 September 2016, the complainant requested the Committee to intervene in order to ensure that Canada abided by the decision rendered by the Committee in his favour. He stated that the decision had been ignored by both the previous and the current governments of the State party.

6. He claimed that it had been five months since his last letter seeking the State party's implementation, and four years since the Committee's decision had been rendered. However, Canada continued to disregard the Committee's decision, which required the State party to, among other things, provide the complainant with the necessary medical care, psychological care, social and rehabilitation services. Given his rapidly deteriorating state of health, he required an immediate transfer back to Canada to serve the remainder of his sentence there.

7. The complainant further submitted that Mexico had consented to his transfer back to Canada as of 31 May 2016 but that, despite the urgency of the situation, the State party had failed to repatriate him because the Minister of Public Safety was waiting for the "necessary paperwork". In the light of the foregoing, the complainant urged the Committee to find out whether Canada intended to abide by its decision and, if so, when he would be repatriated. The complainant requested the Committee to intervene to ensure that he was finally brought back to Canada without further delay.

8. On 8 March 2017, the complainant's submission was transmitted to the State party for observations (by 8 April 2017). On 6 April 2017, the State party submitted that it had actively cooperated in reviewing the request for the complainant's transfer back to Canada. On 21 March 2017, Canada reportedly approved the complainant's request by way of adopting the International Transfer of Offenders Act, which is intended to facilitate the administration of justice, rehabilitation and social reintegration of offenders.

9. The Committee decided to keep the follow-up dialogue open and to send a letter, through the Special Rapporteur for follow-up on decisions adopted under article 22, to the State party requesting it to specify the measures taken to implement the Committee's decision in this case, following the adoption of the International Transfer of Offenders Act.

## C. Communication No. 441/2010

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*Evloev v. Kazakhstan*

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Decision adopted on:	5 November 2013
Violation:	Article 1, read in conjunction with articles 2 (1) and 12-15
Remedy:	The Committee urged the State party to: (a) conduct a proper, impartial and independent investigation in order to bring to justice those responsible for the complainant's treatment; (b) provide the complainant with redress and fair and adequate reparation for the suffering inflicted, including compensation and full rehabilitation; and (c) prevent similar violations in the future.

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10. On 12 April 2016, the State party submitted that, in the context of the implementation of the Committee's decision, an application for review was registered in the Central Register of Pretrial Investigations on 24 October 2015 in order to examine the complainant's allegations of torture by police officers and an investigation had been initiated, in accordance with article 146 of the Criminal Code of Kazakhstan. At the time of the submission, the criminal case was being investigated by the Prosecutor's Office of the City of Astana.

11. Moreover, the complainant's allegations of ill-treatment in a correctional facility were registered, in accordance with article 161 (3) of the Criminal Code, by the Committee for the Penitentiary System of Kostanay Region, in order to investigate the alleged abuse of authority, pursuant to article 362 (4) of the Criminal Code. A pretrial investigation was being carried out by the Special Prosecutor of Kostanay Region. The State party made a commitment to report on the outcomes of the investigations later on.

12. On 8 March 2017, the State party's observations were transmitted to the complainant's counsel for comments (by 10 April 2017). On 10 April 2017, the complainant's counsel submitted that the first investigation had been suspended and that the suspension had been quashed upon appeal on 6 January 2017. Since the second investigation was still pending and the perpetrators of torture against the complainant had not been held to account, the counsel requested the Committee to request the State party to carry out an effective, prompt and impartial investigation, ensure compensation and rehabilitation to the complainant for the harm suffered and to prevent similar violations in the future,<sup>1</sup> as requested in the Committee's decision.

13. The Committee decided to keep the follow-up dialogue open and to request the State party to provide it with an update, within 60 days, on the progress of the investigation.

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<sup>1</sup> In that regard, the counsel recalled the Views of the Human Rights Committee on communication No. 2125/2011, *Tyan v. Kazakhstan*, adopted on 16 March 2017, in which it concluded that there was a violation of articles 2 (3), read in conjunction with article 7, and article 14 (1) and (3) (d) and (g) of the International Covenant on Civil and Political Rights.

**D. Communication No. 477/2011<sup>2</sup>***Aarrass v. Morocco*


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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 discussion, including the initiation of an impartial and in-depth investigation into the complainant's allegations of torture. Such 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 (Istanbul Protocol).

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14. On 25 November 2016, the State party submitted that, as requested by the Committee, it had opened a new investigation into the allegations of torture during the detention of the complainant, which included a new medico-forensic examination, in accordance with the requirements of the Istanbul Protocol. The State party considered that many of the complainant's allegations were new and went beyond the scope of the follow-up to the Committee's decision. It claimed that the initial allegations of torture during the complainant's detention had been superseded by new allegations relating to the conditions of his current detention, including his cassation application, which were not within the scope of the initial communication.

15. The State party also submitted that the complainant was transferred to Tifelt 2 Prison on 10 October 2016, which is a new establishment where the complainant enjoyed his rights and relevant safeguards for detainees. The State party recalled that the complainant had complained of his detention conditions, his relations with the prison administration and with other detainees since his incarceration in Salé 2 Prison. Nonetheless, many of the complainant's allegations presented by his sister regarding a lack of security in relation to risks posed by other detainees were false. It submitted that the complainant's detention conditions could not be considered as "solitary confinement" as he was detained in a single cell, which was ventilated, had lights and contained all the sanitary facilities. He received family visits (the last one was on 7 November 2016); he had seen his lawyers on four occasions since his transfer to Tifelt 2 prison; he could receive correspondence; he had access to books and magazines and he is followed up by a medical doctor in the facility. The State party submitted that the General Prison Administration remained attentive to the complainant's allegations with a view to ensuring the best possible conditions to all the detainees.

16. The Committee decided to keep the follow-up dialogue open and, further to a meeting with the representative of the Permanent Mission of the Kingdom of Morocco to the United Nations Office and other international organizations in Geneva, to request the State party to provide information, within 2 months, on the measures taken to implement the Committee's decision in this case.

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<sup>2</sup> See also CAT/C/59/3, paras. 6-18.

**E. Communication No. 490/2012***E.K.W. v. Finland*


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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.

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17. On 7 March 2017, the Secretariat sent a second reminder to the complainant's counsel for comments (by 7 April 2017) on the State party's submission of 20 October 2015. The comments were initially due by 27 November 2015.

18. The Committee decided to keep the follow-up dialogue open, send a reminder to the complainant's counsel for comments and request a meeting with a representative of the Permanent Mission of Finland to the United Nations Office and other international organizations in Geneva, during the Committee's sixty-first session.

**F. Communication No. 497/2012***Bairamov v. Kazakhstan*


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Decision adopted on:	14 May 2014
Violation:	Article 1, in conjunction with article 2 (1), and articles 12-15
Remedy:	The Committee urged the State party to: (a) conduct a proper, impartial and independent investigation in order to bring to justice those responsible for the complainant's treatment; (b) provide the complainant with full and adequate reparation, including compensation and rehabilitation; and (c) prevent similar violations in the future.

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19. On 4 March 2016, the complainant's counsel submitted that the complainant had fallen into a depression, as diagnosed by a psychiatrist, due to his unlawful imprisonment. On 18 January 2016, the complainant underwent an examination for tuberculosis, with which he was infected in prison. On 14 February 2016, the complainant died in a hospital as a result of pneumonia. The psychiatrist who examined the complainant stated that his allegations of torture were fully consistent with and supported by the examination carried out and the evidence gathered. On 26 February 2016, an application for inquiry that was submitted on behalf of the complainant was accepted and an investigation into the allegations of torture was resumed by the Prosecutor of Kostanay Region. The complainant's counsel informed the Committee that a petition was being prepared to request victim status for the complainant's mother, so as to represent the complainant's interests during the criminal investigation.

20. The counsel submitted that the investigation into the complainant's allegations of torture that had been initiated on 30 July 2014 in response to the Committee's decision was slow and ineffective, and he concluded that the State party had once again violated its obligations under article 12 of the Convention. The counsel therefore requested that the Committee's Special Rapporteur for follow-up on decisions meet with a representative of the Permanent Mission of the Republic of Kazakhstan to the United Nations Office and other international organizations in Geneva and urge the State party to implement the Committee's decision that the State party should carry out a prompt, thorough and effective investigation of the complainant's allegations of torture, in accordance with articles 12 and

13 of the Convention, and revise the court judgment which was based on the complainant's statements that were extracted by torture, in accordance with the Committee's finding of a violation of article 15 of the Convention.

21. On 8 March 2017, the counsel's submission was transmitted to the State party for observations (by 10 April 2017). On 11 April 2017, the State party submitted a copy of the Prosecutor's decision of 25 December 2016 on termination of the pretrial investigation for lack of evidence against the three officers allegedly implicated in the torture of the complainant, the Prosecutor General's decision that the criminal conviction of the complainant cannot be quashed, and the Kostanay Regional Court's decision of 17 February 2017, dismissing the appeal against the court decision of 8 February 2017 which had upheld the Prosecutor's decision of 25 December 2016. On 26 April 2017, during a meeting with the Chair of the Committee, a representative of the Permanent Mission of Kazakhstan in Geneva, stated that the Prosecutor's office had investigated the case for more than two years, but could not collect proper evidence against the three suspects; that the amendments of the Code of the Criminal Procedure had been pending to prevent incidents of forced confessions; and that the complainant's family had received a partial monetary compensation of 100,000 tenge (about \$1,000).

22. The Committee decided to keep the follow-up dialogue open and, further to the meeting with the representative of the Permanent Mission of Kazakhstan in Geneva, to request the State party to provide information, within 60 days, on the measures taken to implement the Committee's decision, including compensation and rehabilitation.

## G. Communication No. 503/2012

*Ntikarahera v. Burundi*

Decision adopted on:	12 May 2014
Violation:	Articles 2 (1), 11-13 and 14, read in conjunction with articles 1 and 16
Remedy:	The Committee urged the State party to conduct an impartial investigation into the events in question for the purpose of prosecuting those allegedly responsible for the complainant's treatment and to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in conformity with its views, including adequate and fair compensation encompassing the means for as full rehabilitation as possible.

23. On 3 March 2016, the complainant commented on the State party's submission of 26 November 2015. In line with the Committee's decision, an inquiry was opened by a judge on 3 September 2014 to investigate the acts of torture of the complainant by the agents of the State party in October 2010. The inquiry included a medical examination of the complainant. Although the inquiry appeared to be carried out in a satisfactory and impartial manner, and the judge demonstrated goodwill in terms of cooperation, the investigations were pending and neither the complainant nor the counsel had received any news on its progress since May 2015. The other victims of the alleged torture and the police officers allegedly implicated have not been heard and no confrontation had been organized between the complainant and the police officers.

24. The complainant submitted that his health situation remained precarious. His capacity to move was seriously diminished and he suffered from pain on a daily basis. Due to medical treatment in a hospital, he managed to continue his professional activities; however, he continued to suffer from the psychological consequences of the torture he had sustained. His situation was further aggravated by a precarious financial situation, which prevented him from accessing the necessary medical care.

25. On 28 March 2017, the complainant's submission was transmitted to the State party for observations (by 29 May 2017).

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

## H. Communication No. 523/2012

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*X v. Finland*

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Decision adopted on: 23 November 2015

Violation: Article 3

Remedy: The Committee concluded that the deportation of the complainant to Angola would amount to a breach of article 3 of the Convention. It was of the view that the State party had an obligation to refrain from forcibly returning the complainant to Angola or to any other country where there was a real risk of him being expelled or returned to Angola.

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27. On 22 February 2016, the State party submitted that, on 20 January 2016, the complainant requested asylum for the third time on the basis of international protection. On 22 January 2016, the Finnish Immigration Service granted him a continuous residence permit for a period of four years, after which the residence permit was renewable. The applicant had been granted refugee status and had the unlimited right to work.

28. On 8 March 2017, the State party's submission was transmitted to the complainant's counsel for comments (by 10 April 2017).

29. Since the complainant had received a renewable residence permit, the Committee decided to close the follow-up procedure with a note of satisfactory resolution.

## I. Communication No. 562/2013

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*J.K. v. Canada*

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Decision adopted on: 23 November 2015

Violation: Article 3

Remedy: The Committee concluded that the complainant's removal to Uganda by the State party would constitute a breach of article 3 of the Convention. It urged the State party, in accordance with article 3 of the Convention, to refrain from forcibly returning the complainant to Uganda or to any other country where there was a real risk of him being expelled or returned to Uganda.

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30. On 1 November 2016, the State party submitted that the complainant's application for permanent residence had been approved on 6 September 2016, subject to the standard condition that the complainant cohabit in a conjugal relationship with his spouse for a continuous period of two years from the date of approval. As a result of that decision, the complainant was entitled to live and work in Canada. He would not be at risk of removal as long as he complied with his obligations relating to permanent residence status, including residency requirements, and was not convicted of a serious crime. Once the complainant has resided in Canada as a permanent resident for the requisite period of time, he would be entitled to apply for Canadian citizenship.

31. The State party respectfully disagreed that the complainant's removal to Uganda would be in violation of the Convention. In its view, the Committee failed to accord appropriate deference to the domestic decision makers. The complainant was provided with

multiple opportunities to have his allegations of risk considered and assessed in Canada. Independent and impartial domestic decision makers had thoroughly assessed the complainant's allegations of risk and found that the evidence did not establish that he would be at risk in Uganda. The complainant was granted permanent resident status in Canada because it was determined that he met the requirements of the Spouse or Common-Law Partner in Canada class and not because the State party agreed that his removal would expose him to a risk of irreparable harm. In any event, given that the complainant was granted permanent resident status, the State party considered that no additional measures were necessary in his case.

32. On 7 November 2016, the State party's observations were transmitted to the complainant for comments (by 7 January 2017).

33. The Committee decided to keep the follow-up dialogue open, send a reminder to the complainant for his comments and, subject to those comments, eventually close the follow-up dialogue with a note of satisfactory resolution.

## J. Communication No. 580/2014

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*F.K. v. Denmark*

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Decision adopted on: 23 November 2015

Violation: Articles 3, 12 and 16

Remedy: The Committee was of the view that the State party had 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 ran a real risk of being expelled or returned to Turkey. The Committee also found that the State party had violated the requirements of article 12, read in conjunction with article 16, of the Convention.

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34. On 23 March 2016, the complainant 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. Consequently, the complainant requested the Committee to initiate the follow-up procedure in order to establish the situation with regard to securing his rights under article 3 of the Convention. Regarding the findings of a violation of articles 12 and 16 of the Convention, the complainant had written twice to the Danish Ministry of Justice in order to get a response to the Committee's decision. It was not until 22 March 2016 that the Ministry confirmed receipt of the complainant's letters and indicated that it would reply to the Committee in April 2016.

35. On 8 March 2017, a copy of the complainant's comments was sent to the State party for its observations (by 10 April 2017). On 11 April 2017, the State party submitted that the additional comments from the counsel did not give rise to further observations on its part. In that respect, the State party referred to its follow-up observations of 4 April 2016.

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



## K. Communication No. 606/2014

*Asfari v. Morocco*

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Decision adopted on:	15 November 2016
Violation:	Articles 1 and 12-16
Remedy:	The Committee decided that the State party had violated articles 1 and 12 to 16 of the Convention and urged the State party to: (a) provide the complainant with fair and adequate compensation, including the means for as full rehabilitation as possible; (b) initiate a thorough and impartial investigation into the alleged events, in full conformity with the guidelines of the Istanbul Protocol, with a view to establishing accountability and bringing those responsible for the complainant's treatment to justice; (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 in implementing the provisions of the Convention, and to allow family visits in prison; and (d) inform the Committee, within 180 days of the date of transmittal of the decision, of the steps taken in response to the views expressed.

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37. On 9 February 2017, the State party submitted that it objected to the Committee's decision in the case, due to the contents and timing of the decision. The State party claimed that it had already strongly objected to the admissibility of the communication in April 2015, as the domestic remedies were pending at that time. However, despite the State party's requests, the decision on admissibility was unfortunately not revoked. As such the Committee did not respect the principle of non-interference with the ongoing domestic judicial procedures. Furthermore, despite the State party's submission of 20 September 2016 on the referral of the complainant's case by the Court of Cassation to the Court of Appeal in Rabat for re-examination, the Committee, by taking a decision on the merits favoured the complainant's claims, which had not yet been proven.

38. The State party considered that it is not the Committee's role to assess the veracity of facts, which purportedly occurred in the territory of the State party, in substituting national jurisdiction. The State party further objected to the Committee's decision on the merits, as it pre-empted the procedure that was pending before the Court of Appeal in Rabat. Consequently, the State party refused any attempts to influence ongoing national judicial procedures. The State party also informed the Committee that it was not going to exchange any information with it regarding this case or any other pending cases until the State party's judicial authorities reached final decisions.

39. On 13 February 2017, the State party's submission was transmitted to the complainant for comments.

40. On 3 March 2017, the complainant submitted that the State party had refused to implement the Committee's decision. He also submitted that the Court of Cassation had annulled his conviction, together with that of other accused, only after the Committee had started its consideration of the merits of the case in August 2016. Furthermore, the State party allegedly started to investigate the complainant's allegations of torture only after the Committee's decision on the merits. The complainant was reportedly visited by police officers on two occasions to enquire about his allegations of torture prior to the resumption of the proceedings before the Court of Appeal on 26 December 2016. The complainant, however, refused to be interviewed in the absence of a lawyer.

41. The complainant maintained that, although the State party finally opened an investigation into his allegations of torture, more than six years after the alleged incidents of torture, it should be held responsible for the previous violations of the Convention in his

case. He considers that the circumstances of his case are in contrast with the State party's efforts to contribute to the eradication of torture and ill-treatment internationally.

42. On 26 December 2016, a new process against the complainant and 23 other co-accused opened before the Court of Appeal in Rabat in relation to the same events in Gdeim Izik, for which they had been accused and convicted in 2013 on the basis of forced confessions. During the four days of hearing, the process was allegedly full of irregularities, which put into question the principle of equality before the courts and the impartiality of the judges. On the same day, the complainant's counsel unsuccessfully requested that the client be released from detention.

43. On 25 January 2017, the counsels of the co-accused requested that the protocols on explanations provided to the police be annulled as they had been extracted by torture. Since the judge had decided to examine the validity of the statements by the defendants at the end of the process, the complainant considered that the continued reliance on forced confessions represented a new violation of article 15 of the Convention. The judge ordered a medico-forensic examination of the accused to evaluate the veracity of their allegations of torture. However, the judge did not comply with the counsels' requests that the medico-forensic examination of the accused be conducted in the presence of an independent and impartial international expert with forensic expertise in the implementation of the Istanbul Protocol and that the protocols on explanations provided to the police that were reportedly extracted by torture be disregarded.

44. In addition, on 5 February 2017, the complainant's spouse was once again prevented from entering Morocco via the airport in Casablanca, which the complainant considered as a new form of reprisal. He stated that he continued to suffer from the violations of the Convention that had been enunciated by the Committee and requested the Committee to ensure that the State party implemented its decision fully.

45. Since the investigation of the complainant's allegations of torture was still pending and, further to a meeting with the representative of the Permanent Mission of Morocco to the United Nations Office and other international organizations in Geneva, the Committee decided to keep the follow-up dialogue open and to request the State party to provide information, within 60 days, on the measures taken to implement the Committee's decision, including compensation and investigation.

## **L. Communication No. 628/2014**

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*J.N. v. Denmark*

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Decision adopted on:	13 May 2016
Violation:	Articles 3 and 22
Remedy:	The Committee decided that the deportation of the complainant to Sri Lanka would amount to a breach of article 3 of the Convention by the State party and was of the view that the State party had an obligation, in accordance with article 3 of the Convention, to refrain from forcibly returning the complainant to Sri Lanka or to any other country where there was a real risk of him being expelled or returned to Sri Lanka.

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46. On 15 December 2016, the State party submitted that the Refugee Appeals Board had taken a new decision on the complainant's application on 14 November 2016. After reopening the complainant's asylum case and taking into account the background information available on the Eelam People's Democratic Party, the Board found that the complainant risked persecution under section 7 (1) of the Aliens Act if returned to his country of origin. The Board therefore granted residence to the applicant under section 7 (1) of the Aliens Act.

47. Consequently, the State party considered that it had given full effect to the Committee's decision by reconsidering the complainant's claim for asylum on 14 November 2016 and subsequently granting him asylum under section 7 (1) of the Aliens Act.

48. The State party also submitted that it had taken the necessary and relevant steps to prevent similar violations in the future, inter alia, by drawing the Committee's decision to the attention of the Coordination Committee of the Board, making it public in its annual report and posting it on the websites of the Board and of the Ministry of Foreign Affairs.

49. On 16 March 2017, the State party's submission was transmitted to the complainant's counsel for information. On 12 April 2017, the counsel expressed satisfaction that the complainant had been granted asylum after more than eight years but claimed that the review of the complainant's asylum application took place only after the Committee had taken a decision in his case. The counsel submitted that the work of the Committee would not have been necessary if Denmark had its own safeguards of due process, including in particular an appeal procedure against the decisions of the Board before the national courts.

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

## **M. Communication No. 634/2014**

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*M.B. et al. v. Denmark*

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Decision adopted on: 25 November 2016

Violation: Article 3

Remedy: The Committee was of the view that the State party had 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.

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51. On 21 March 2017, the State party submitted that, on 16 January 2017, the Danish Refugee Appeals Board had decided to reopen the complainants' asylum cases for review at an oral Board hearing before a new panel, in order to reconsider the complainants' applications for asylum in the light of the Committee's decision. The Board therefore reconsidered the complainants' applications for asylum at a hearing on 2 March 2017.

52. Prior to the hearing, on 23 February 2017, the complainants' counsel submitted a new brief in the case. At the hearing before the Board, the complainants were allowed to make statements before the Board, assisted by their counsel. However, the Board maintained that the conditions for residence under section 7 (1) or 7 (2) of the Aliens Act had not been satisfied, since the statements given by the male and female complainants were considered as fabricated and non-credible. In its decisions of 14 March 2017, the Board ordered the complainants to leave Denmark within seven days of the date that the decisions were served on them.

53. It appeared from the Board's decisions that, in the light of the Committee's decision in this case, the Board had fully reconsidered the complainants' asylum cases, taking into account the State party's obligations under the Convention and the Committee's decision. The State party submitted that it had given full effect to the Committee's decision. Moreover, the Committee's decision was published on the Board's website, discussed by the Coordination Committee of the Board and included in its annual report. The State party therefore considered that it had taken the necessary and relevant steps to prevent similar violations in the future and that full effect had been given to the decision adopted by the Committee on 25 November 2016.

54. On 11 April 2017, the State party's submission was transmitted to the complainants for comments (by 11 June 2017).

55. The Committee decided to keep the follow-up dialogue open and to consider the next steps during its sixty-first session.

## **N. Communication No. 682/2015**

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*Alhaj Ali v. Morocco*

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Decision adopted on: 3 August 2016

Violation: Article 3

Remedy: The Committee concluded that the extradition of the complainant to Saudi Arabia would constitute a breach of article 3 of the Convention. The Committee was of the view that, since the complainant had been in pretrial detention for almost two years, the State party had the obligation to release him or to try him if charges are brought against him in Morocco.

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56. On 2 December 2016, the complainant submitted that he had been in detention awaiting extradition in Morocco since 30 October 2014 and that the State party had not implemented the Committee's decision as he was still deprived of his liberty. He stated that extradition detention was harmful to a detainee, who can legally be deprived of his liberty only on the basis of adjudication by a court; otherwise such detention would amount to arbitrary detention.

57. In those circumstances, the complainant called on the Committee to urge the State party to implement its decision as soon as possible and terminate his arbitrary detention.

58. On 24 January 2017, the complainant's submission was transmitted to the State party for observations (by 24 February 2017) on the measures taken to implement the Committee's recommendations.

59. On 8 March 2017, the complainant informed the Committee that, while he was on a hunger strike to protest against his detention for almost three years, he was visited on 1 March 2017 by unidentified officials of the State party who reportedly told him that he would never be freed, that he would spend his life in prison in Morocco and that he should accept to be extradited to Saudi Arabia. It was reportedly proposed that the complainant sign an acceptance form for him to be finally extradited. The complainant, who had recently attempted to commit a suicide and who had repeatedly been on hunger strikes, finally agreed to sign a document to accept an extradition, mainly due to his protracted psychological distress. However, the next day, the complainant called his counsel to complain that he was forced to sign a document accepting extradition, which stated that he "preferred to be exposed once again to torture and ill-treatment in Saudi Arabia, rather than spend the rest of his life in prison" as threatened. The complainant considered that the psychological pressure amounting to extortion not only constituted a violation of article 22 of the Convention, for non-compliance with the Committee's decision, but represented a form of psychological torture, or at least particularly cruel, inhuman or degrading treatment. The complainant added that he had been informed by the Penitentiary Administration of the State party that it did not intend to respect the Committee's decision in this case and consequently had no obligation to release the complainant from detention.

60. In the light of the gravity of the complainant's allegations, on 10 March 2017, the Committee's Special Rapporteurs on reprisals and on follow-up on decisions adopted under article 22 of the Convention requested the State party to urgently provide the Committee the necessary clarifications on the complainant's situation (by 31 March 2017).

61. The Committee decided to keep the follow-up dialogue open and, further to a meeting with the representative of the Permanent Mission of Morocco to the United

Nations Office and other international organizations in Geneva, to request the State party to provide information, within 60 days, on the measures taken to implement the Committee's decision in this case.

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