

NORWAY

Follow-up - Jurisprudence Action by Treaty Bodies

CAT, A/62/44 (2007)

...

VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

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Complaints in which the Committee has found violations of the Convention up to the thirty-eighth session

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State party	NORWAY
Case	Dar, 249/2004
Nationality and country of removal if applicable	Pakistani to Pakistan
Views adopted on	11 May 2007
Issues and violations found	Removal - article 22
Interim measures granted and State party response	Requested but not acceded to by the State party ¹¹
Remedy recommended	None - State party has already remedied the breach.
Due date for State party response	Not yet due (not yet implemented)

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11/ "The Committee recalls that the State party, by ratifying the Convention and voluntarily accepting the Committee's competence under article 22, undertook to cooperate with the Committee in good faith in applying and giving full effect to the procedure of individual complaints established thereunder. The Committee also notes that the Convention (art. 18) vests it with competence to establish its own rules of procedure, which become inseparable from the Convention to the extent they do not contradict it. In this case, rule 108 of the rules of procedure

is specifically intended to give meaning and scope to articles 3 and 22 of the Convention, which otherwise would only offer asylum-seekers invoking a serious risk of torture a merely theoretical protection. By failing to respect the request for interim measures made to it, and to inform the Committee of the deportation of the complainant, the State party committed a breach of its obligations of cooperating in good faith with the Committee, under article 22 of the Convention. However, in the present case, the Committee observes that the State party facilitated the safe return of the complainant to Norway on 31 March 2006, and that the State party informed the Committee shortly thereafter, on 5 April. In addition, the Committee notes that the State party has granted the complainant a residence permit for 3 years. By doing so, it has remedied the breach of its obligations under article 22 of the Convention.”

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CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

D. Follow up activities

93. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non response, and upon the receipt henceforth of all letters from complainants concerning non implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow up visits to States parties; preparing periodic reports for the Committee on his/her activities.

94. During its thirty fourth session, the Committee, through its Special Rapporteur on follow up to decisions, decided that in cases in which it had found violations of the Convention, including Decisions made by the Committee prior to the establishment of the follow up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the Decisions...

95. Action taken by the States parties in the following cases complied fully with the Committee's Decisions and no further action will be taken under the follow up procedure:... *Dar v. Norway*⁵ (No. 249/2004);...

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99. Represented below is a comprehensive report of replies received with regard to all 45 cases in which the Committee has found violations of the Convention to date and in one case in which although the Committee did not find a violation of the Convention it did make a recommendation.

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5/ The State had already remedied the breach prior to consideration of the case.

**Complaints in which the Committee has found violations of the
Convention up to the fortieth session**

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State party	NORWAY
Case	Dar, 249/2004
Nationality and country of removal if applicable	Pakistani to Pakistan
Views adopted on	11 May 2007
Issues and violations found	Removal - article 22
Interim measures granted and State party response	Requested but not acceded to by the State party. ¹¹
Remedy recommended	None - State party has already remedied the breach
Due date for State party response	N/A

...

11/ “The Committee recalls that the State party, by ratifying the Convention and voluntarily accepting the Committee’s competence under article 22, undertook to cooperate with the Committee in good faith in applying and giving full effect to the procedure of individual complaints established thereunder. The Committee also notes that the Convention (art. 18) vests it with competence to establish its own rules of procedure which become inseparable from the Convention to the extent they do not contradict it. In this case, rule 108 of the rules of procedure is specifically intended to give meaning and scope to articles 3 and 22 of the Convention, which otherwise would only offer asylum-seekers invoking a serious risk of torture a merely theoretical protection. By failing to respect the request for interim measures made to it, and to inform the Committee of the deportation of the complainant, the State party committed a breach of its obligations of cooperating in good faith with the Committee, under article 22 of the Convention. However, in the present case, the Committee observes that the State party facilitated the safe return of the complainant to Norway on 31 March 2006, and that the State party informed the Committee shortly thereafter, on 5 April. In addition, the Committee notes that the State party has granted the complainant a residence permit for 3 years. By doing so, it has remedied the breach of its obligations under article 22 of the Convention.”

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VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

D. Follow-up activities

89. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non response, and upon the receipt henceforth of all letters from complainants concerning non implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow up visits to States parties; preparing periodic reports for the Committee on his/her activities.

90. During its thirty fourth session, the Committee, through its Special Rapporteur on follow up to decisions, decided that in cases in which it had found violations of the Convention, including decisions made by the Committee prior to the establishment of the follow up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the decisions. ...

91. Action taken by the States parties in the following cases complied fully with the Committee's decisions and no further action will be taken under the follow up procedure: ... *Dar v. Norway*⁴ (No. 249/2004); ...

...

95. Represented below is a comprehensive report of replies received with regard to all 48 cases in which the Committee has found violations of the Convention to date and in 1 case in which although the Committee did not find a violation of the Convention it did make a recommendation.

Complaints in which the Committee has found violations of the Convention up to the forty-second session

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State party

NORWAY

Case

Dar, 249/2004

Nationality and country of removal if applicable	Pakistani to Pakistan
Views adopted on	11 May 2007
Issues and violations found	Removal - article 22
Interim measures granted and State party response	Requested but not acceded to by the State party. ¹⁰
Remedy recommended	None - State party has already remedied the breach.
Due date for State party response	N/A
Committee's decision	No consideration under the follow-up procedure necessary.

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4/ The State had already remedied the breach prior to consideration of the case.

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10/ "The Committee recalls that the State party, by ratifying the Convention and voluntarily accepting the Committee's competence under article 22, undertook to cooperate with the Committee in good faith in applying and giving full effect to the procedure of individual complaints established thereunder. The Committee also notes that the Convention (art. 18) vests it with competence to establish its own rules of procedure which become inseparable from the Convention to the extent they do not contradict it. In this case, rule 108 of the rules of procedure is specifically intended to give meaning and scope to articles 3 and 22 of the Convention, which otherwise would only offer asylum-seekers invoking a serious risk of torture a merely theoretical protection. By failing to respect the request for interim measures made to it, and to inform the Committee of the deportation of the complainant, the State party committed a breach of its obligations of cooperating in good faith with the Committee, under article 22 of the Convention. However, in the present case, the Committee observes that the State party facilitated the safe return of the complainant to Norway on 31 March 2006, and that the State party informed the Committee shortly thereafter, on 5 April. In addition, the Committee notes that the State party has granted the complainant a residence permit for 3 years. By doing so, it has remedied the breach of its obligations under article 22 of the Convention."

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CAT, A/65/44 (2010)

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CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

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D. Follow-up activities

108. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non-response, and upon the receipt henceforth of all letters from complainants concerning non-implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow-up visits to States parties; preparing periodic reports for the Committee on his/her activities.

109. During its thirty-fourth session, the Committee, through its Rapporteur for follow-up of decisions on complaints, decided that in cases in which it had found violations of the Convention, including decisions made by the Committee prior to the establishment of the follow-up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the decisions. To date, the following countries have not yet responded to these requests: Canada (with respect to *Tahir Hussain Khan*, No. 15/1994); Serbia¹ and Montenegro (with respect to *Dimitrov*, No. 171/2000,² *Danil Dimitrijevic*, No. 172/2000, *Nikolić, Slobodan and Ljiljana*, No. 174/2000, *Dragan Dimitrijevic*, No. 207/2002 and *Besim Osmani v. Republic of Serbia*, No. 261/2005); and Tunisia (with respect to *Ali Ben Salem*, No. 269/2005).

110. Action taken by the States parties in the following cases complied fully with the Committee's decisions and no further action will be taken under the follow-up procedure: *Halimi-Nedibi Quani v. Austria* (No. 8/1991); *M.A.K. v. Germany* (No. 214/2002);³ *Hajrizi Dzemajl et al. v. Serbia and Montenegro* (No. 161/2000), *the Netherlands* (with respect to A.J., No. 91/1997); *Mutombo v. Switzerland* (No. 13/1993); *Alan v. Switzerland* (No. 21/1995); *Aemei v. Switzerland* (No. 34/1995); *V.L. v. Switzerland* (No. 262/2005); *El Rgeig v. Switzerland* (No. 280/2005); *Tapia Paez v. Sweden* (No. 39/1996); *Kisoki v. Sweden* (No. 41/1996); *Tala v. Sweden* (No. 43/1996); *Avedes Hamayak Korban v. Sweden* (No. 88/1997); *Ali Falakflaki v.*

Sweden (No. 89/1997); *Orhan Ayas v. Sweden* (No. 97/1997); *Halil Haydin v. Sweden* (No. 101/1997); *A.S. v. Sweden* (No. 149/1999); *Chedli Ben Ahmed Karoui v. Sweden* (No. 185/2001); *Dar v. Norway*⁴ (No. 249/2004); *Tharina v. Sweden* (No. 266/2003); *C.T. and K.M. v. Sweden* (No. 279/2005); and *Jean-Patrick Iya v. Switzerland* (No. 299/2006).

111. In the following cases, the Committee considered that for various reasons no further action should be taken under the follow-up procedure: *Elmi v. Australia* (No. 120/1998); *Arana v. France* (No. 63/1997); and *Ltaief v. Tunisia* (No. 189/2001). In one case, the Committee deplored the State party's failure to abide by its obligations under article 3 having deported the complainant, despite the Committee's finding that there were substantial grounds for believing that he would be in danger of being tortured: *Dadar v. Canada* (No. 258/2004). In one case, given the author's voluntary return to his country of origin, the Committee decided not to consider the case any further under the follow-up procedure: *Falcon Rios v. Canada* (No. 133/1999).

112. In the following cases, either further information is awaited from the States parties or the complainants and/or the dialogue with the State party is ongoing: *Dadar v. Canada* (No. 258/2004); *Brada v. France* (No. 195/2003); *Guengueng et al. v. Senegal* (No. 181/2001); *Ristic v. Serbia and Montenegro* (No. 113/1998); *Blanco Abad v. Spain* (No. 59/1996); *Urta Guridi v. Spain* (No. 212/2002); *Agiza v. Sweden* (No. 233/2003); *Thabti v. Tunisia* (No. 187/2001); *Abdelli v. Tunisia* (No. 188/2001); *M'Barek v. Tunisia* (No. 60/1996); *Saadia Ali v. Tunisia* (No. 291/2006); *Chipana v. Venezuela* (No. 110/1998); *Pelit v. Azerbaijan* (No. 281/2005); *Bachan Singh Sogi v. Canada* (No. 297/2006); *Tebourski v. France* (No. 300/2006); and *Besim Osmani v. Republic of Serbia* (No. 261/2005).

113. During the forty-third and forty-fourth sessions, the Rapporteur for follow-up of decisions on complaints presented new follow-up information that had been received since the last annual report with respect to the following cases: *Guengueng et al. v. Senegal* (No. 181/2001); *Agiza v. Sweden* (No. 233/2003); *Bachan Singh Sogi v. Canada* (No. 297/2006); *Falcon Rios v. Canada* (No. 133/1999); *Blanco Abad v. Spain* (No. 59/1996); *Urta Guridi v. Spain* (No. 212/2002); *M'Barek v. Tunisia* (No. 60/1996); *Saadia Ali v. Tunisia* (No. 291/2006).

114. Represented below is a comprehensive report of replies received with regard to all 49 cases in which the Committee has found violations of the Convention to date and in 1 case in which although the Committee did not find a violation of the Convention it did make a recommendation.

¹ On 11 June 2008, following requests by the Committee to Serbia and Montenegro to confirm which State would be following up on Decisions adopted by the Committee and registered against the State party "Serbia and Montenegro", the Secretariat received a response from Montenegro only which stated that all the cases were within the remit of the Republic of Serbia.

² In December 2009, the Secretariat learned verbally from the State party that this case had been subsequently reopened but nothing has been received in writing to this effect.

³ Although no violation was found in this case, the Committee welcomed the State party's readiness to monitor the complainant's situation and subsequently provided satisfactory information in this regard (see chart below).

⁴ The State had already remedied the breach prior to consideration of the case.

Complaints in which the Committee has found violations of the Convention up to the forty-fourth session

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State party	Norway
Case	Dar. 249/2004
Nationality and country of removal if applicable	Pakistani to Pakistan
Views adopted on	11 May 2007
Issues and violations found	Removal - Article 22
Interim measures granted and State party response	Requested but not acceded to by the State party ¹¹
Remedy recommended	None - State party has already remedied the breach
Due date for State party response	None
Committee's decision	No consideration under the follow-up procedure is necessary

...

¹¹ "The Committee recalls that the State party, by ratifying the Convention and voluntarily accepting the Committee's competence under article 22, undertook to cooperate with the

Committee in good faith in applying and giving full effect to the procedure of individual complaints established thereunder. The Committee also notes that the Convention (art. 18) vests it with competence to establish its own rules of procedure which become inseparable from the Convention to the extent they do not contradict it. In this case, rule 108 of the rules of procedure is specifically intended to give meaning and scope to articles 3 and 22 of the Convention, which otherwise would only offer asylum-seekers invoking a serious risk of torture a merely theoretical protection. By failing to respect the request for interim measures made to it, and to inform the Committee of the deportation of the complainant, the State party committed a breach of its obligations of cooperating in good faith with the Committee, under article 22 of the Convention. However, in the present case, the Committee observes that the State party facilitated the safe return of the complainant to Norway on 31 March 2006, and that the State party informed the Committee shortly thereafter, on 5 April. In addition, the Committee notes that the State party has granted the complainant a residence permit for 3 years. By doing so, it has remedied the breach of its obligations under article 22 of the Convention.”