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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. 644/2014*, **

Communication submitted by:	R.O. (represented by counsel, Lena Isaksson)
Alleged victims:	The complainant and her three minor daughters
State party:	Sweden
Date of complaint:	8 December 2014 (initial submission)
Date of present decision:	18 November 2016
Subject matter:	Deportation to Nigeria
Procedural issues:	None
Substantive issues:	Non-refoulement; risk of torture upon return to country of origin
Article of the Convention:	3

1.1 The complainant is R.O., born on 21 October 1975. She submits the complaint on her own behalf and on behalf of her three minor daughters: X., Y. and Z., born on 2 November 2005, 29 November 2008 and 19 October 2012, respectively. All are Nigerian nationals. She claims that, by deporting her daughters and herself to Nigeria, the State party would violate their rights under article 3 of the Convention. The Convention came into force in the State party on 26 June 1987, and it has made the declaration under article 22 of the Convention. The complainant is represented by counsel.

1.2 On 18 December 2014, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party not to expel the complainant and her daughters to Nigeria while their complaint was being considered by the Committee.

* Adopted by the Committee at its fifty-ninth session (7 November-7 December 2016).

** The following members of the Committee participated in the examination of the communication: Essadia Belmir, Alessio Bruni, Felice Gaer, Abdelwahab Hani, Claude Heller Rouassant, Jens Modvig, Sapana Pradhan-Malla, Ana Racu, Sébastien Touzé and Kening Zhang.

The facts as presented by the complainant

2.1 The complainant is a Catholic Christian who belongs to the Esan (or Ishan) ethnic group. She grew up in Benin City, Edo State, Nigeria. She submits that, in 2000, she moved to Italy, where she worked and had a temporary residence permit. She worked firstly as a babysitter and then as an employee in a porcelain company. She married her now ex-husband in 2004; he is also a Nigerian national, from the Uromi ethnic group. They have three daughters. The first two children were born in Italy and the third in Sweden. In 2008, the complainant lost her job. She claims that, since she was unemployed, she became dependent on her husband's residence permit, and would lose her permit if her husband became unemployed or if she divorced him.

2.2 The complainant's then mother-in-law, living in Nigeria, insisted that the daughters should undergo female genital mutilation. Following a family visit to Nigeria in 2010, the complainant's husband also started to insist. When the complainant refused, he became aggressive and abused her physically. The complainant submits that, on an unspecified date, she informed the Italian welfare services of the situation; that she was told that an agreement had to be personally reached with her husband; and that she did not denounce her ex-husband's abuses for fear of losing her residence permit, and because she did not believe the Italian authorities would provide her with assistance. In 2012, when she was pregnant with her third daughter, she decided to leave her husband because she feared that he would use the opportunity to take the two older daughters to Nigeria when she was hospitalized to give birth.

2.3 On 1 September 2012, while pregnant with her third child, the complainant arrived in Sweden with her other two daughters and applied for asylum on the same day. She claimed that, if her daughters were returned to Nigeria or Italy, they would be at risk of female genital mutilation performed on the instructions of their father and grandmother. Furthermore, her siblings, living in Nigeria, had had their own children mutilated and also supported such practices. On 3 April 2013, the Swedish Migration Agency rejected her application. It stated that her account did not fit the requirement of being probable and credible, since she had been able to protect her daughters against female genital mutilation thus far; that she had not turned to the Italian or Nigerian authorities for protection; and that she had not submitted any written documents to support her asylum request. Moreover, the complainant had no problem with the authorities in her country of origin. The Migration Agency also noted that 30 per cent of all women in Nigeria were genitally mutilated; that the practice was most common in the southern areas of Nigeria, performed by Igbo and Yoruba ethnic groups; that 82.4 per cent of victims of female genital mutilation were mutilated during the first year of age, 1.6 per cent between the ages of 1 and 4 years, and 12.5 per cent after 5 years of age; that, according to a country report about Nigeria, the number of female genital mutilations had decreased; and that Edo State had a ban on female genital mutilation and the law had criminalized the act.[1] Against this background, it found that it was unlikely that the complainant's daughters would face the risk of being subjected to female genital mutilation if returned to Nigeria, and that it was not against the three children's best interests to return them to Nigeria, along with their mother. Accordingly, the Migration Agency gave the complainant four weeks to leave the country voluntarily with her children.

2.4 On 25 April 2013, the complainant appealed the Migration Agency's decision before the Migration Court. She submitted that, despite the ban on female genital mutilation in Edo State, the practice of female genital mutilation continued, as shown by the fact that there was no information that anyone had been prosecuted for such acts; that those

[1] The Migration Agency's decision refers, inter alia, to the *Operational Guidance Note: Nigeria* issued by the Home Office of the United Kingdom of Great Britain and Northern Ireland in January 2013.

responsible had never been prosecuted because of police inaction; and that the Nigerian authorities would therefore not be able to protect the complainant's children from female genital mutilation. Since her family in Nigeria all practised female genital mutilation, she would not be able to protect her children herself. Finally, the complainant contended that the Migration Agency had failed to take adequately into account her and her children's special vulnerability. The children had never lived in Nigeria and the complainant herself had left her country in 2000. If returned, she would have no network which would help her find work and no means for her and her children's protection.

2.5 On 18 October 2013, the Migration Court rejected the complainant's appeal. The Migration Court pointed out that the State of Edo had banned female genital mutilation; that a number of non-governmental organizations (NGOs) were working in this field locally; that the practice of female genital mutilation was most frequent in the Yoruba and Igbo ethnic groups; and that the complainant had therefore not proved it probable that Nigerian authorities were lacking willingness or authority to protect her and her children. Moreover, the general situation in Nigeria was not so severe that it justified, in itself, a right to a residence permit in Sweden.[2]

2.6 On 5 November 2013, the complainant appealed this decision before the Migration Court of Appeal. She argued, inter alia, that women from her own and her ex-husband's ethnic groups were usually mutilated in Nigeria, and that female genital mutilation was practised by her own family.

2.7 On 17 December 2013, the Migration Court of Appeal decided not to grant leave to appeal. The decision to expel the complainant and her daughters became final and non-appealable.

2.8 On 8 or 9 July 2014, the complainant requested suspension of the deportation order and re-examination of her case in the light of the changing security situation in Nigeria, and reiterated that her three daughters would be at risk of female genital mutilation if deported. She pointed out that she was a divorced single mother with three daughters, who had no possibility of protection from the Nigerian authorities. She further argued that her three daughters had developed strong ties with Sweden.

2.9 On 30 September 2014, the Migration Agency rejected the complainant's request for re-examination of her case. It stated that the general situation in Edo State had not changed, and that the fact that two of her daughters were in the Swedish education system and that the family participated in local church activities was no proof that they had a special link with Sweden. Finally, it considered that, even though the general human rights situation had worsened in northern regions of the country, such was not the case in the south, where the complainant comes from. Accordingly, the Migration Agency stated that the measure to enforce the decision must continue.

2.10 On 14 October 2014, the complainant appealed once again to the Migration Court on the same grounds. She added as new circumstances that Boko Haram had expanded its control over more territory in Nigeria, and that there was an increased risk of Ebola virus disease in the country.

2.11 On 20 October 2014, the Migration Court rejected the appeal on the grounds that there were no new circumstances related to the risk of female genital mutilation, that Boko Haram was active mainly in northern Nigeria, and that the risk of Ebola virus disease did not qualify as a new circumstance under the Swedish Aliens Act.

[2] The Migration Court refers to the Swedish Ministry for Foreign Affairs general country information report for 2010, available from www.manskligarattigheter.se/sv/manskliga-rattigheter-i-varlden/ud-s-rapporter-om-manskliga-rattigheter/afrika-och-soder-om-sahara?c=Nigeria.

2.12 On 28 November 2014, the complainant appealed this decision before the Migration Court of Appeal, claiming that the Migration Court had made an incorrect assessment of the risk posed by Boko Haram and the Ebola health crisis. Boko Haram attacks had increased in intensity at the time of the appeal, and the security situation for civilians in Nigeria had been worsening for a year.

2.13 On 3 December 2014, the Migration Court of Appeal did not grant leave to appeal, and the Migration Board's order expulsing the complainant and her daughters from the territory of the State party assumed legal force.

The complaint

3.1 The complainant claims that, by deporting her daughters and herself to Nigeria, the State party would violate article 3 of the Convention, as her daughters would be at risk of female genital mutilation in accordance with the wishes of her ex-husband, her ex-mother-in-law and the local community in general.

3.2 Edo State, where the complainant comes from, has never prosecuted anyone for performing female genital mutilation. If the complainant and her daughters are returned to their country of origin, the complainant asserts that the Nigerian authorities will not provide them with any protection, given that the police system is inefficient in female genital mutilation cases. In this connection, the complainant points out that she never contacted the Nigerian authorities because she never lived in Nigeria with her husband; that she had informed the welfare social services in Italy about the problems with her husband, but they did not help her and only suggested that she solve this family problem by reaching an agreement with her husband. She claims that such agreement would mean putting her children at risk of female genital mutilation. In addition, owing to the activities of armed groups such as Boko Haram, violence and human rights violations have increased in Nigeria. Since 2012, Boko Haram has killed more than 5,000 people, burned more than 300 schools and deprived more than 10,000 children of an education. If the complainant and her daughters escape to another part of Nigeria in order to get away from her ex-husband, ex-mother-in-law and her own family, they would be in danger of being victims of this armed group, in particular because of their Christian faith.[3]

State party's observations on admissibility and the merits

4.1 On 17 June 2015, the State party submitted its observations on admissibility and merits. It maintains that the complaint is inadmissible on grounds of lack of victim status of the complainant and her daughters and manifestly unfounded pursuant to article 22 (1) and (2) of the Convention.

4.2 The State party informs the Committee that, during the examination of the complainant's request for asylum, the Swedish Migration Agency contacted the Italian police in order to confirm whether the complainant and her daughters had resided in that country. On 6 December 2012, the Italian authorities informed them that the complainant was unknown in Italy and that no visa had been issued in her name. Since the complainant could not be sent back to Italy under the Dublin regulation, the Migration Agency proceeded to consider the case. However, on closer inspection of the document by the Swedish Police later on, it was clear that the complainant's date of birth had been incorrectly stated in the first request. Considering that the mistake might have been the

[3] The complainant refers to the United States Department of State's *Nigeria 2013 Human Rights Report*; Swedish Ministry of Foreign Affairs *Manskliga rattigheter i Nigeria 2010*; Human Rights Watch *World Report 2014: Nigeria*, available from https://www.hrw.org/world-report/2014/country-chapters/nigeria; and *Amnesty International Annual Report 2012*, available from https://www.amnesty.org/en/documents/pol10/001/2012/en/.

reason why the Italian authorities had not found her in their system, another request was sent to them. On 13 June 2014, the Swedish Police received confirmation that the complainant had been in Italy since at least 1998, and that in February 2012 she had been issued a permanent residence permit without any time limit. Furthermore, her first two daughters also held valid residence permits in Italy, and the Italian authorities had registered the information concerning the birth of her youngest daughter. In view of this, by a memorandum of 19 December 2014 the Swedish Police concluded that it was possible to transfer the complainant and her children to Italy or to enforce the order to return them to Nigeria. According to the memorandum, the complainant expressed unwillingness to return to Italy, since she did not know where she could live or how she would provide for her family. She further maintained that she no longer had contact with her ex-husband and that she did not know how to get in touch with him. Against that background, the State party maintains that it is possible to transfer the complainant and her children to Italy, where they will not risk any treatment contrary to the Convention. Thus, since they are no longer in immediate danger of removal to Nigeria, they are not victims within the meaning of article 22 of the Convention.[4]

4.3 The State party provides a description of relevant domestic legislation and points out that the complainant's case was considered in accordance with the Aliens Act of 2005. Provisions of the Act reflect the principles enshrined in article 3 of the Convention, and therefore the State party authorities apply the same kind of test when considering asylum applications as is used for article 3 of the Convention.

4.4 Should the Committee find the complaint admissible, the State party contends that the complainant has failed to demonstrate that she and her daughters would face a foreseeable, real and personal risk of harm if returned to Nigeria.[5] It recalls that the risk of torture must be assessed on grounds that go beyond mere theory or suspicion, and must be personal and present, even if it does not need to meet the test of being highly probable.[6] In this regard, the State party asserts that the existence of a consistent pattern of gross, flagrant or mass violations of human rights in a country does not, as such, constitute sufficient grounds for determining that a particular person would be in danger of being subjected to torture upon his or her return to that country.

4.5 Reports about the human rights situation in Nigeria[7] indicate that female genital mutilation is common in many parts of the country. Approximately 30 per cent of Nigerian women have been subjected to genital mutilation. The number varies greatly from region to region, and the greatest problem is in the south. The State party points out that a national law forbidding female genital mutilation was enacted by the Government in 2015. Moreover, on a state level, Edo State has also enacted laws against genital mutilation. These measures, along with the work of local and international NGOs, have reduced the number of female genital mutilations practised in Nigeria. The State party also maintains

[4] The State party refers to communication No. 264/2005, *A.B.A.O. v France*, decision adopted on 8 November 2007, paras. 8.3-8.4; and to the Human Rights Committee's Views concerning communication No. 1291/2004, *Dranichnikov v. Australia*, adopted on 20 October 2006, para. 6.3.

[5] The State party refers to communications No. 178/2001, *H.O. v Sweden*, Views adopted on 13 November 2001, para.13; and No. 203/2002, *A.R. v. Netherlands*, Views adopted on 14 November 2003, para. 7.3.

[6] The State party refers to communications No. 150/1999, *S.L. v. Sweden*, Views adopted on 11 May 2001, para. 6.3; and No. 213/2002, *E.J.V.M v. Sweden*, Views adopted on 14 November 2003, para. 8.3.

[7] The State party refers to the Swedish Ministry for Foreign Affairs *Manskliga rattigheter i Nigeria 2010* and to a report by the Immigration and Refugee Board of Canada, *Prevalence of female genital mutilation (FGM), including ethnic groups in which FGM is prevalent; available State protection*, 27 July 2010, available at www.ecoi.net/local_link/144821/259833_de.html.

that it does not underestimate the concerns regarding the general human rights situation in Nigeria. This situation, however, does not in itself establish that the complainant and her family would be personally at risk if expelled to their home country.

4.6 The State party maintains that its authorities are in a very good position to assess the information submitted by an asylum seeker and to assess the credibility of his or her claims. In the complainant's case, both the Swedish Migration Agency and the Migration Court conducted thorough examinations. The Migration Agency had an extensive interview with the complainant, which was conducted in the presence of a legal counsel and an interpreter, whom the complainant confirmed she understood well. The complainant was also given the opportunity to argue her case in writing before both the Migration Agency and the Migration Court. Throughout the asylum procedure, the complainant was represented by legal counsel. The Migration Agency and Migration Court had sufficient information to ensure that they had a solid basis for making a well-informed, transparent and reasonable risk-assessment. In the light of the material before them, they found that the complainant's and her daughters' return to Nigeria would not entail a violation of article 3 of the Convention. There is no reason to conclude that the authorities' decisions were inadequate or arbitrary. In this connection, the State party points out that the Committee is not an appellate body, and that considerable weight should be given to findings of facts that are made by organs of the State party concerned.

4.7 The State party notes that the complainant has not contacted the police authorities in Nigeria to report her ex-husband's and ex-mother-in-law's threats regarding female genital mutilation of the daughters, and that the country information does not support her view that a person seeking protection from the police for threats regarding female genital mutilation does not receive any help. This, combined with the fact that the complainant has not previously had any problems with the Nigerian authorities, shows that the complainant has not plausibly demonstrated that the law enforcement authorities in Nigeria lack the willingness or ability to provide protection for the complainant and her daughters.

4.8 The State party also points out that, in its decision, the Migration Agency stated that the expulsion would be executed by the complainants travelling to Nigeria, if they could not show that any other country would accept them. In this connection, it maintained that, if it was possible for an individual to abide by the authorities' decision on expulsion by travelling to another country where he or she would be admitted, the individual had an obligation to do so. Since, according to the Swedish Police memorandum of 19 December 2014, the complainant and her two older daughters have permanent residence permits for Italy, they may return to that country. It further submits that the complainant has not indicated that she has contacted the Italian authorities for protection. According to available information, Italy has specific criminal law provisions to address female genital mutilation,[8] and a large number of remedies exist under Italian law when there is a risk of such practices.

4.9 In conclusion, the State party reiterates that the complainant has failed to demonstrate that there are substantial grounds for believing that she and her daughters would personally be at risk of torture if returned to Nigeria or Italy. Consequently, their expulsion to Nigeria would not constitute a violation of article 3 of the Convention.

Complainant's comments on the State party's observations on admissibility

5.1 On 5 January 2016, the complainant provided her comments on the State party's observations and reiterated her previous allegations.

[8] The State party refers to a report by the European Institute for Gender Equality, *Female Genital Mutilation in the European Union and Croatia*, 2013, available from http://eige.europa.eu/sites/default/files/documents/eige-report-fgm-in-the-eu-and-croatia.pdf.

5.2 She submits that her permanent residence permit in Italy is dependent upon her ex-husband's permit and that, as the State party has not requested Italy to accept her transfer and that of her daughters, it is unknown whether Italy will allow her and her daughters to stay in Italy.

5.3 Even if the complainant's permanent residence permit in Italy were independent of that of her ex-husband's, it is still doubtful whether Italy would accept responsibility for her and her daughters, since the holder of a long-term resident's European Community permit needs to show that he or she has sufficient income to maintain himself or herself and the members of his or her family. According to Italian law, the residence permit can be revoked if the holder no longer fulfils the requirements for its issue. Since the complainant no longer has an income in Italy, she would risk her permit being revoked and being sent back to Nigeria with her daughters.

Further submissions by the State party

6. On 26 April 2016, the State party provided a further submission and reiterated its previous observations. It noted that there is nothing in the complainant's comments to suggest that she and her first two daughters no longer hold valid residence permits in Italy. The complainant's assertion that these permits may be revoked under some circumstances cannot lead to the conclusion that they are unable to return to Italy.

Issues and proceedings before the Committee

Consideration of admissibility

7.1 Before considering any complaint submitted in a communication, the Committee must decide whether it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22 (5) (a) of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

7.2 The Committee recalls that, in accordance with article 22 (5) (b) of the Convention, it shall not consider any complaint from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. It notes that in the present case, the State party has recognized that the complainant has exhausted all available domestic remedies. Accordingly, the complaint meets the admissibility requirement set forth in article 22 (5) (b) of the Convention.

7.3 The Committee takes note of the State party's argument that the complainant and her minor daughters are not to be considered victims within the meaning of article 22 of the Convention, since she and two of her daughters hold valid residence permits in Italy. They can therefore be transferred to that country, and thus they are presumably no longer in immediate danger of removal to Nigeria. The Committee observes that, in the present complaint, it is asked to determine whether removal of the complainant and her minor daughters to Nigeria would constitute a violation of the Convention; that the decision of the Migration Agency of 3 April 2013 which ordered their expulsion to Nigeria has been subsequently confirmed by the Migration Court and the Migration Court of Appeal; and that such order is valid and executable if the complainant and her daughters do not leave the State party voluntarily. Against this background, the Committee considers that, in the circumstances of the present case, the State party's observations about the complainant's possibility of returning to Italy cannot be disassociated from the complainant's other claims under article 3 of the Convention. Accordingly, the Committee considers that the complaint meets the admissibility requirement established in article 22 (1) of the Convention.

7.4 The Committee notes the State party's challenge to the admissibility of the complaint on the ground that the complainant's claims under article 3 of the Convention are manifestly ill-founded. The Committee considers, however, that the inadmissibility argument adduced by the State party is linked to the merits and should thus be considered at that stage. As the Committee finds no further obstacles to admissibility, it declares the present complaint admissible.

Consideration of the merits

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

8.2 In the present case, the issue before the Committee is whether the return of the complainant and her three minor daughters to Nigeria would constitute a violation of the State party's obligation under article 3 of the Convention not to expel or to return ("refouler") a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

8.3 The Committee must evaluate whether there are substantial grounds for believing that the complainant and her daughters would be personally in danger of being subjected to torture upon return to Nigeria. In assessing that risk, the Committee must take into account all relevant considerations, pursuant to article 3 (2) of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights. However, the Committee recalls that the aim of such determination is to establish whether the individual concerned would be personally at a foreseeable and real risk of being subjected to torture in the country to which he or she would be returned. It follows that the existence of a pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute sufficient reason for determining that a particular person would be in danger of being subjected to torture on return to that country; additional grounds must be adduced to show that the individual concerned would be personally at risk. Conversely, the absence of a consistent pattern of flagrant violations of human rights does not mean that a person might not be subjected to torture in his or her specific circumstances.

8.4 The Committee recalls its general comment No. 1 (1997) on the implementation of article 3 of the Convention, according to which the risk of torture must be assessed on grounds that go beyond mere theory or suspicion. While the risk does not have to meet the test of being highly probable (para. 6), the Committee recalls that the burden of proof generally falls on the complainant, who must present an arguable case that he or she faces a foreseeable, real and personal risk.[9] Although, under the terms of its general comment No. 1, the Committee is free to assess the facts on the basis of the full set of circumstances in every case, considerable weight is given to the findings of fact that are made by organs of the State party concerned (para. 9).[10]

8.5 The Committee takes note of the complainant's allegations that, if deported to Nigeria, her minor daughters would be subjected to female genital mutilation on the instructions of her ex-husband, her ex-mother-in-law or her own relatives. She claims that, following a family visit to Nigeria in 2010, her then mother-in-law and husband insisted that the daughters should undergo female genital mutilation; that to protect her daughters she moved from Italy, where she used to live with her husband, to Sweden in 2012; that despite the ban on female genital mutilation in Edo State, this practice continues; and that women from her and her ex-husband's ethnic groups are allegedly mutilated in Nigeria. She also claims that they would not be able to escape to other parts of the country and establish

[9] See also *A.R. v. Netherlands*, para. 7.3.

[10] See, inter alia, complaint No. 356/2008, *N.S. v. Switzerland*, decision adopted on 6 May 2010, para. 7.3.

their residence there owing to the human rights situation in Nigeria and, in particular, the violence caused by Boko Haram. The complainant further claims that returning to Italy is not an option for her (see paras. 5.2-5.3 above) and that as the State party has not requested Italy to accept her transfer and that of her daughters, it is unknown whether Italy will allow her and her daughters to stay in Italy.

8.6 The Committee also takes note of the State party's arguments that its authorities, including the Migration Court and the Migration Appeals Court, have thoroughly examined the complainant's allegations when considering her asylum requests, finding that her accounts were not plausible since she has failed to provide any evidence in support of her allegations. Moreover, she has been able to protect her daughters from female genital mutilation so far and has not had any personal incident in her country of origin. Nor has she reported the alleged threats of female genital mutilation to the Nigerian police or requested its protection. Likewise, the State party also maintains that it does not underestimate the concerns regarding the general human rights situation in Nigeria. However, this situation does not in itself establish that the complainant and her daughters would be personally at risk if expelled to their home country. The Committee also takes note of the State party's argument that the complainant and two of her daughters hold valid residence permits in Italy; that they can move to that country; and that they will not be at risk of female genital mutilation in Italy and will be able to request protection to the Italian authorities, in case of need.

8.7 The Committee recalls that female genital mutilation causes permanent physical harm and severe psychological pain to the victims, which may last for the rest of their lives, and considers that the practice of subjecting a woman to female genital mutilation is contrary to the obligations enshrined in the Convention.[11]

8.8 In the present case, the Committee observes that it is not disputed that the complainant belongs to the Esan ethnic group; that she lived in Edo State, in southern Nigeria, for more than two decades; that her ex-husband is from Uromi; that despite legislation punishing female genital mutilation, it is practised across Nigeria by various ethnic groups; and that approximately 30 per cent of women have been subjected to female genital mutilation. The complainant submits that the State party's authorities have failed to take duly into account the risk she and her daughters would face if removed to Nigeria, since the authorities in their country of origin will not be able to provide them with protection. Her claims mainly rely on the fact that there is no information concerning persons who have been prosecuted in Edo State for female genital mutilation practice. However, according to reports cited by the parties as well as information in the public domain,[12] in Nigeria most victims are subjected to female genital mutilation before their first birthday, female genital mutilation practice varies significantly among ethnic groups, and it remains most prevalent in southern regions among the Yoruba and Igbo ethnic groups. Against this background, the Committee observes that the complainant has not shown that female genital mutilation is practised by members of her ex-husband's or her own ethnic groups so as to put her minor daughters at real and personal risk of a violation of article 1 of the Convention. Moreover, although she lived for more than two decades in Nigeria, she has not adduced any allegations of being personally subjected to or at risk of female genital mutilation in her country of origin.

[11] See complaint No. 613/2014, *F.B. v. Netherlands*, decision adopted on 20 November 2015, para. 8.7.

[12] See United Nations Children's Fund (UNICEF), *Female Genital Mutilation/Cutting: a Statistical Overview and Exploration of the Dynamics of Change* (New York, 2013, pp. 27, 28, 34 and 50); United States Department of State, *Country Reports on Human Rights Practices for 2014: Nigeria*, available from https://www.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/#wrapper; United Kingdom Home Office, *Operational Guidance Note: Nigeria*, December 2013; and United Kingdom Home Office, *Operational Guidance Note: Nigeria*, January 2013.

8.9 The Committee further observes that, although the State party's authorities concluded that the complainant and her daughters were not entitled to refugee status or subsidiary protection, the decision of the Migration Agency of 3 April 2013, confirmed by the Migration Court and the Migration Court of Appeal, ordered their expulsion to Nigeria if they could not show that any other country would accept them. According to the Swedish Police memorandum of 19 December 2014, contained in the case file, after the complainant's asylum request was finally dismissed, on 13 June 2014, the Italian authorities, through the International Criminal Police Organization (INTERPOL), informed the Swedish Police that the complainant and two of her daughters held valid permanent residence permits in Italy, without any time limit. The complainant has not refuted this information and has not convincingly explained why they cannot return and reside in Italy. Rather, she has contended in general fashion that her residence permit in Italy is dependent upon her ex-husband's permit and that, even if her residence permit were independent of her husband's, she would risk her permit being revoked, since she will not able to show that she has sufficient income to provide for herself and her daughters. Furthermore, no information provided by the parties indicates that, upon return to Italy, the complainant and her minor daughters may be at real and personal risk of female genital mutilation there or that the Italian authorities will be unable or unwilling to protect them. The Committee also notes that Italy is party to the Convention; that it has made a declaration under article 22; and that the current findings do not preclude the author from submitting a complaint against Italy in the future, should she consider that her rights have been violated by that State party.

8.10 Accordingly, in the light of the considerations above, and on the basis of all the information submitted to the Committee by the parties, the Committee considers that the complainant has not provided sufficient evidence to enable it to conclude that her and her daughters' removal to Italy or their country of origin would expose them to a foreseeable, real and personal risk of treatment contrary to article 1 of the Convention. The Committee, however, is confident that the State party will give the complainant a reasonable time for her to leave the State party voluntarily, together with her minor children.

9. Accordingly, the Committee, acting under article 22 (7) of the Convention, concludes that the return of the complainant and her three minor daughters to Italy or Nigeria would not constitute a breach of article 3 of the Convention by the State party.