

CANADA

Follow-up - Jurisprudence Action by Treaty Bodies

CAT, A/60/44 (2005)

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

...

D. Follow-up activities

150. 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.

151. The Rapporteur on follow-up submitted an oral report to the Committee at its thirty-third session. The report contained information received since the thirty-second session from either the complainants or the States parties on the issue of follow-up to a number of decisions in which the Committee had found violations of the Convention. During the consideration of this report, the Committee requested the Special Rapporteur to provide information on follow-up to all decisions in which the Committee had found violations of the Convention, including decisions in which the Committee found violations, prior to the commencement of the Rapporteur's mandate.

152. During the thirty-fourth session, the Special Rapporteur presented a report on follow-up to all the Committee's decisions, including new information received from both the complainants and States parties since the thirty-third session. This report is provided below.

Report on follow-up to individual complaints to the¹ Committee against Torture

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

| Case | Date of adoption | Nationality of complainant and country of removal if applicable | Article of Covenant violated | Interim measures granted and State party's response | Remedy | Follow-up | Further action |
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| ... | | | | | | | |
| No.15/1994 <i>Tahir Hussain Khan v. Canada</i> | 15 Nov. 1994 | Pakistani to Pakistan | 3 | Requested and acceded to by the State party | The State party has an obligation to refrain from forcibly returning Tahir Hussain Khan to Pakistan | No information provided to Rapporteur, however, during the discussion of the State party report to the Committee against Torture in May 2005, the State party stated that the complainant had not been deported. | Request further information on the complainant's status in Canada |
| ... | | | | | | | |
| No. 133/1999 <i>Falcon Rio v. Canada</i> | 30 Nov. 2004 | Mexican to Mexico | 3 | Requested and acceded to by the State party | Relevant measures | On 9 March 2005, the State party provided information on follow-up. It stated that the complainant had submitted a request for a risk assessment prior to return to Mexico and that the State party would inform the Committee of the outcome. If the complainant could establish one of the motives for protection under the Immigration and Protection of Refugee's Law he would be able to present a request for permanent residence in Canada. The Committee's decision would be taken into account by the | Update to be requested |

| Case | Date of adoption | Nationality of complainant and country of removal if applicable | Article of Covenant violated | Interim measures granted and State party's response | Remedy | Follow-up | Further action |
|------|------------------|---|------------------------------|---|--------|--|----------------|
| | | | | | | <p>examining officer and the complainant would be heard orally if the Minister considered it necessary. Since the request for asylum had been considered prior to the entry into force of the Immigration and Protection of Refugee's Law, that is prior to June 2002, the immigration agent would not be restricted to assessing facts after the denial of the initial request but would be able to examine all the facts and information, old and new, presented by the complainant. In this context, it contested the Committee's finding in paragraph 7.5 of its decision in which it found that only new information could be considered during such a review.</p> <p>Finally, the State party contested the Committee's view that a humanitarian remedy did not constitute an effective remedy and referred to previous cases of the Committee in which the Committee itself found such remedies to be effective.⁵ It argued that the risk of torture could constitute a humanitarian motive and that the court could be requested to grant</p> | |

| Case | Date of adoption | Nationality of complainant and country of removal if applicable | Article of Covenant violated | Interim measures granted and State party's response | Remedy | Follow-up | Further action |
|------|------------------|---|------------------------------|---|--------|---|----------------|
| | | | | | | suspensive effect pending such a decision. According to the State party, at the time of the consideration of the report to the Committee, the authorities had not yet completed their reassessment of the risk of return. | |
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¹ The present report reflects information up to the end of the thirty-fourth session.

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⁵ *S.V. v. Canada*, communication No. 49/1996; *L.O. v. Canada*, communication No. 95/1997; *R. K. v. Canada*, communication No. 42/1996.

CAT/C/SR.717 (2006)

COMMITTEE AGAINST TORTURE

Thirty-sixth session

SUMMARY RECORD OF THE 717th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 16 May 2006, at 10 a.m.

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CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE CONVENTION
(agenda item 9) (continued)

50. The CHAIRPERSON invited the Special Rapporteur to introduce the report on follow-up activities (document without a symbol) relating to the Committee's decisions on complaints submitted under article 22 of the Convention.

51. Mr. MARIÑO MENÉNDEZ, Special Rapporteur on Follow-up, summarized the comprehensive report on replies received with regard to all cases in which the Committee had found violations of the Convention and one case in which it had not found a violation but had made a recommendation.

52. It was proposed to send reminders requesting information or updates to the following States parties with regard to the specified communications: Austria (Halimi-Nedibi Quani, 8/1991); Canada (Tahir Hussain Khan, 15/1994; Falcon Ríos, 133/1999); France (Brada, 195/2003); Netherlands (A, 91/1997); Serbia and Montenegro (Ristic, 113/1998; Hajrizi Dzemajl et al., 161/2000; Nikolic, 174/2000; Dimitrijevic, Dragan, 207/2002); Spain (Ecaración Blanco Abad, 59/1996; Urra Guridi, 212/2002); Sweden (Tharina, 226/2003; Agiza, 233/2003); Venezuela (Chipana, 110/1998).

53. In the case of Dadar v. Canada (258/2004), a note verbale had been sent to the State party on 13 March 2006 expressing concern that the complainant was to be deported to Iran despite the Committee's decision concerning Canada's obligations under article 3 of the Convention. Following the complainant's deportation on 26 March 2006, a second note verbale had been sent to the State party on 31 March 2006, expressing concern at the precedent set by Canada in failing to abide by the Committee's decision on the merits of a case submitted and duly considered under article 22 of the Convention, asking to be informed by the State party of any measures taken to ensure the complainant's safety on arrival in the Islamic Republic of Iran, including the establishment of any monitoring mechanism through the State party's consular offices, and requesting information in due course on the complainant's well-being. Was the Committee agreed on the dispatch of a further note

verbale to the State party, deploring its failure to comply with the terms of article 3, reminding it of its corresponding obligations, and requesting it to establish a monitoring mechanism whereby Canadian representatives would have direct contact with the complainant?

54. Mr. CAMARA expressed reservations about the dispatch of such a note, which might establish a precedent whereby States parties would consider their obligations under article 3 limited to establishing a monitoring mechanism following the deportation of a complainant. He thought that the Committee should inform the State party that it had violated article 3 and should include that information in its annual report.

55. Ms. GAER said that, at the time of the complainant's deportation, the State party had maintained that the complainant was well and that there was therefore no need for a monitoring mechanism. It had never been suggested that such a mechanism would fulfil the State party's obligations, and it was for the Committee to determine what further follow-up measures should now be taken.

56. The CHAIRPERSON, endorsing the views expressed by Mr. Camara, said that any written communication to the State party should stress the need to comply with the Committee's decision. Other issues could be discussed verbally at a meeting with the representatives of Canada.

57. Mr. MARIÑO MENÉNDEZ agreed that the note to the State party should not refer to possible follow-up measures. Issues such as monitoring, compensation for violation of the Convention and guarantees of future compliance could be discussed at a meeting with the State party's representatives, at which Ms. Gaer might represent the Committee.

58. Ms. GAER said she wished to place on record her concern that, for the first time, a State party had refused to comply with a decision of the Committee on the merits of a complaint. She considered the matter to be particularly serious since Canada had always cooperated very actively in the implementation of the Convention. The Committee would have to determine its substantive response at a subsequent meeting.

59. The CHAIRPERSON suggested, in keeping with the views expressed, that the note verbale to the State party should seek a meeting with its representatives while making no reference to any follow-up measures.

60. It was so decided.

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CAT, CAT/C/SR.749 (2006)

COMMITTEE AGAINST TORTURE

Thirty seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 749th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 22 November 2006, at 3 p.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Follow up procedures (CAT/C/37/R.2)

1. Mr. MARIÑO MENÉNDEZ, Rapporteur on follow up to communications, reporting on follow up to communications during the thirty sixth and thirty seventh sessions, drew attention to document CAT/C/37/R.2. It explained the status of communications on which the Committee had requested additional information or further action. Five States parties had not responded to the Committee's requests for information. The document contained detailed information on six communications.

2. With regard to the Dadar v. Canada case, it was proposed that the Committee should request the State party to provide, in response to the concern expressed by his counsel, information on the complainant's whereabouts and well being, if necessary with the assistance of the Embassy in Tehran.

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CAT, A/61/44 (2006)

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

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D. Follow-up activities

75. 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 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 to the Committee on his/her activities.

76. 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 Decisions.

77. In a follow-up report presented to the Committee during the thirty-fifth session, the Special Rapporteur on follow-up to decisions provided information received from four States parties pursuant to this request: France; Serbia and Montenegro (in relation to 113/1998, Ristic); Switzerland; and Sweden. The following countries did not respond to the request: Austria; Canada (with respect to Tahir Hussain Khan, 15/1994); the Netherlands; Spain; and Serbia and Montenegro (in relation to 161/2000, Hajrizi Dzemajl, 171/2000, Dimitrov, and 207/2002, Dragan Dimitrijevic).

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79. During the thirty-sixth session, the Special Rapporteur on follow-up to decisions presented new follow-up information that had been received since the thirty-fifth session with respect to the following cases: *Dadar v. Canada* (258/2004), *Thabti v. Tunisia* (187/2001), *Abdelli v. Tunisia* (188/2001) and *Ltaief v. Tunisia* (189/2001) and *Chipana v. Venezuela* (110/1998). Represented below is a comprehensive report of replies received with regard to all cases in which the Committee has found violations of the Convention to date and in one case in which it did not find a violation but made a recommendation. Where there is no field entitled "Committee's decision" at the end of the

provision of information in a particular case, the follow-up to the case in question is ongoing and further information has or will be requested of the complainant or the State party.

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

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| State party | CANADA |
| Case | Tahir Hussain Khan, 15/1994 |
| Nationality and country of removal if applicable | Pakistani to Pakistan |
| Views adopted on | 15 November 1994 |
| Issues and violations found | Removal - article 3 |
| Interim measures granted and State party response | Requested and acceded to by the State party |
| Remedy recommended | The State party has an obligation to refrain from forcibly returning Tahir Hussain Khan to Pakistan. |
| Due date for State party response | None |
| Date of reply | None |
| State party response | No information provided to Rapporteur, however, during the discussion of the State party report to the Committee against Torture in May 2005, the State party stated that the complainant had not been deported. |
| Author's response | None |
| Case | Falcon Rios, 133/1999 |
| Nationality and country of removal if applicable | Mexican to Mexico |
| Views adopted on | 30 November 2004 |
| Issues and violations found | Removal - article 3 |

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| Interim measures granted and State party response | Requested and acceded to by the State party |
| Remedy recommended | Relevant measures |
| Due date for State party response | None |
| Date of reply | None |
| State party response | <p>On 9 March 2005, the State party provided information on follow-up. It stated that the complainant had submitted a request for a risk assessment prior to return to Mexico and that the State party will inform the Committee of the outcome. If the complainant can establish one of the motives for protection under the Immigration and Protection of Refugee's Law, he will be able to present a request for permanent residence in Canada. The Committee's decision will be taken into account by the examining officer and the complainant will be heard orally if the Minister considers it necessary. Since the request for asylum was considered prior to the entry into force of the Immigration and Protection of Refugee's Law, that is prior to June 2002, the immigration agent will not be restricted to assessing facts after the denial of the initial request but will be able to examine all the facts and information old and new presented by the complainant. In this context, it contests the Committee's finding in paragraph 7.5 of its decision which found that only new information could be considered during such a review.</p> |
| Author's response | None |
| Case | Dadar, 258/2004 |
| Nationality and country of removal if applicable | Iranian to Iran |
| Views adopted on | 3 November 2005 |
| Issues and violations found | Removal - article 3 |
| Interim measures granted and State party | Yes and State party acceded |

response

Remedy recommended

The Committee urges the State party, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the decision expressed above.

Due date for State party response

26 February 2006

Date of reply

22 March 2006, 24 April 2006

State party response

The State party refers to the note verbale from the Secretariat, dated 13 March 2006 (see below). However, it informed the Committee that it intended to remove the complainant to Iran on 26 March 2006. It submitted that it undertook a review of the file in light of the Committee's determination but reiterated its opinion that it does not share the Committee's view that the complainant has established that he would face a substantial risk of torture if removed to Iran. It submitted that, it is for the national courts of the States parties to the Convention to evaluate the facts and evidence in a particular case.

It submitted that the reference made by the Ministerial Delegate that the risk that the complainant could represent for the Canadian public outweighed the risk that he would face in Iran was meant only as an alternative argument. The Ministerial Delegate's primary conclusion, and the one adopted by the Federal Court, was that the complainant would not face a substantial risk of torture.

The State notes that the Committee does not refer to the complainant's credibility, despite Canada having raised the issue in its submissions, and accepts much of the complainant's evidence without credible and independent supporting documentation. Although the Committee suggested otherwise, the State party submits that it had questioned the allegations made with respect to the complainant's involvement with the Canadian Intelligence and Security Service in its

submissions. In addition, the letter, dated 4 April 2005, which the complainant provided to demonstrate his political involvement was provided after the State party had provided its submissions, and in any event contained no elaboration of his alleged activities. It recalls that the risk of being detained as such is not sufficient to trigger the protection of article 3.

Finally, the State party reminds the Committee that this is the first time that Canada will not follow this Committee's decision on the merits of a case. Nevertheless, its position in this matter should not be interpreted as a sign of any disrespect for the Committee's work in monitoring implementation of the Convention.

On 24 April 2006, the State party responded to the Rapporteur's note verbale of 31 March. It reiterates the Minister's findings and submits that the risk assessment was reaffirmed by the Federal Court on 24 March 2006. Thus, it remains the State party's position that it complied fully with its obligations under article 3.

Since Mr. Dadar's return, the State party informs the Committee that a Canadian representative spoke with the complainant's nephew who said that Mr. Dadar arrived in Tehran without incident, and has been staying with his family. Canada has no direct contact with Mr. Dadar since he was returned to Iran. In light of this information, as well as Canada's determination that Mr. Dadar did not face a substantial risk of torture upon return to Iran, the State party submits that it was not necessary for Canada to consider the issue of monitoring mechanisms in this case. It submits further that Mr. Dadar is now within the jurisdiction of Iran, which is a party to the ICCPR and bound to respect the rights protected under the Covenant, including the prohibition of torture and cruel, inhuman and degrading treatment or punishment. There are also United Nations special procedures, such as the Special Rapporteur on Torture, which would be available to Mr. Dadar if required.

Author's response

The complainant's counsel has contested the State party's decision to deport the complainant despite the Committee's findings. He has not to date provided information he may have on the author's situation since arriving in Iran.

Action taken

On 13 March 2006, following oral information from the State party on 10 March 2006, that the State party intended to deport the complainant in this case, the Special Rapporteur, sent a note verbale to the State party. The Rapporteur expressed concern that, despite the Committee's decision, the State party intended to deport the complainant back to Iran. On behalf of the Committee, the Rapporteur reminded the State party that it has an obligation under article 3 not to "expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". In view of the Committee's decision (para. 8.9) that, "substantial grounds exist for believing that the complainant may risk being subjected to torture if returned to Iran", the Rapporteur invited the State party to take action in conformity with the Committee's decision.

Following the author's deportation on 26 March 2006, the Rapporteur, on 31 March 2006, sent another note verbale to the State party, on behalf of the Committee, in which the Rapporteur expressed grave concern at the State party's refusal to comply with its decision, and acknowledged, *inter alia*, that this was the first time, to the Committee's knowledge, that any State party deported a complainant following a conclusion by this Committee that such a deportation would amount to a violation of article 3. The Rapporteur expressed concern not only for the complainant in this case but also deep concern for the global consequences of the State party's action with respect to compliance with the Committee's decisions under article 22. The Rapporteur requested to be informed of any measures taken by the State party to ensure the complainant's safety on arrival in the Islamic Republic of Iran, including the establishment of any monitoring mechanism through the State party's

consular offices, or other procedural or substantive guarantees, and also requested information in due course on the complainant's state of well-being.

Committee's decision

During the consideration of the follow-up at its thirty-sixth session, the Committee deplored the State party's failure to abide by its obligations under article 3, and found that the State party violated its obligations under article 3 not to, "expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

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CAT, CAT/C/SR.801/Add.1 (2007)

COMMITTEE AGAINST TORTURE

Thirty-ninth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 801st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 19 November 2007, at 12.35 p.m.

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CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE CONVENTION
(continued)

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Follow-up on decisions adopted under article 22 of the Convention (CAT/C/39/R.1)

1. The CHAIRPERSON invited the Special Rapporteur on Follow-up to introduce the report on follow-up activities (CAT/C/39/R.1) relating to the Committee's decisions on individual complaints submitted under article 22 of the Convention.

2. Mr. MARIÑO MENÉNDEZ, Special Rapporteur on Follow-up, summarized the comprehensive report on replies received in cases in which the Committee had found violations of the Convention.

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7. In the case of *Falcón Rios v. Canada* (133/1999) the Committee did not need to take further action since the Canadian Government had said that it did not intend to implement the order to return the complainant to Mexico. However, he suggested that a letter should be sent to the Canadian Government asking it for any new information concerning the case, and reminding it that, in accordance with the Committee's decision, the complainant must not be returned to Mexico as he was still covered by the interim measures granted by the Government.

8. With regard to *Mostafa Dadar v. Canada* (258/2004) he suggested that the Committee should comply with the complainant's request not to remove the case from the follow-up procedure, despite the State party's request to the contrary. Canada had in fact shown a lack of good faith in renegeing on its undertaking to apply interim measures. The Committee should therefore request information from the State party on the complainant's situation.

9. The CHAIRPERSON suggested that the case be kept open until the Committee's fortieth session. In his view, there were insufficient grounds for keeping it open beyond then.

10. Mr. WANG Xuexian sought clarification of the counsel's assertion that his client was persona non grata in Iran. What was meant by that? And was it counsel's view or that of the Iranian Government?

11. Mr. MARIÑO MENÉNDEZ said that the expression had been used in counsel's case file and reproduced. The exact meaning was unclear.

The meeting rose at 1 p.m.

CAT, A/62/44 (2007)

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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 | CANADA |
| Case | Tahir Hussain Khan, 15/1994 |
| Nationality and country of removal if applicable | Pakistani to Pakistan |
| Views adopted on | 15 November 1994 |
| Issues and violations found | Removal - article 3 |
| Interim measures granted and State party response | Requested and acceded to by the State party |
| Remedy recommended | The State party has an obligation to refrain from forcibly returning Tahir Hussain Khan to Pakistan. |
| Due date for State party response | None |
| Date of reply | None |
| State party response | No information provided to Rapporteur, however during the discussion of the State party report to the Committee against Torture in May 2005, the State party stated that the complainant had not been deported. |
| Complainant's response | None |
| Case | Falcon Rios, 133/1999 |
| Nationality and country of removal if applicable | Mexican to Mexico |
| Views adopted on | 30 November 2004 |

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| Issues and violations found | Removal - article 3 |
| Interim measures granted and State party response | Requested and acceded to by the State party |
| Remedy recommended | Relevant measures |
| Due date for State party response | None |
| Date of reply | None |
| State party response | <p>On 9 March 2005, the State party provided information on follow-up. It stated that the complainant had submitted a request for a risk assessment prior to return to Mexico and that the State party will inform the Committee of the outcome. If the complainant can establish one of the motives for protection under the Immigration and Protection of Refugee's Law, he will be able to present a request for permanent residence in Canada. The Committee's decision will be taken into account by the examining officer and the complainant will be heard orally if the Minister considers it necessary. Since the request for asylum was considered prior to the entry into force of the Immigration and Protection of Refugee's Law, that is prior to June 2002, the immigration agent will not be restricted to assessing facts after the denial of the initial request but will be able to examine all the facts and information old and new presented by the complainant. In this context, it contests the Committee's finding in paragraph 7.5 of its decision which found that only new information could be considered during such a review.</p> |
| Complainant's response | <p>On 5 February 2007, the complainant forwarded the Committee a copy of the results of his risk assessment, in which his request was denied and he was asked to leave the State party. No further information was provided.</p> |
| Case | Dadar, 258/2004 |
| Nationality and country of removal if applicable | Iranian to Iran |

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|---|--|
| Views adopted on | 3 November 2005 |
| Issues and violations found | Removal - article 3 |
| Interim measures granted and State party response | Yes and State party acceded |
| Remedy recommended | The Committee urges the State party, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days of the date of the transmittal of this decision, of the steps taken in response to the decision expressed above. |
| Due date for State party response | 26 February 2006 |
| Date of reply | Latest reply 5 April 2007 (Had previously responded on 22 March 2006 and 24 April 2006 - see annual report A/61/44 - and 9 August 2006). |
| State party response | <p>The Committee will recall that the State party removed the complainant to Iran on 26 March 2006 despite a finding of a violation of the Convention. In its response of 24 April 2006, it stated that since his return a Canadian representative had spoken with the complainant's nephew who said that Mr. Dadar had arrived in Tehran without incident, and was staying with his family. The State party had no direct contact with him since he was returned to Iran. In light of this information, as well as Canada's determination that he did not face a substantial risk of torture upon return to Iran, the State party submits that it was not necessary for it to consider the issue of monitoring mechanisms in this case. (For a full account of the State party's response see annual report A/61/44.)</p> <p>On 9 August 2006, the State party informed the Committee that on 16 May 2006, the complainant came to the Canadian Embassy in Tehran to pursue certain personal and administrative issues in Canada unrelated to the allegations before the Committee. He did not complain of any ill-treatment in Iran nor make any complaints about the Iranian authorities. As the complainant's visit confirmed previous information received from his nephew, the</p> |

Canadian authorities requested that this matter be removed from consideration under the follow-up procedure.

On 5 April 2007, the State party responded to counsel's comments of 24 June 2006. It stated that it had no knowledge of the complainant's state of well-being and that his further questioning by the Iranian authorities would have been due to the discovery of the Committee's decision. The State party regards this decision as an "intervening factor", subsequent to his return that it could not have taken into account at the time of his return. In addition, the complainant's concerns do not disclose any complaint that, were it to be made to the Committee, could give rise to a violation of a right under the Convention. Questioning by the authorities does not amount to torture. In any event, his fear of torture during questioning is speculative and hypothetical. Given Iran's ratification of the International Covenant on Civil and Political Rights and the possibility for the complainant to use United Nations special procedure mechanisms such as the Special Rapporteur on torture, it considers the United Nations better placed to make enquiries about the complainant's well-being.

Complainant's response

The complainant's counsel has contested the State party's decision to deport the complainant despite the Committee's findings. He has not to date provided information he may have on the author's situation since arriving in Iran.

The complainant's counsel states that on 24 June 2006, he heard from the complainant who informed him that the Iranian authorities had delivered a copy of the Committee's decision to his home and had requested his attendance for questioning. He was very worried over the telephone and counsel has not heard from him since. In addition, he states that Mr. Dadar is persona non grata in Iran. He cannot work or travel and is unable to obtain the medical treatment he had received in Canada to treat his condition.

Action taken

See the Committee's annual report (A/61/44) for an account of the contents of notes verbales sent from the Special Rapporteur to the State party.

Committee's decision

During the consideration of the follow-up at its thirty-sixth session, the Committee deplored the State party's failure to abide by its obligations under article 3, and found that the State party violated its obligations under article 3 not to, "expel, return (refouler) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". The dialogue is ongoing.

...