



**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. 558/2013*, ****

<i>Communication submitted by:</i>	R.D. et al. (represented by counsel Mohammad Zameer Takun Jauhan)
<i>Alleged victim:</i>	The complainants
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	23 August 2013 (initial submission)
<i>Date of present decision:</i>	13 May 2016
<i>Subject matter:</i>	Deportation to Belarus or Russian Federation
<i>Procedural issues:</i>	Non-exhaustion of domestic remedies; claims incompatible with the Convention
<i>Substantive issues:</i>	Non-refoulement
<i>Articles of the Convention:</i>	3 and 22

* Adopted by the Committee at its fifty-seventh session (18 April-13 May 2016).

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



1.1 The complainants are R.D., born in 1973, a national of the Russian Federation of Chechen ethnicity, his wife J.D., born in 1978, a national of Belarus, and their five children, born between 2004 and 2010. The complainants sought political asylum in Switzerland, but their applications were rejected and they were ordered to leave voluntarily by 28 August 2013. At the time of submission of the complaint, they were at risk of deportation to Belarus. They claim that if Switzerland proceeds with their forcible return, it would breach its obligations under article 3 of the Convention. The complainants are represented by counsel.

1.2 On 27 August 2013, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party not to deport the complainants to Belarus while the complaint was being considered by the Committee.

Facts as presented by the complainants

2.1 The first complainant, a national of the Russian Federation of Chechen ethnicity, lived in Urus Martan in Chechnya until 2001. In 1997, his brother joined the Chechen resistance and was killed in 1999. After his brother's death, on an unspecified date, the first complainant was visited by members of a pro-Russian paramilitary group called "Kadyrovtsi", which was, according to him, in coalition with the Russian military. The men were masked and extremely aggressive. They took him to a former school dormitory building and locked him in a basement cell. He was kept there for two weeks, during which time he was subjected to beatings on daily basis and was deprived of water and adequate food. At the end of his detention, he was forced to sign an admission that he had contributed to a terrorist attack in which three individuals had lost their lives. He was released after he promised to spy on the Chechen resistance and he was forbidden to leave the country. Fearing that he would be detained and tortured again, he left the country illegally in 2001 and went to Belarus.

2.2 The first complainant stayed in Belarus from 2001 until 2005. In early 2001, he met and married his current wife. Their first child was born in Belarus. Regardless of the fact that he was married to a Belarusian national, he was constantly harassed by the authorities. His only identification document was an expired passport from the Russian Federation and he was often stopped by the police and threatened with deportation to the Russian Federation if he refused to pay bribes. He was also subjected to physical ill-treatment on numerous occasions. Several times, he was summoned by the police who took away his passport, locked him in a cell and repeatedly beat him up until he lost consciousness. Two or three weeks later, the police called his wife to come and pay "bail" for his release. The amount varied between US\$ 200 and US\$ 1,000. On one occasion in the summer of 2005, the first complainant was arrested and taken away in a police van in which there were two more Chechens, both of whose faces showed signs of beatings. After a while the van stopped, one of the detainees was taken out, beaten and left behind. A few kilometers later, the first complainant was also thrown out of the van, beaten and left on the ground. Some people found him later and helped him to get to a hospital. On another occasion, he was convoked to act as an interpreter in court for a Chechen who did not speak Russian. When he arrived at the court, he was immediately beaten up by several police officers. He woke up in hospital, but does not remember how he got there.¹

2.3 The complainants submitted that, even at the time of submitting the complaint, police summons continued to arrive at their former address in Belarus. They maintained that if they were returned to Belarus, the first complainant would be arrested, submitted to

¹ The complainant submitted copies of summonses from the police and testimonies from neighbours and friends in support of his submission.

ill-treatment and deported to the Russian Federation, where he was also likely to be subjected to torture or killed.²

2.4 The first complainant submitted that, as a result of the torture to which he had been subjected, he had to undergo knee surgery after arriving in Switzerland. He also submitted that, as a result of injuries to his head, he was suffering from neurological and psychiatric problems.³

2.5 In 2005, the complainants decided to leave Belarus and seek asylum. They arrived in Switzerland in November 2005 and applied for refugee status. On 6 March 2007, the first complainant's application was rejected. He appealed but his appeal was rejected on 14 April 2010 by the Federal Administrative Court. A subsequent request for re-examination of his case was rejected on 15 April 2011 and the appeal against that decision was also rejected by the Federal Administrative Court. The complainants were ordered to leave the country by 7 February 2013. Subsequently, their residence permits were extended on a monthly basis, the latest extension at the time of submission of the complaint ending on 28 August 2013. The complainants maintained that they had exhausted all available remedies.

The complaint

3. The complainants maintained that their forcible return to Belarus would constitute a breach by Switzerland of its obligations under article 3 of the Convention.

State party's observations on the merits

4.1 On 26 February 2014, the State party submitted that during the asylum proceedings, the first complainant had indicated that his deportation to Belarus would expose him to a risk of torture and deportation to the Russian Federation. The State party indicated that, since the second complainant and her children had not claimed that they would be at risk of torture if returned to Belarus, the State party submissions would be limited to the situation of the first complainant.

4.2 The State party submitted that the complainants had made the same claims to the Committee as those they had brought before the national authorities. As they had not submitted any new elements, there were no grounds to question the decisions reached by the Federal Office for Migration on 6 March 2007, 17 December 2010 and 15 April 2011, or those reached by the Federal Administrative Tribunal on 14 April 2010 and 3 July 2013.⁴ The State party maintained that those decisions were well grounded and that the removal of the complainants to Belarus would not constitute a violation of article 3 of the Convention.

4.3 The complainants filed their first asylum claim on 21 November 2005. After hearing the first and second complaints in person, the Federal Office for Migration rejected their asylum application by a decision of 6 March 2007, both because of lack of credibility and lack of relevance of the complainants' reasons. By a decision of 14 April 2010, the Federal Administrative Tribunal rejected the complainants' appeal against the 6 March 2007 decision. The Tribunal decided that the first complainant's allegation that he would be

² The complainant submitted a letter dated 30 March 2007 from the parliament of the Chechen Republic of Ichkeria confirming that he was sought by the secret services in the Russian Federation.

³ The complainant submitted that he had lost feeling in one side of his face for a long time; he had gaps in his memory, he could not remember events from his daily life and suffered from depression. He presented medical certificates dated 31 March 2007 and 14 January 2011 certifying that he was suffering from post-traumatic stress disorder and that he had undergone orthopaedic treatment.

⁴ The State party provided copies of all the relevant decisions.

persecuted in the Russian Federation was not credible. As the Federal Office for Migration had done previously, it considered that the information provided by the first complainant regarding the date of his arrest in Chechnya was contradictory, and furthermore he was unable to provide any details regarding the conditions of detention. Moreover, the allegations concerned events that had taken place in 1999. There was no link between the ill-treatment the complainant was alleging he had endured and his departure to Belarus. In addition, in the meantime important changes had taken place in Chechnya, which should have eliminated the complainant's fear that he was wanted by the Russian authorities. Besides, the first complainant was not a fighter or someone who had connections to the Maskhadov or Umarov regimes. The Tribunal noted that during the two personal interviews, the complainant had not mentioned the ill-treatment he alleged to have suffered after arriving in Belarus; he raised those allegations for the first time in his appeal before the Tribunal, without providing any explanation for not having mentioned them before. In addition, the Tribunal considered that the documents supplied by the complainant did not have any evidentiary value, since they concerned situations other than his.⁵ In particular, the Tribunal ruled that the medical certificates issued in Brest did not demonstrate that the complainant had been injured in the circumstances he described. It therefore rejected the claim that the complainant would be at a personal risk of being targeted by the Belarusian authorities if he were returned to that country.

4.4 On 19 November 2010, the complainants requested a re-examination of their case based on the state of health of their eldest son and that of the first complainant himself. They also alleged that the first complainant had been summoned on two occasions by the Belarusian police, on 15 January and 27 September 2010. In its decision of 17 December 2010, the Federal Office for Migration noted that it appeared from the documents submitted that the complainant had been summoned as a witness. Nothing in the documents indicated that he was sought or persecuted by the competent authorities. Taking into consideration the conclusions of the first asylum procedure, the documents failed to provide evidence that, if deported, the complainant would be exposed to a real risk of treatment prohibited under article 3 of the Convention. Since the complainants had failed to pay the required fee in advance, the Tribunal did not enter into the subject matter of their appeal.

4.5 On 1 April 2011, the complainants filed a second request for re-examination, invoking mainly the deterioration of the state of health of the first complainant and reiterating, without providing further evidence, the allegations of ill-treatment experienced in Belarus. In its decision of 15 April 2011, the Federal Office for Migration maintained that the complainants' allegations regarding the risk of persecution in Belarus had already been subject to careful examination during a previous examination of their asylum claims and that there was a health-care system in Belarus that could ensure he received medical treatment. The second request was rejected by a decision of the Federal Administrative Tribunal of 3 July 2013, which stated that the complainants had not presented any new elements to substantiate their fears and that the first complainant's state of health had not changed significantly since the first asylum procedure.

4.6 The State party noted the requirements of article 3 of the Convention, made reference to the Committee's general comment No. 1 (1997) on the implementation of article 3 of the Convention in the context of article 22, and submitted that it would analyse the case in the light of those elements. The State party submitted that, while the human rights situation in Belarus was certainly worrying, it did not constitute sufficient grounds to

⁵ The complainants had submitted medical certificates from Belarus and Switzerland regarding the first complainant's state of health, testimonials from individuals in Brest who had witnessed the police seeking the first complainant and harassing him, summonses dated 15 January 2010 from the Belarusian police and a letter dated 27 September 2010 from the first complainant's mother.

conclude that the complainant would be at risk of torture upon return to that country. It maintained that the first complainant had not provided evidence to support the claim that he would be at a “foreseeable, real and personal” risk of being subjected to torture if returned to Belarus, and that there was no risk of his deportation to the Russian Federation.

4.7 With regard to the first complainant’s allegations that he had been subjected to torture on three occasions in the past, the State party submitted that he had provided no evidence that would not have been examined by the domestic authorities and that the medical certificate issued in Brest in 2004 did not demonstrate that he had been injured by the police in the circumstances he described. Therefore nothing indicated that he had been tortured by the Belarusian authorities. With regard to the ill-treatment he alleged to have suffered in the Russian Federation, the State party maintained that the complainant had not provided evidence from independent sources.

4.8 The State party maintained that it was not apparent from the first complainant’s account that he had been engaged in political activities either in the Russian Federation or Belarus, and that there was nothing to suggest that he was wanted for prosecution in either country. The State party also maintained that, although the first complainant was the brother of a combatant killed in 1999, he was not a combatant himself and had no links to the Maskhadov or Umarov regimes. He was not therefore a member of a vulnerable group who would be exposed to a risk of persecution if returned to Chechnya. Since he was not wanted by the authorities of the Russian Federation, he would not be subject to the agreements between the Russian Federation and Belarus in judicial and police matters. Therefore, contrary to his statements, he was not at risk of deportation from Belarus to the Russian Federation.

4.9 Regarding the risk of persecution in Belarus, the State party recalled that the alleged discrimination against Chechen asylum seekers was not relevant to the applicant’s case, since he had never filed an asylum request in Belarus. In addition, he had lived in that country for four years with his wife and eldest son. The first complainant submitted two summonses, but according to his statements of 6 March 2006, the Belarusian authorities had not issued an arrest warrant against him and the summonses indicated that he was being called as a witness only. Therefore, the State party concluded that he had failed to prove that he was being persecuted in Belarus.

4.10 The State party noted the complainants’ claim that from the very beginning of the asylum procedure, they stated how difficult their situation was and that their lives were in danger in Belarus. The State party, however, observed that the first complainant never mentioned during the interviews that his life would be in danger. During the interview of 22 November 2005, he did not allude to any problems with the Belarusian authorities. Rather, the only reason he had given for leaving Belarus was the fact that, after the 2004 amnesty in the Russian Federation and Mr. Kadyrov’s accession to power, one of the first complainant’s cousins had returned to Chechnya, where he had been killed. During the 6 March 2006 interview, the first complainant had also stated that in all the years he had lived in Brest, he had never been stopped on the streets and asked for his identity papers or apprehended. The State party considered that the allegations of arrests, detention and ill-treatment that the complainants mentioned for the first time before the Tribunal were not credible, and that the first complainant had not explained why he had omitted to mention them previously. Given the fact that the first complainant had no particular problems reporting them during the two interviews, the State party did not consider it likely that a mental block had prevented the first complainant from mentioning possible acts of persecution that he had experienced more recently in Belarus.

4.11 In the light of the above, the State party submitted that nothing indicated that there were substantial grounds for believing that the first complainant would be personally in danger of being subjected to torture, should he be returned to Belarus. His allegations did

not allow the State party to conclude that his deportation would expose him to a personal, real and foreseeable risk of torture. In addition, there was no foreseeable risk that the Belarusian authorities would deport him to the Russian Federation. Therefore, the State party invited the Committee to find that the deportation of the first complainant to Belarus would not constitute a violation of article 3 of the Convention.

Complainants' additional submissions

5. On 24 January 2014, the complainants submitted that they were facing difficulties with the welfare institutions of the canton of Geneva. The complainants had been living in the Centre de Feuillasse, a centre for asylum seekers in Geneva, for almost five years. In 2012, the welfare authorities had informed them that they would have to move to another such centre, the Foyer des Tattes, which the complainants alleged was used to accommodate rejected asylum seekers before they were expelled from the country. They were moved based on the decision of the Federal Office for Migration to expel them to Belarus. In January 2014, the complainants were informed orally that the move would take place between 17 and 21 February 2014. The complainants were concerned that they would be deported despite the Committee's interim measures request.

State party's additional observations

6. On 7 March 2014, the State party submitted that the complainants' additional submission did not contain any new information relevant to the alleged violation of article 3 of the Convention in case of deportation. The State party confirmed that, as of 21 February 2014, the complainants had indeed been moved to the Foyer des Tattes, but maintained that no measures had been taken to deport them while their communication was pending before the Committee.

Complainants' comments on the merits and further submissions

7.1 On 5 May 2014, the complainants submitted that their deportation to Belarus would be "disastrous" for the entire family. The first complainant reiterated that during his stay in Brest, whenever he was summoned to the police station he was beaten up and detained for days. He was subjected to such treatment because of his Chechen origins and because he was considered an opponent of the Kadyrov regime. He maintained that upon arrival in Belarus, he would be summoned to the police station and asked to justify why he had not responded to the summonses he had been sent during the previous nine years. Knowing the brutality of the Belarusian police, its methods of detention and torture, the consequences would be "disastrous" for the first complainant. He maintained that the State party should analyse the level of corruption and human rights violations in Belarus.

7.2 The first complainant also maintained that his deportation to the Russian Federation would be "disastrous". While the situation in Chechnya might not be the same as it had been in 1999, currently Chechens who had fled were being "called back to their country". He referred to the case of his cousin, who had fled during the war, returned at an unspecified date, "after being called by the authorities" and had been assassinated. The real intention of the current government of Chechnya was not to welcome back the diaspora, but to eliminate all potential opponents to the regime. He submitted that the current regime and the Russian police were working closely together and were responsible for his arrest, imprisonment and torture back in 1999. He was released after 10 days, but only after having signed a document undertaking to collaborate closely with the Russian authorities by spying, "denouncing and committing illegal or terrorist acts". He alleged that he would be denounced by one of his compatriots as soon as he reached his village, and that people had inquired about him several times at his mother's house regarding his whereabouts and had said that he should come back and work for his country instead of "betraying" it, as he had

been doing for years. He feared that he would be forced to spy on different resistance groups, forced to commit terrorist acts and eventually killed.

7.3 The second complainant submitted that she had converted to Islam after marrying and that in Belarus there was hostility against the various Muslim communities living there. She feared that she would face racism if she was deported, that she would be left alone in Belarus with her five children and that she might be accused of treason for helping her husband escape from the authorities in 2005. She feared that would go to jail while her husband would be deported to the Russian Federation. She submitted that in Belarus, persons who had been in jail could not reintegrate in society after their release. She would not be able to get a job or lead a normal life, like other citizens. She would not have any support, since her own mother had never accepted her marriage and in the past had called the police several times accusing the first complainant of espionage.

7.4 With regard to the situation of the complainant's children, four of whom were born in Switzerland, none of them are familiar with the situation in Belarus or Chechen society. They are well integrated in the Swiss education system. In Belarus, they would face racism because of their Chechen last name. They would be separated from their parents and sent to an orphanage. In addition, the complainants' eldest child has psychological problems and has to continue his treatment in Switzerland.⁶

7.5 The first complainant clarified that in 1999, he had been arrested two weeks after the death of his brother and that he had indicated that fact in both interviews with the migration authorities. He contested the State party's submission that he had not provided details about the detention conditions in Chechnya and maintained that he had answered questions in that regard during the interview in March 2006. He submitted that he could not forget the conditions in the school dormitory building where he was detained in 1999. The police had shown him several other prisoners, some of whom had had their feet placed in water and then been electrocuted, others had been subjected to electric shocks to different parts of their bodies, including their "private parts", and others had had their nails removed.

7.6 The first complainant submitted that the State party had refused to consider that his state of health had deteriorated over the previous nine years as a result of the torture to which he had been subjected in the Russian Federation and Belarus. He failed to understand why the State party had rejected his medical certificates and presented medical certificates for the Committee's consideration.⁷ The complainants reiterated that they had attempted to present as many documents as possible to support their claims and that they had submitted to the authorities medical certificates from Belarus and Switzerland, testimonials from individuals from Brest who had witnessed the persecution to which the first complainant had been subjected, the summonses from the police, and a letter from the first complainant's mother.

7.7 With regard to the State party's contention that the summonses from the Belarusian police convoked the first complainant to appear as a witness only, the first complainant submitted that, as he had not been in Brest for nine years and could not have witnessed anything, he had presumed that the purpose of the summonses was to detain him, torture him and send him to Chechnya where he was wanted. He maintained that if he had been

⁶ The complainants presented a letter from the Medical-Educational Office of the Department of Education of the canton of Geneva attesting to the fragile state of the complainant's son and a letter from a speech therapist attesting that the boy needs further treatment.

⁷ The complainant presented certificates from the Geneva University Hospitals, one dated 8 May 2013 diagnosing him with post-traumatic stress disorder and depression, and one dated 26 August 2013 certifying that he was receiving treatment for orthopaedic problems.

convoked as a witness, a more detailed description would have been included in the summonses.

7.8 As to the State party's allegations about the contradictory statements the complainants had made during the interviews, the complainants submitted that they had tried to express themselves as best they could. They also submitted that the interviewers had asked the same questions several times in a different manner, which had led to misunderstandings. Furthermore, their psychological states, particularly that of the first complainant, had not been taken into consideration. Individuals who have been traumatized for long periods of time have great difficulty remembering details. They had also had the feeling, particularly during the second interview in Geneva, that their responses had not been fully understood by the interviewers. They had often been interrupted by the interviewers, which had resulted in incomplete information. During an interview in Geneva on 9 March 2006, the interviewer and the interpreter had laughed at the first complainant twice and the person who "was there to monitor the interview" had had to ask them to stop laughing. The interview in Geneva had lasted for eight and a half hours, during which time there had been several breaks. The first complainant had felt unsettled and it had been very difficult for him to recall the humiliating moments and the awful memories.

7.9 The complainants also pointed out that the State party had not commented on the situation in Belarus, but had alleged that the complainants had been lying from the outset and had insisted that they prove that the first complainant would be tortured if he was deported. The complainants maintained that their statements were credible and consistent with information regarding the violence and corruption in the Belarusian police and that the State party itself had recognized that the human rights situation in Belarus was alarming.

7.10 With regard to the medical certificate issued in Brest in 2004, the first complainant submitted that when he had gone to hospital to seek help for his injuries, the staff had called the police. When the police officers had arrived, one of them had threatened the complainant, telling him that he would be killed if he accused the police of having caused his condition. The first complainant also challenged the State party's position that only members of political parties risked being tortured. He maintained that since the State party accepted that the human rights situations in Belarus and Chechnya were alarming and the judicial structures were corrupt, it must accept that the methods used by the police were not monitored at all.

7.11 On 19 August 2014, the complainants submitted five additional medical reports, dated in 2014, from their children's psychologists, attesting that all five children had different psychological and/or developmental difficulties.

Issues and proceedings before the Committee

Consideration of admissibility

8.1 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.

8.2 The Committee recalls that, in accordance with article 22 (5) (b) of the Convention, it shall not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. The Committee notes the State party's submission that it does not contest that all available domestic remedies have been exhausted in the present case and concludes that it is not precluded from examining the communication by the requirements of article 22 (5) (b) of the Convention.

8.3 As the Committee finds no further obstacles to admissibility, it declares the communication admissible and proceeds to its examination on the merits.

Consideration of the merits

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

9.2 With regard to the first complainant's claim under article 3 of the Convention, the Committee must evaluate whether there are substantial grounds for believing that he would be personally in danger of being subjected to torture, should he be returned to Belarus. 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 the evaluation 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.⁸ 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.

9.3 The Committee recalls that, in accordance with its general comment No. 1, it gives considerable weight to findings of fact that are made by organs of the State party concerned,⁹ while at the same time it is not bound by such findings and instead has the power, provided in article 22 (4) of the Convention, of free assessment of the facts based upon the full set of circumstances in every case.

9.4 In the present case, the first complainant claimed that in 1999 his brother had been killed after having joined the Chechen resistance in 1997, and that after his brother's death, the first complainant had been kidnapped by members of a pro-Russian paramilitary group called Kadyrovtsi, who detained him and tortured him for two weeks. The first complainant also submitted that if he was returned to Belarus, he would be deported to the Russian Federation and would face torture because of his perceived affiliation with the Chechen resistance and because he had fled the country. The Committee notes that the State party dismissed the first complainant's account of torture in Chechnya, stating that it lacked credibility because the information he gave regarding the date of his arrest in Chechnya was contradictory and he could not provide any details about the detention conditions. The Committee notes that the complainant provided a detailed description of the torture that he had endured, both to the national authorities and in his submission to the Committee. The Committee also notes that the complainant has presented medical certificates, dated 31 March 2007 and 14 January 2011, certifying that he suffers from post-traumatic stress disorder and depression and that he underwent orthopaedic treatment, confirming that it is likely that the complainant was subjected to torture in the past. Concerning the State party's general argument that the first complainant's account is not credible, the Committee recalls its jurisprudence that complete accuracy is seldom to be expected by victims of torture and that such inconsistencies as may exist in the complainant's presentation of the facts are not

⁸ See, inter alia, communication No. 470/2011, *X. v. Switzerland*, decision adopted on 24 December 2014.

⁹ See, inter alia, communication No. 356/2008, *N.S. v. Switzerland*, decision adopted on 6 May 2010, para. 7.3.

material and do not raise doubts about the general veracity of his claims.¹⁰ The Committee notes the State party's argument that the complainants were to be removed to Belarus and the first complainant was not under threat of deportation to the Russian Federation. The Committee, however, also observes that the State party does not contest the first complainant's claim that his only identity document is an expired passport of the Russian Federation and that in order to obtain a new passport, he would have to reveal his whereabouts to the authorities of the Russian Federation. In that context, the Committee finds that in determining whether there were substantial grounds for believing that the complainant could be deported from Belarus to the Russian Federation and assessing the risk that he would face a foreseeable, real and personal risk of being subjected to torture if deported, the State party has failed to duly verify the complainant's allegations and evidence, as required by article 3 of the Convention.¹¹ Accordingly, the Committee concludes that the deportation of the first complainant to Belarus would constitute a violation of article 3 of the Convention.

10. The Committee, acting under article 22 (7) of the Convention, therefore concludes that the deportation of the complainant to Belarus would constitute a violation of article 3 of the Convention.

11. As the cases of R.G.'s wife and their five children, who were minors at the time of the family's asylum application in Switzerland, are largely dependent upon his case, the Committee does not find it necessary to consider those cases individually.

12. The Committee is of the view that the State party has an obligation, in accordance with article 3 of the Convention, to refrain from forcibly returning the complainants to Belarus, the Russian Federation or any other country where they run a real risk of being expelled or returned to the Russian Federation. Pursuant to rule 118, paragraph 5, of its rules of procedure, the Committee invites the State party to inform it, within 90 days of the date of the transmittal of the present decision, of the steps it has taken to respond to the above considerations.

¹⁰ See communications No. 21/1995, *Alan v. Switzerland*, Views adopted on 8 May 1996, para. 11.3; No. 43/1996, *Tala v. Sweden*, Views adopted on 15 November 1996, para. 10.3; and No. 41/1996, *Kisoki v. Sweden*, Views adopted on 8 May 1996, para. 9.3.

¹¹ See communication No. 416/2010, *Chun Rong v. Australia*, Views adopted on 5 November 2012, para. 7.5.