



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Follow-up report on decisions relating to communications submitted under article 22 of the Convention*

I. Introduction

1. The present report is a compilation of information on cases in which the States parties and complainants have had at least one round of exchanges since the seventy-third session of the Committee against Torture in the framework of the Committee's follow-up procedure on decisions relating to communications submitted under article 22 of the Convention.¹

II. Communications

Communication No. 477/2011²

Aarrass v. Morocco ([CAT/C/52/D/477/2011](#))

Date of adoption of
decision: 19 May 2014

Violation: Articles 2 (1), 11–13 and 15

Remedy: The Committee urged the State party to inform it, within 90 days from the date of transmittal of the decision, of the measures that it had taken in accordance with the observations set forth in the decision. The Committee said that the measures must include the initiation of an impartial and in-depth investigation into the complainant's allegations of torture, and that such an investigation must include the conduct of medical examinations in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

2. On 3 December 2021, in response to comments from the complainant's counsel dated 22 November 2019, the State party reiterated its previous observations and indicated that Ali Aarrass had been released on 2 April 2020. In addition, it stated that it had provided all the necessary information and clarifications requested by the Committee, despite what it called the unfounded and repetitive nature of the complainant's allegations, and it requested the Committee to close the follow-up relating to both the present communication and communication No. 817/2017 (see paras. 15–19 below).

* Adopted by the Committee at its seventy-fourth session (12–29 July 2022).

¹ The previous follow-up report on decisions relating to communications submitted under article 22 of the Convention ([CAT/C/73/4](#)) was adopted, as amended, by the Committee at its seventy-third session.

² For previous follow-up information relating to this communication, see [CAT/C/68/3](#), paras. 2–10.



3. On 27 May 2022, the complainant's counsel submitted a medico-legal evaluation of Mr. Aarrass by the Independent Forensic Expert Group dated 26 April 2022. It was stated in the evaluation that the Group had prepared the report using internationally accepted medico-legal standards and the principles of investigation and documentation of torture set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The Group had concluded that the evidence collected from the physical and psychological evaluations of Mr. Aarrass was highly consistent with Mr. Aarrass' allegations of having received multiple blows, having been tied up with rope and having had his knees hit with items such as rocks during his detention. The Group had reviewed two prior medico-legal evaluations of Mr. Aarrass, conducted in Rabat in December 2011 and November 2014, and had found them to be flawed and unsatisfactory, with both failing to comply with accepted medico-legal standards.

4. The Independent Forensic Expert Group had recommended that Mr. Aarrass should receive psychological and psychiatric support in the future, beyond the course of his legal proceedings, to treat his post-traumatic stress disorder, to monitor his well-being and to detect the potential appearance of depression. It had said that a specific therapeutic follow-up to that end would be desirable, and that all reasonable steps should be taken to prevent any further delays in the delivery of justice and accountability in Mr. Aarrass' case, as the lack of any acknowledgement that he was a victim of torture and the impunity of the perpetrators to date had severely inhibited Mr. Aarrass' ability to begin the healing process.

5. On the basis of the medico-legal report of the Independent Forensic Expert Group, the complainant's counsel sought reparation, including compensation, for Mr. Aarrass from the State party.

6. On 8 July 2022, the Committee transmitted the complainant's observations to the State party for comments, which were due on 8 September 2022.

7. The follow-up observations and comments have demonstrated a lack of implementation of the Committee's decision. In addition, the Committee regrets that the State party has simply reiterated its previous submissions instead of providing observations in response to the follow-up comments by the complainant's counsel dated 22 November 2019. The Committee therefore decided to keep the follow-up dialogue ongoing and to consider further steps in the light of the counsel's comments. In addition, in line with an earlier decision, the Committee would note the lack of implementation of the above decision in its annual report.

Communication No. 500/2012³

Ramírez Martínez et al. v. Mexico ([CAT/C/55/D/500/2012](#))

Date of adoption of decision: 4 August 2015

Violation: Articles 1, 2 (1), 12–15 and 22

³ For previous follow-up information relating to this communication, see [CAT/C/68/3](#), paras. 11–14.

Ramírez Martínez et al. v. Mexico (CAT/C/55/D/500/2012)

Remedy:	The Committee urged the State party to: (a) launch a thorough and effective investigation into the acts of torture; (b) prosecute, sentence and punish appropriately the persons found guilty of the violations; (c) order the immediate release of the complainants; and (d) award full reparation, including fair and adequate compensation, to the complainants and their families, and provide the complainants with as full a rehabilitation as possible. The Committee reiterated the need to repeal the provision on preventive custody in the domestic legislation and to bring the Code of Military Justice fully into line with the decisions of the Inter-American Court of Human Rights to ensure that ordinary courts had sole jurisdiction over cases involving human rights violations.
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8. In a letter dated 27 June 2022, the complainants' counsel alleged that the State party had failed to adopt any effective measures in response to two letters transmitted to the State party by the Committee's Rapporteur on reprisals on 23 September 2016 and 16 October 2019. In addition, the counsel raised allegations of further reprisals against Ramiro López Vázquez, as recently as 23 June 2022.⁴

9. In the first letter, dated 23 September 2016, the Rapporteur on reprisals had requested the State party to immediately implement all the protection measures necessary to ensure the physical and moral integrity of the victims. The counsel for the victims reported that the State party had not implemented any such measures and thus had failed to comply with the request. The counsel also reported that, on 28 July 2021, the Office for the Coordination of International Affairs of the Ministry of the Interior had proposed a meeting with the victims and their representatives. An online meeting had taken place on 18 August 2021, during which the authorities from the Office had discussed with the victims' representatives their intention to carry out a risk analysis with regard to the past incidents and to involve the National Protection Mechanism for Human Rights Defenders and Journalists. The Mechanism had eventually carried out a risk analysis, but had never shared the results with the victims or their representatives.

10. In the second letter, dated 16 October 2019, the Rapporteur on reprisals had requested the State party to, *inter alia*, carry out a prompt, independent and impartial investigation into the acts of intimidation and reprisal against the claimants and their families and counsel, to erase the criminal records of the two authors who were released after the Committee's decision in order to prevent further acts of reprisals and to proceed without further delay to provide full reparation for the victims in accordance with the Committee's decision. The counsel for the complainants stated that the State party authorities had failed to open an official investigation into acts of intimidation and retaliation and that the State party had not submitted any information to the Committee that it had done so, nor had the State party indicated that it had complied with the other elements of the Rapporteur's requests.

11. The failure of the State party to provide substantive comments or observations in response to the letters constitutes a failure to cooperate with the Committee and raises increased concerns about the possibility of further violations and reprisals. The Committee decided to keep the follow-up dialogue ongoing and to send an additional letter from the Committee's Rapporteur on reprisals and Rapporteur for follow-up on decisions adopted under article 22, with a renewed request for protection measures. In addition, the Committee would note the lack of implementation of the above decision in its annual report.

⁴ The National Guard had followed him while he was in his private vehicle, which filled him with panic.

Communication No. 812/2017

A., B. and C. v. Switzerland (CAT/C/71/D/812/2017)

Date of adoption of decision: 21 July 2021

Violation: Article 3

Remedy: The Committee was of the view that the State party was required by article 3 of the Convention to reconsider the complainants' asylum application in the light of its obligations under the Convention and the findings of the Committee. The State party was also requested to refrain from expelling the complainants while their asylum application was being reconsidered.

12. On 13 December 2021, the State party responded to the observations of the Committee contained in its decision of 21 July 2021. It submitted that, on 10 December 2021, the complainants had been granted temporary admission, so that they no longer risked deportation. The State party clarified that a foreigner temporarily admitted into Switzerland could apply for a residence permit after five years of residence, which was typically granted, depending on the level of integration and the family situation.

13. On 8 February 2022, the complainants' counsel submitted another letter, in which it was alleged that the Government of Switzerland had failed to comply with the Committee's decision by granting temporary admission status in lieu of refugee status. The complainants had appealed the decision of the State Secretariat for Migration dated 10 December 2021 before the Federal Administrative Tribunal. However, as the Tribunal considered that their appeal appeared not to have a chance of success,⁵ it had requested the payment of court fees. The complainants could not pay those fees and were therefore unable to continue the proceedings.

14. The follow-up comments and observations demonstrated partial implementation, as the State party had refrained from expelling the complainants, although it did not seem to have reconsidered their asylum application as such in the light of its obligations under the Convention. Therefore, the Committee decided to seek further views of the State party on the latest submission from the claimants, and to consider further steps following the receipt of such observations.

Communication No. 817/2017⁶

Aarrass v. Morocco (CAT/C/68/D/817/2017)

Date of adoption of decision: 17 March 2017

Violation: Articles 16 and 2 (1), read in conjunction with articles 1 and 11, and article 14

⁵ According to the Tribunal's incidental decision of 20 January 2022, the complainants did not demonstrate their destitution; their request for refugee status was not the object of the decision that they contested; and the Committee's decision concerned the lawfulness of a deportation but did not bind the asylum authorities of Switzerland as to the acceptance of an asylum application. It therefore requested that the complainants pay 1,500 Swiss francs in court fees.

⁶ For previous follow-up information relating to this communication, see [CAT/C/71/2](#), paras. 13–33.

Aarrass v. Morocco (CAT/C/68/D/817/2017)

Remedy:	The Committee invited the State party to inform it, within 90 days from the date of the transmittal of the decision, of the steps it had taken to respond to the observations. Such steps were to include the return of the complainant to the group regime in a prison closer to his family, the opening of an impartial and thorough investigation into the complainant's allegations, and the provision of full, adequate and fair compensation to the complainant for all the violations of the Convention that had been found and the consequences that they had had for the complainant.
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15. On 14 July 2021, the State party responded to a note verbale from the Committee dated 20 May 2021. The State party reiterated that the conditions of the complainant's detention before his release on 2 April 2020 had been in accordance with Law No. 23/98 on the organization and functioning of prison facilities. It denied that the claimant had ever been held in solitary confinement. Regarding the medical report transmitted to the State party with the note verbale, the State party contended that a general medical report dated 2021 could not establish a clear link with torture alleged to have been inflicted many years earlier.

16. The State party reiterated its observations of 23 November 2015, in which it had maintained that a group of five doctors and professors with different specialties had undertaken a medico-legal examination in November 2014 and had concluded that the complainant's symptoms were not specific to the methods of torture described by the complainant. Finally, the State party rejected the complainant's allegations that the authorities had unduly delayed his journey to Belgium after his release, stating that restrictions on travel had been necessary in the context of the coronavirus disease (COVID-19) pandemic.

17. In a submission dated 26 May 2022, the complainant's counsel noted that the State party continued to deny the conclusion already reached by the Committee that Ali Aarrass' conditions of detention had amounted to inhuman and degrading treatment. The counsel argued that classifying him as a category A inmate was contrary to the Convention and that the State party should amend its legislation so that inmates could effectively lodge complaints against being held in de facto solitary confinement.

18. The counsel also contested the State party's claim that Mr. Aarrass had been provided with adequate medical care during his detention. In that connection, the counsel stated that, as soon as Mr. Aarrass had arrived in Belgium, he had had to have eight teeth removed and replaced with two dental prostheses, be prescribed glasses for vision problems and undergo physiotherapy. Finally, the counsel referred to the medico-legal report issued by the Independent Forensic Expert Group dated 26 April 2022 (see paras. 3–4 above) in support of the claim that the State party was responsible for providing reparation to Mr. Aarrass, including compensation.

19. The follow-up comments and observations demonstrated a lack of implementation of the Committee's decision. The Committee decided to keep the follow-up dialogue ongoing, together with the dialogue in communication No. 477/2011 (see paras. 2–7 above).