



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

Distr.: General  
22 September 2022  
English  
Original: French

## Committee against Torture

### Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 880/2018\*, \*\*

|                                      |   |
|--------------------------------------|---|
| <i>Communication submitted by:</i>   | D.M. (represented by counsel, Alfred Ngoyi Wa Mwanza)   |
| <i>Alleged victim:</i>               | The complainant   |
| <i>State party:</i>                  | Switzerland   |
| <i>Date of complaint:</i>            | 25 May 2018 (initial submission)  |
| <i>Document references:</i>          | Decision taken pursuant to rule 115 of the Committee's rules of procedure, transmitted to the State party on 13 August 2018 (not issued in document form) |
| <i>Date of adoption of decision:</i> | 22 July 2022  |
| <i>Subject matter:</i>               | Deportation to the Democratic Republic of the Congo   |
| <i>Procedural issues:</i>            | None  |
| <i>Substantive issues:</i>           | Political activities; risk to life and risk of torture in the event of deportation to country of origin; refugee status; torture                          |
| <i>Article of the Convention:</i>    | 3   |

1.1 The complainant is D.M., a Congolese national, born in 1999 in Kinshasa. His application for asylum in Switzerland was rejected, and he is now facing deportation to the Democratic Republic of the Congo. He claims that his removal would constitute a violation by the State party of his rights under article 3 of the Convention. The State party has made the declaration pursuant to article 22 (1) of the Convention, effective from 2 December 1986. The complainant is represented by counsel.

1.2 On 13 August 2018, pursuant to rule 114 of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, rejected the complainant's application to request the State party to refrain from deporting him to the Democratic Republic of the Congo while his complaint was being considered.

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

\*\* The following members of the Committee participated in the examination of the communication: Todd Buchwald, Claude Heller, Erdogan Iscan, Maeda Naoko, Ilvija Pūce, Ana Racu, Abderrazak Rouwane, Sébastien Touzé and Bakhtiyar Tuzmukhamedov.



**Factual background**

2.1 In 2007, the complainant's mother arrived in Switzerland. In 2013, she filed an application for family reunification relating to her son, the complainant, who was living in the Democratic Republic of the Congo with his grandparents, aunt and two uncles.<sup>1</sup> On 25 March 2014, the Federal Office for Migration informally rejected the application for family reunification. On 9 April 2014, the complainant's mother withdrew her application.

2.2 From 19 to 21 January 2015, some opposition parties in the Democratic Republic of the Congo organized demonstrations in Kinshasa to protest against an amendment to electoral law, which would have resulted in extending the term of President Joseph Kabila. Opposition party members distributed flyers to the public to mobilize their support.

2.3 One of the complainant's friends was a relative of Franck Diongo, an opponent of President Kabila's regime. On 15 January 2015, Franck Diongo gave the complainant and the friend flyers to hand out. These flyers featured the following sentence: "Kabila out, no change to the Constitution, no delay to the elections, enough is enough, the country belongs to us and not to foreigners." In return for handing out the flyers, the sum of US\$ 100 was paid to the complainant and his friend. Motivated as much by money as by love for his country and his support for Franck Diongo, the complainant handed out these flyers in markets, streets and elsewhere.

2.4 On 19 January 2015, the complainant took part in a demonstration in the communes of Lingwala and Kalamu, in Kinshasa, with other friends he had managed to mobilize. During this demonstration, three of his friends went missing and were never seen again. After the disappearance of his friends, the complainant became afraid and decided not to participate in the demonstration of 20 January 2015. He decided to hide at the home of an acquaintance of his grandfather in Maluku, after having learned that State officials were planning to arrest young persons involved in the demonstrations of 19 January 2015.

2.5 On 27 January 2015, officers of the National Intelligence Agency came to the home of the complainant's grandparents to summon the complainant to the office of the Agency, located at Kinshasa City Hall.<sup>2</sup> The complainant's grandparents told the officers that their grandson had been missing since the demonstration of 19 January 2015 and that no one knew where he was. During a search of the entire house, flyers were found in the complainant's bedroom. In front of the grandparents, the officers accused the complainant of having taken part in the looting of a plot of land belonging to the Congolese artist Koffi Olomide in the commune of Kalamu, of having incited the public to civil disobedience and of having insulted the Head of State. Following this visit to the grandparents' home, the officers gave them to understand that the complainant's three friends had told them that he had taken them to the demonstration. According to the officers, the friends' release depended on the complainant's arrest.

2.6 On 5 February 2015, the officers returned to look for the complainant at his home. Judicial proceedings were then initiated against him for disturbance of public order, destruction of public property, incitement to hatred, civil disobedience and disrespect for the supreme authority of the State.<sup>3</sup>

2.7 Fearing for his life and with the support of his grandparents, the complainant left the Democratic Republic of the Congo on 10 February 2015. He travelled illegally by boat, first to the Republic of the Congo, subsequently to Türkiye and then to Greece.

2.8 On 26 June 2016, the complainant arrived in Switzerland, where he filed an asylum application on 20 July 2016. Two hearings were held on 29 July 2016 and 17 July 2017, on his personal information and on the grounds for asylum, respectively. On 15 September 2017, the State Secretariat for Migration rejected the asylum application. In its decision, the State Secretariat noted that, according to the application, the complainant wanted to leave his country of origin to join his mother in Switzerland, because of the poor state of health of his

---

<sup>1</sup> According to the complainant, his father has never supported him and one of his uncles died in 2015.

<sup>2</sup> The complainant provides a copy of the summons.

<sup>3</sup> The complainant provides a copy of a "mission order" dated 19 February 2015, which orders intelligence officers to "find, arrest and deliver" the complainant.

grandfather; if the latter were to die, the complainant would have been left alone in Kinshasa. The State Secretariat found that removing the complainant would not place him in specific danger, given that he had been living with his grandparents when he left the Democratic Republic of the Congo and had remained in contact with them since his arrival in Switzerland. Moreover, his grandparents had been supporting him financially until he left Kinshasa.

2.9 According to the complainant, during the ordinary asylum procedure, he had hidden his real reasons for seeking asylum from the Swiss authorities. As a minor, he did not want his mother to know about his political activities, because she was opposed to him being involved in politics. Furthermore, he did not want to tell the Swiss authorities all the facts related to his departure from the Democratic Republic of the Congo, on the instructions of his grandparents, who had organized his trip. They had told him that informing the Swiss authorities of what had happened could have had an impact on their safety, as they had secretly organized the complainant's departure despite the judicial proceedings against him.

2.10 On 16 October 2017, the complainant filed an appeal against the decision of the State Secretariat for Migration with the Federal Administrative Court. On 17 November 2017, the Court rejected this appeal on the grounds that the complainant had not made a credible case that he faced a real risk of being subjected to torture or inhuman or degrading treatment if returned to his country of origin. The Court found that the case file did not show that the complainant could face specific danger for personal reasons.<sup>4</sup> The Court noted that the complainant had not claimed in his appeal that he would face a real, specific and serious risk of being subjected to torture or inhuman or degrading treatment in the event of deportation. During his hearings, the complainant had stated that, following his mother's departure from her country of origin, he had organized and funded his own departure to join her, since his grandfather was ill and had been unable to pay for his schooling since September or October 2015. According to the Court, from the age of 18 years, a young adult was usually capable of living independently, in the absence of any specific circumstances making constant assistance from his relatives (living in Switzerland) essential for his daily life. The complainant was an adult, capable of working, without dependents and capable of leading an independent life. He had neither claimed nor demonstrated a particular dependence on his mother or his stepfamily living in Switzerland. Moreover, although he had implied in his appeal that he had health issues, he had not given any further information or submitted any medical certificate. Moreover, during his initial, summary, hearing, he had stated that he was well and he had made no comment on his health during the second hearing. In any case, the Democratic Republic of the Congo had health infrastructure offering essential health care and the complainant had not established that he had health issues severe enough to make his removal unenforceable. Furthermore, if necessary, he could have applied to the State Secretariat for Migration for individual return assistance to facilitate his resettlement in his country of origin or to obtain the payment of essential medical treatment for an appropriate period of time. Lastly, notwithstanding sporadic instances of local unrest and clashes, the whole of the Democratic Republic of the Congo was not in a state of war or beset by widespread violence.

2.11 On 17 January 2018, the complainant requested a re-examination of his asylum application, on the grounds that he was at risk of being arrested and subjected to torture, based on the summons from the National Intelligence Agency in connection with his involvement in politics. In particular, he submitted that he was a supporter of Franck Diongo and that he was wanted by the authorities in the Democratic Republic of the Congo for having handed out flyers opposing President Kabila and participated in a protest in Kinshasa in January 2015. In support of his claims, the complainant submitted two copies of summonses dated 7 January and 5 February 2015 and a mission order dated 19 February 2015.

2.12 On 9 February 2018, the State Secretariat for Migration rejected his application for re-examination, on the grounds that the facts invoked had already existed at the time of the initial asylum decision and that the complainant had not explained why he had been unable to inform the Swiss authorities of them during the initial asylum procedure. The complainant had never referred to his involvement in politics or the problems relating to that involvement,

---

<sup>4</sup> The complainant was an adult at the time when his initial asylum application was definitively rejected.

either when the family reunification procedure was before the Swiss authorities or when filing his asylum application or during his appeal in October 2017. According to the State Secretariat, the complainant's asylum application had been rejected when he was an adult; he therefore could and should have invoked the fact that he was allegedly wanted during the appeal proceedings at the latest. Moreover, the complainant had only provided copies of the new documents submitted and it was not possible to guarantee their authenticity, such that they had no probative value. In addition, the mission order provided was for internal use and should never have been provided to the complainant, who had not given a detailed explanation of how the document came to be in his possession. Furthermore, the complainant's explanation to justify not mentioning the real reasons he was seeking asylum earlier in the process was deemed illogical. If he had been in hiding for over a year owing to the fact that he was wanted, his mother, who contacted him every week at his grandparents' house, would certainly already have been worried before his arrival in Switzerland in June 2016. Lastly, the complainant's story about the route he had taken when illegally leaving his country of origin was also inconsistent, without any justification.

2.13 On 9 March 2018, the complainant filed an appeal against the decision with the Federal Administrative Court. On 5 April 2018, the Court rejected the appeal on the grounds that the facts on which the application for re-examination was based were neither new nor unknown to the complainant during the ordinary asylum procedure, nor of a nature not to be referred to at that time. Furthermore, the complainant's explanations in this regard were not convincing. In particular, his mother had not been present during his hearing on the grounds for asylum; there had therefore been no need to refrain from invoking all his reasons for seeking asylum. In any case, he could and should have invoked them, at the latest, in support of his appeal of 16 October 2017. The Court did not see how informing the Swiss authorities of the real reasons could have harmed his grandparents in the Democratic Republic of the Congo. Irrespective of its late submission, the new version of the facts relied on mere assertions. The evidence provided in support of the application for re-examination<sup>5</sup> had no probative value because only copies had been submitted and it was easy to acquire falsified legal documents in the Democratic Republic of the Congo.<sup>6</sup> The Court did not see how the decision of the State Secretariat for Migration could be considered arbitrary or to have violated the principle of equal treatment. The decision being challenged was sufficiently explicit and reasoned, especially as the complainant's appeal did not contain any arguments that could call its soundness into question.

2.14 The complainant declares that he has exhausted all available domestic remedies and that he has not submitted his complaint for examination under another procedure of international investigation or settlement.

## **Complaint**

3.1 The complainant argues that the State party would be in breach of its obligations under article 3 of the Convention if it deported him to the Democratic Republic of the Congo. In the event of deportation, the complainant would face a real, personal and imminent risk of being subjected to torture owing to his active participation in demonstrations organized by opposition parties in January 2015. He is being prosecuted in his country of origin for disturbance of public order, destruction of public property, incitement to hatred, civil disobedience and disrespect for the supreme authority of the State. These offences are subject to harsh punishment under the law. The complainant's friends reported him to the National Intelligence Agency, whose officers searched his grandparents' home and found political opposition flyers belonging to the complainant. Since the Agency reports directly to the presidency and Head of State of the Democratic Republic of the Congo, the complainant

---

<sup>5</sup> Two summonses, dated 7 January and 5 February 2015 requesting the complainant to report to the provincial directorate of the National Intelligence Agency on the grounds of disturbance of public order, destruction of public property, incitement to hatred, civil disobedience and disrespect for the supreme authority of the State and a mission order dated 19 February 2015.

<sup>6</sup> The Court refers to the legal documents issued by the National Intelligence Agency summoning the complainant and notifying the intelligence officers that they should "find, arrest and deliver" the complainant to the office in question.

would not have a fair trial if returned to his country of origin. During interrogations, officers of the Agency commit acts of torture and ill-treatment to obtain forced confessions.

3.2 Several young persons arrested during the demonstrations of January 2015 have been killed or detained in onerous conditions and deprived of their rights to defend themselves and to receive visits. Some of the complainant's friends have been missing since these demonstrations. Three months after the demonstrations, a mass grave containing the bodies of some demonstrators was discovered in Maluku. According to reports from non-governmental organizations, several cases of torture and ill-treatment have been attributed to the security forces in the Democratic Republic of the Congo.<sup>7</sup>

3.3 If he were returned to his country of origin, the complainant would immediately be arrested, interrogated and detained in an unknown location. The National Intelligence Agency in Kinshasa has several cells which are not known to human rights organizations or the International Committee of the Red Cross. Individuals facing political judicial proceedings are detained there. The interrogations are not conducted by judges but by officers of the National Intelligence Agency, who attempt to incriminate persons thought to oppose the rule of former President Kabila. The complainant has already been identified by his country's authorities, as they have sent the Swiss authorities a temporary travel document in the complainant's name with a view to his expected deportation.

#### **State party's observations on the merits<sup>8</sup>**

4.1 In its observations of 1 February 2019, the State party considers that the communication, which is identical in substance to the application for re-examination of an asylum application of 17 January 2018 and appeal of 9 March 2018 filed by the complainant, is unfounded. The complainant has provided no explanation as to why he only submitted his real reasons for seeking asylum after the end of the initial asylum procedure. Although he was represented by counsel from the outset, had all the evidence in his possession and had ample opportunity to substantiate and clarify his claims during the hearings before the State Secretariat for Migration and the Federal Administrative Court, the complainant preferred to hide his grounds for seeking asylum. The argument that he did not want to worry his mother is not convincing. She was not present at the hearings and those who were present were obliged to uphold professional confidentiality. Furthermore, when the complainant was living with his grandparents, he was in weekly contact with his mother. She would certainly have been worried by the simple fact that the complainant had been in hiding for more than a year before his arrival in Switzerland in June 2016 because he was wanted by the authorities. In addition, the complainant provided no details about his activities in the Democratic Republic of the Congo or any harassment his relatives might have suffered owing to his alleged activities or his disappearance. Lastly, the complainant has not explained either the inconsistent versions of his illegal departure for Switzerland or how he managed to acquire a strictly internal document of the National Intelligence Agency. Thus there is no specific information in the communication to lend credence to the risk claimed by the complainant.

4.2 Soon after filing the present communication, on 31 July 2018, the complainant filed a third asylum application (second application for re-examination), in which he asserts that his removal to the Democratic Republic of the Congo is unenforceable owing to his state of health. This application, like the previous one, has no justification or serious argument. The complainant's conduct should be considered contrary to the rules of good faith.

4.3 The complainant does not claim to have been subjected to torture or ill-treatment in the past and does not assert that he fled his country of origin illegally owing to threats of torture. Moreover, he does not claim to have engaged in further political activities in the Democratic Republic of the Congo between the demonstration of 19 January 2015 and his departure from the country. He also provided contradictory explanations about the date on which he left the country – 10 February 2015 according to the present complaint and 21 March 2016 according to the record of the hearing of 17 January 2017. In addition, there are

<sup>7</sup> See, for example, Amnesty International, *Amnesty International Report 2017/18: The State of the World's Human Rights*, 22 February 2018, pp. 144–147.

<sup>8</sup> The State party does not challenge the admissibility of the complaint.

no indications that members of the complainant's family are politically active. The complainant does not claim to have engaged in political activities in Switzerland.

### **Complainant's comments on the State party's observations**

5.1 In his comments dated 30 June 2021, the complainant repeats his arguments and maintains that he has substantiated his claims with evidence. As for the doubts of the Swiss authorities about the authenticity of the documents provided by the complainant, their formal defects reflect the real situation in the Democratic Republic of the Congo, a non-Western developing country with administrative shortcomings. In the case of *M.G. v. Switzerland*,<sup>9</sup> which also involved the Federal Administrative Court calling into question the authenticity of the documents provided by an asylum-seeker, the Committee found that the lack of an effective, independent and impartial review constituted a violation of the State party's procedural obligation under article 3 of the Convention. In the present case, the Swiss authorities were similarly unjustified in dismissing the evidence submitted by the complainant.

5.2 The complainant acknowledges that regime change took place in the Democratic Republic of the Congo in December 2018, when Félix-Antoine Tshisekedi Tshilombo was elected President. Since his accession to power, there have been improvements as regards freedom of expression and of assembly. However, notwithstanding the release of some high-profile political prisoners known to the public and to human rights organizations, several unknown political prisoners and prisoners of conscience who had run into difficulties under the regime of President Kabila remain in detention. The Federal Administrative Court has already acknowledged this trend.<sup>10</sup>

5.3 While some political prisoners arrested in the context of the December 2018 elections have been released since the election of Félix-Antoine Tshisekedi Tshilombo, this is not the case for all unknown political prisoners. In the case of the complainant, who is also unknown, there is nothing to indicate that it would be easy to secure his acquittal. Despite the change in President, the de facto ruling power remains the same. The intelligence and security services set up by the previous President remain in place. Their officers continue informally to obey Joseph Kabila, who therefore retains a presence in the institutions of the Democratic Republic of the Congo. The current head of the National Intelligence Agency ranked number two at the Agency under the regime of Joseph Kabila.

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

6.1 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.

6.2 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 that, in the present case, the State party has not challenged the admissibility of the complaint on these or any other grounds.

6.3 As the Committee finds no obstacles to admissibility, it declares the complaint admissible and proceeds with its consideration of the merits.

---

<sup>9</sup> CAT/C/65/D/811/2017 and CAT/C/65/D/811/2017/Corr.1.

<sup>10</sup> Federal Administrative Court, decision D-7269/2017, 9 October 2020, para. 5.4.

*Consideration of the merits*

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

7.2 In the present case, the issue before the Committee is whether the return of the complainant to Country would constitute a violation of the State party's obligation under article 3 of the Convention. The Committee recalls its general comment No. 4 (2017), according to which: (a) the non-refoulement obligation exists whenever there are "substantial grounds" for believing that the person concerned would be in danger of being subjected to torture in a State to which the person is facing deportation, either as an individual or as a member of a group that may be at risk of being tortured in the State of destination; and (b) the Committee's practice has been to determine that "substantial grounds" exist whenever the risk of torture is "foreseeable, personal, present and real".<sup>11</sup> It also recalls that the burden of proof is upon the complainant, who must present an arguable case, that is, submit substantiated arguments showing that the danger of being subjected to torture is foreseeable, present, personal and real. However, when complainants are in a situation where they cannot elaborate on their case, the burden of proof is reversed and the State party concerned must investigate the allegations and verify the information on which the communication is based.<sup>12</sup> The Committee gives considerable weight to findings of fact made by organs of the State party concerned; however, it is not bound by such findings and will make a free assessment of the information available to it in accordance with article 22 (4) of the Convention, taking into account all the circumstances relevant to each case.<sup>13</sup>

7.3 The Committee notes the complainant's assertions that, in the event of deportation, he would face a risk of being subjected to torture owing to his participation in political activities organized by opponents to the regime of Joseph Kabila, former President of the Democratic Republic of the Congo. The Committee observes that, according to the complainant, he is accused of disturbance of public order, destruction of public property, incitement to hatred, civil disobedience and disrespect for the supreme authority of the State. The Committee also notes the evidence submitted by the complainant in support of his claims, including the copies of the summonses. It notes that, according to the State party, there appear to be no substantial grounds for believing that the complainant would face a specific and personal risk of being subjected to torture upon his return to the Democratic Republic of the Congo.

7.4 The Committee notes the complainant's argument that the Swiss asylum authorities have not thoroughly examined his claims, the relevant facts and the information currently available on the human rights situation in the Democratic Republic of the Congo. It recalls that the right to an effective remedy contained in article 3 of the Convention requires, in this context, an opportunity for an effective, independent and impartial review of the decision to expel or return, once that decision is made, when there is a plausible allegation that article 3 issues have arisen.<sup>14</sup> The Committee notes that the complainant contests the findings of fact made by the Swiss authorities. However, the complainant, who was represented by a lawyer before the Swiss authorities and accompanied by a guardian until he became an adult, had the opportunity to explain his reasons for seeking asylum during a hearing.

7.5 The Committee further notes that the arguments and evidence which the complainant submitted in his three asylum applications – based on different grounds – and his two appeals were examined in detail by the State Secretariat for Migration and by the Federal Administrative Court, respectively. The Committee takes note of the findings of these authorities, according to which: (a) the complainant's explanation of the reason why he hid his real reasons for seeking asylum during the initial procedure was illogical for several reasons;<sup>15</sup> (b) the documents submitted in support of his claims were mere copies; (c) the complainant has not explained how he came to be in possession of a copy of the mission order of the National Intelligence Agency, which was for internal use; and (d) the

<sup>11</sup> Committee against Torture, general comment No. 4 (2017), para. 11.

<sup>12</sup> *Ibid.*, para. 38.

<sup>13</sup> *Ibid.*, para. 50.

<sup>14</sup> *M.G. v. Switzerland*, para. 7.4.

<sup>15</sup> See paragraph 2.12 above.

complainant has provided inconsistent explanations of the route he took to leave his country of origin. Having considered the detailed explanation of the grounds on which the State party's decisions were taken, the Committee finds that it is unable to conclude from the available information that the conduct of the asylum proceedings constituted a violation of the State party's obligation to undertake an effective, independent and impartial review, under article 3 of the Convention. Moreover, the Committee notes that the complainant has not provided in his complaint any details about his third asylum application, filed in 2018 after the submission of the initial communication, or about the reasons for that application, which are apparently related to his health.

7.6 In order to determine whether the complainant is at risk of being subjected to torture if he is returned to the Democratic Republic of the Congo, the Committee begins by noting that the complainant claims to have been targeted by the National Intelligence Agency in January and February 2015, for his political activities in support of a politician opposed to the regime of former President Joseph Kabila. The Committee notes that the complainant does not claim to have been in personal contact with the authorities in the Democratic Republic of the Congo and that he has not been detained or subjected to torture. The Committee also takes note of the inconsistencies in the complainant's explanations as to the date when he left the Democratic Republic of the Congo – 10 February 2015 according to the present complaint and 21 March 2016 according to the record of the hearing of 17 January 2017. Moreover, the Committee considers that, given the time that has elapsed (approximately six or seven years) since the complainant left the Democratic Republic of the Congo, it does not necessarily follow that he risks arrest in the event of deportation to his country of origin today, even assuming that supporters of Joseph Kabila remain in power. While noting the complainant's concerns about the human rights situation in the Democratic Republic of the Congo, especially as regards the practices of the National Intelligence Agency, the Committee recalls that the existence of human rights violations in a complainant's country of origin is not, in itself, sufficient for it to conclude that he or she runs a personal risk of being tortured.

7.7 In view of: the inconsistent grounds for the three asylum applications filed by the complainant, despite his being represented by counsel throughout the procedures; his inadequate explanations for these inconsistent grounds;<sup>16</sup> the lack of explanation of the source of the internal document he submitted in support of his claims; and his inadequate explanations about his departure from the Democratic Republic of the Congo, the Committee concludes that the complainant has not shown that there is sufficient reason to believe he faces a foreseeable, real, present and personal risk of being subjected to torture if he is returned to the Democratic Republic of the Congo.

8. In the light of the foregoing, the Committee, acting under article 22 (7) of the Convention, concludes that the return of the complainant to the Democratic Republic of the Congo would not constitute a violation by the State party of article 3 of the Convention.

---

<sup>16</sup> See paragraph 4.1 above.