



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. 1106/2021* **

<i>Communication submitted by:</i>	I.A. (represented by counsel, Mejreme Omuri)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	26 November 2021 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rules 114 and 115 of the Committee's rules of procedure, transmitted to the State party on 30 November 2021 (not issued in document form)
<i>Date of adoption of decision:</i>	12 July 2024
<i>Subject matter:</i>	Deportation to Sri Lanka
<i>Procedural issues:</i>	Exhaustion of domestic remedies; level of substantiation of claims
<i>Substantive issues:</i>	Risk to life or risk of torture or other cruel, inhuman or degrading treatment or punishment, if deported to country of origin (non-refoulement)
<i>Articles of the Convention:</i>	3, 14 and 16

1.1 The complainant is I.A., a national of Sri Lanka born in 1990. He applied for asylum in Switzerland, but his application was rejected. He is facing deportation to Sri Lanka and submits that his deportation would constitute a violation by the State party of articles 3, 14 and 16 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 30 November 2021, pursuant to article 114 of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party not to deport the complainant to Sri Lanka while the communication was being considered by the Committee.

* Adopted by the Committee at its eightieth session (8–26 July 2024).

** The following members of the Committee participated in the examination of the communication: Todd Buchwald, Jorge Contesse, Claude Heller, Erdogan Iscan, Peter Vedel Kessing, Liu Huawen, Maeda Naoko, Ana Racu, Abderrazak Rouwane and Bakhtiyar Tuzmukhamedov.



Factual background

2.1 The complainant is of Tamil ethnicity. In 2007, he met a man who had links with the Liberation Tigers of Tamil Eelam and who asked the complainant to help with transporting packages, filling out forms in Sinhala, and organizing overnight accommodation for others. The complainant also translated documents, such as birth certificates and passports, presuming that he was assisting Tamils who were fleeing. He performed those tasks for a small fee until the end of 2008, when he lost contact with that man.

2.2 In April or May 2014, the complainant met a man in Colombo, who approached him and told him that he had once stayed at his house. Three weeks later, three officers came to the complainant's house to arrest him, one of them was the same person who approached him earlier. They took him to an unknown location. They put him in a room, where two officers punched him several times in the face and sprayed him in the face with cold water. The officers asked him numerous questions and told him that they knew about his activities. One of the officers attempted to insert a glass bottle into his anus, but the complainant was able to fight back, get his arm free and stand up. Then he was hit with an iron bar on his left arm, after which he fainted. He regained consciousness at the public hospital in Colombo, in the presence of his parents. His arm was broken, so he needed to undergo surgery. Due to an infection, the complainant was hospitalized for two and a half months.¹ After the complainant recovered, the officers again tried to take him away, but his father managed to prevent this by paying money. Then his father planned for his son to flee Sri Lanka in September 2015 with the help of a smuggler and a fake passport.

2.3 The complainant arrived in Switzerland on 27 September 2015 and applied for asylum. The State Secretariat for Migration interviewed him on 5 October 2015, 6 April 2017 and 13 June 2019. The complainant declared that two months after his escape, his elder brother was taken in by security forces for questioning and was never seen again – either he was in hiding or he had been abducted and detained or killed by the security forces. The complainant's parents were also visited several times by members of the Criminal Investigation Department and questioned about the whereabouts of their son. They were threatened and also taken to the police station for questioning. His parents could no longer bear the constant harassment and moved to another district to live with the complainant's aunt. However, according to neighbours, the security forces continued to visit the family home even after the parents moved away.

2.4 On the basis of the information provided by the complainant, the State Secretariat for Migration asked the Embassy of Switzerland in Sri Lanka to verify whether the brother's whereabouts were known and to confirm the location of the other family members. According to the Embassy's report of 13 May 2020, the complainant's parents assumed that the complainant's brother was in contact with people close to the Liberation Tigers of Tamil Eelam. He would have done small jobs for them, as he spoke and wrote Sinhalese well. Some eight and a half or nine years ago, he did not return home and has since disappeared. After his disappearance, unknown people continued to ask about him. The complainant himself was threatened and beaten, which is why he spent three months in hospital. During his stay in hospital, no one asked to see him. After the complainant's departure, unknown people asked to see him. The parents then moved to live with the complainant's aunt. During the coronavirus disease (COVID-19) pandemic, the parents lived in the family home in Colombo, but otherwise, they lived with the aunt. The Sri Lankan medical certificate produced by the complainant proved to be authentic. In his replies of 23 June and 6 September 2020, the complainant, represented by a lawyer, submitted comments on the Embassy's report and refuted the information provided by his parents, deeming it partly inaccurate.

2.5 On 16 September 2020, the State Secretariat for Migration rejected the complainant's asylum application and ordered his return to Sri Lanka. It found the complainant's claims to be inconsistent and not supported by any evidence. If the complainant had indeed been arrested in May 2014 by the security forces in the presence of his parents, and if he had subsequently been visited on several occasions in hospital, one might have expected a

¹ In the asylum proceedings, the complainant provided a Sri Lankan medical certificate attesting to his fractured arm.

detailed account of the events, as well as concordance with the results of the Embassy's investigation. However, the information gathered from the parents proved to be inconsistent with the complainant's statements. In particular, according to the parents' explanations, only the complainant's brother had any contact with the Liberation Tigers of Tamil Eelam, whereas the complainant had declared that his brother did not have any connection with the movement. The State Secretariat for Migration also noted that, while the injury to the complainant's arm was credible, its alleged causes were not.

2.6 On 4 December 2020, the Federal Administrative Court dismissed the complainant's appeal for lack of credibility of the alleged State persecution in Sri Lanka and of the alleged ill-treatment. Although it could not be ruled out that the complainant had suffered violence in his home country and had broken his wrist, he had failed to credibly demonstrate that this was due to State persecution.

2.7 On 12 April 2021, the complainant requested the State Secretariat for Migration to review its decision of 16 September 2020. He produced a medical report dated 11 March 2021² and invoked the Committee's jurisprudence on the accuracy and coherence of statements made by torture victims.³ He also mentioned that his father had suffered a heart attack after the ruling of the Federal Administrative Court and had died.

2.8 On 13 May 2021, the State Secretariat for Migration rejected the complainant's request for reconsideration of its decision because, in the medical report, the doctors only relied on the complainant's statements on the causes of the psychological disorders, which had been classified as implausible by the State Secretariat and by the Federal Administrative Court.

2.9 On 5 July 2021, the Federal Administrative Court rejected the complainant's appeal insofar as he alleged, based on documents, a risk of persecution in Sri Lanka in the event of his return. However, the Court considered that the State Secretariat for Migration had not fully clarified the evolution of the complainant's state of mental health and whether this constituted an obstacle to his return. To that extent, it admitted the appeal and referred the matter back to the State Secretariat for Migration.

2.10 On 27 July 2021, the State Secretariat for Migration dismissed again the complainant's request for reconsideration on the point at issue. It pointed out that the complainant had not claimed any psychological problems during the first asylum procedure. On the contrary, those problems would have appeared after the ruling of the Federal Administrative Court of 4 December 2020. To that extent, the psychological and psychiatric problems would be, at least partially, attributable to the negative evolution of the asylum procedure. The State Secretariat for Migration further noted that, according to the medical file,⁴ the complainant's fears for his family and his guilty conscience following the death of his father were also at the root of his problems. In addition, the State Secretariat for Migration noted that the complainant, who had grown up in Colombo, could benefit from treatment in that country and that the necessary medication was available in Colombo.

2.11 On 6 October 2021, the Federal Administrative Court dismissed the complainant's appeal. It took into account a new medical report dated 28 August 2021 and judged that it was based on the complainant's allegations and therefore may be regarded as circumstantial evidence, but not as evidence of the allegations of persecution. Since the Court also had doubts about the complainant's status as a victim of torture, the request for evidence for the preparation of an expert opinion by the psychotherapist in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was rejected under these circumstances. The Court also concluded that no serious deterioration of health could be inferred from the medical reports.

² Which confirmed that the complainant was undergoing inpatient psychiatric treatment since 28 January 2021 due to a depressive episode, as well as a persistent personality change following extreme stress with preceding post-traumatic stress disorder.

³ *Alan v. Switzerland* (CAT/C/16/D/21/1995), para. 11.3.

⁴ Mentioning that the complainant was suffering from post-traumatic stress disorder, a major depressive episode, mental and behavioural disorders related to alcohol use, and prolonged grief disorder.

2.12 Faced with the risk of being deported to Sri Lanka, the complainant commissioned a physical and psychological examination in accordance with the Istanbul Protocol.⁵ The physical examination of 5 November 2021 revealed that the complainant had fractures of both forearm bones that would be highly consistent with being struck with an object, such as an iron bar. They could have been caused by the trauma described as there are few other possible causes. The scars on the right chest, the left lower abdomen and on both arms and legs could have developed in 2014 and are non-specific. Their origin would be, at least partially, consistent with being kicked, but there are many other possible causes. The experts concluded that, taken as a whole, the healed fractures of the left forearm in the X-ray and the findings made during the physical examination were consistent with the allegations of torture and abuse. In the psychological report dated 16 November 2021, the experts noted that the described symptoms of post-traumatic stress disorder were highly likely to have occurred as a result of the alleged mistreatment.⁶

Complaint

3.1 The complainant claims that his deportation to Sri Lanka would constitute a violation of his rights under articles 3, 14 and 16 of the Convention.

3.2 The complainant points out that he suffers from a serious illness. Even if he could seek treatment in Sri Lanka, the proximity to the traumatic experiences and his mistrust would make it almost impossible for him to talk about his traumatic experiences, which in turn would be necessary for successful treatment. In the event of forced repatriation, the complainant would be confronted with the security forces, which would most likely lead not only to an intensification of the existing symptoms of post-traumatic stress disorder, but also to retraumatization. It is therefore clear that his removal poses a specific high risk to his life and would thus be in violation of articles 3 and 16 of the Convention.

3.3 Invoking article 14 of the Convention, the complainant submits that there are no specific rehabilitation programmes and centres in Sri Lanka, and alternative services are not able to provide the necessary services to victims of torture.⁷ Even if there were rehabilitation facilities, it is clear for the complainant that the safe environment required for this is not available due to his experiences in his home country and the fears associated with them.

State party's observations on admissibility and the merits

4.1 On 16 May 2022, the State party submitted its observations. It noted that the complainant produced before the Committee two expert reports that had not been submitted to the asylum authorities. It thus considers that the complainant has not exhausted all domestic remedies, given that he had the possibility to request a re-examination of his asylum application based on new evidence.

4.2 As far as the alleged violation of article 14 of the Convention is concerned, the State party notes that it has not been established that public officials were involved in the acts that led to the complainant's condition. As such involvement is inherent in the acts prohibited by articles 1 and 16 of the Convention – and therefore in the concept of "victim" in article 14 – the State party considers that the complainant cannot be qualified as a victim within the meaning of article 14. It follows that article 14 is not applicable in the present case, hence his claim is incompatible *ratione materiae* with the Convention.

4.3 On the merits, the State party reiterates the arguments made by the Swiss asylum authorities. It acknowledges that the human rights situation in Sri Lanka is worrying in many respects,⁸ but points out that the Federal Administrative Court has already thoroughly examined that situation and the risk of torture in the event of return in a reference judgment,⁹

⁵ The physical examination took place at the Institute of Forensic Medicine at the University of Bern and psychological examination was conducted at Les Toises – Psychiatry and Psychotherapy Centre.

⁶ This report was drawn up by the complainant's treating psychotherapist.

⁷ Swiss Refugee Council, "Sri Lanka: Zugang zu Rehabilitationsbehandlungen für Folteropfer in Sri Lanka" (Bern, 2020), p. 5 (in German).

⁸ See [CAT/C/LKA/CO/5](#).

⁹ Federal Administrative Court, Judgment, No. E-1866/2015, 15 July 2016.

according to which not all returnees with a real or supposed, present or past link to the Liberation Tigers of Tamil Eelam necessarily risk persecution. Only persons accused of rekindling ethnic conflict face such a risk. The same applies to Sri Lankan nationals who have engaged in political activities in exile. In the present case, the complainant has failed to plausibly argue that he had attracted the attention of the Sri Lankan authorities.

4.4 The State party notes that, in the subsequent proceedings, the complainant emphasized his state of health and no longer claimed to be exposed to a present and personal risk of torture in the event of deportation. Neither the State Secretariat for Migration nor the Federal Administrative Court questioned the fact that the complainant had been subjected to physical violence in Sri Lanka. However, they concluded that, given the implausibility of the complainant's account, the lower-arm bone fractures must have had causes other than those indicated by him. The State party also notes that the communication does not contain any indication that the complainant would be considered a threat to the State of Sri Lanka in the eyes of the regime.

4.5 The State party then notes that, according to the medical report of 5 November 2021, it is possible that a blow from an iron bar caused the fracture in the complainant's arm, however, in that report, the experts do not provide any solid evidence concerning the exact circumstances of the blow. The same with the other scars, where the experts concluded that they may also have had other causes. For the State party, in a context in which the domestic authorities have repeatedly found the complainant's allegations of persecution to be implausible, based on various sources of information, the forensic medical institute's expert opinion does not provide any new and convincing information on the causes of the injuries and scars alleged by the complainant.

4.6 As regards the expert opinion of 16 November 2021, while it was carried out in accordance with the Istanbul Protocol and therefore had greater scientific probative value, the State party notes that the expert opinion was commissioned by the complainant himself, and that the expert in psychology is also his treating psychotherapist. That inevitably leads to a major conflict of interest between the role of objective expert and that of therapist for the person being assessed. That conflict, which cannot be resolved, must be taken into account when assessing the psychiatric and psychological expertise.

4.7 Besides those reservations regarding the psychological assessment, the State party notes that the psychological disorders invoked by the complainant were already known to the domestic authorities at the time of the asylum proceedings and were the subject of those proceedings. The expert opinion of 16 November 2021 therefore does not bring any new essential elements to light. The experts conclude that the psychological symptoms reported by the complainant and observed during the investigation, as well as their evocation, are as consistent as possible with the ill-treatment alleged by the Sri Lankan security forces. In their view, the symptoms of post-traumatic stress disorder were most likely caused by the complainant's alleged ill-treatment. However, the experts do not explain the reasons why they came to that conclusion and excluded with very high probability other possible causes. The State party therefore considers that the expert report of 16 November 2021 does not prove the alleged torture by the Sri Lankan security forces.

Complainant's comments on the State party's observations

5.1 On 11 September 2023, the complainant submitted comments, in which he contested the State party's arguments. As regards the State party's plea of inadmissibility for failure to exhaust domestic remedies, the complainant submits that the State party fails to recognize that the expert opinion or the explanations contained therein do not constitute new facts or evidence to support new allegations, but additional evidence to support his allegations of torture and ill-treatment, and his fear of being persecuted again. The new expert reports are of great importance in assessing whether there has been a violation of the complainant's right to rehabilitation under article 14 of the Convention. The complainant also considers that there is no evidence to prove that the experts in charge of the expert report of 16 November 2021 did not assess the situation objectively.

5.2 As regards the inconsistencies found by the Swiss authorities following the investigation by the Embassy of Switzerland in Sri Lanka, the complainant declared that his parents did not trust the Embassy staff and did not tell the truth in order to protect him. Then he refers again to the human rights situation in Sri Lanka and argues that, because he is known to the Sri Lankan authorities as a suspected opponent of the regime with connections to the Liberation Tigers of Tamil Eelam and given the fact that the security forces have made repeated enquiries about his whereabouts, he would, in the event of return, risk facing treatment contrary to article 3 of the Convention.

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 contested the exhaustion of all available domestic remedies by the complainant because he did not request a re-examination of his case in order to allow the competent national authorities to evaluate the two new expert reports that had been presented by the complainant in his complaint to the Committee. The State party also claims that, in respect of his claim under article 14 of the Convention, the complainant does not have victim status because it has not been established that public officials were involved in the treatment alleged by the complainant.

6.3 The Committee first considers that the complainant has not shown that the facts, as presented by him, raise separate issues under articles 14 and 16 of the Convention.¹⁰ In the absence of further explanations, the Committee considers that that aspect of the communication is insufficiently substantiated.

6.4 The Committee then notes the complainant's argument that the two new expert opinions do not constitute new facts or evidence to support new allegations, but represent additional evidence to support his original allegations of torture and ill-treatment. The Committee considers that the complainant's claims before the Committee are based on a set of facts that were examined by the State party's authorities and that have been sufficiently substantiated for the purposes of admissibility.¹¹ The Committee therefore finds that it is not precluded from considering the article 3 claim under article 22 (5) (b) of the Convention.

6.5 Moreover, the Committee is of the view that, for the purposes of admissibility, the complainant has provided sufficient information as regards the risk of irreparable harm that he would allegedly face if he were returned to Sri Lanka and has therefore substantiated his allegations under article 3 of the Convention. Accordingly, the Committee declares the claim admissible and proceeds with its consideration of the merits.

Consideration of the merits

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

7.2 In the present case, the issue before the Committee is whether the return of the complainant to Sri Lanka would constitute a violation of the State party's obligation under article 3 of the Convention not to expel or to return (*refouler*) a person to another State where

¹⁰ *N.A. v. Switzerland* (CAT/C/79/D/1096/2021), para. 8.3; and *Harun v. Switzerland* (CAT/C/65/D/758/2016), para. 8.7.

¹¹ *A.Sh. et al. v. Switzerland* (CAT/C/63/D/717/2015), paras. 8.3 and 8.4.

there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

7.3 The Committee must evaluate whether there are substantial grounds for believing that the complainant would be personally in danger of being subjected to torture upon return to Sri Lanka. In assessing that risk, the Committee must take into account all relevant considerations, pursuant to article 3 (2) of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights. However, the Committee recalls that the aim of such determination is to establish whether the individual concerned would be personally at a foreseeable and real risk of being subjected to torture in the country to which he or she would be returned. It follows that the existence of a pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute sufficient reason for determining that a particular person would be in danger of being subjected to torture on return to that country; additional grounds must be adduced to show that the individual concerned would be personally at risk. Moreover, although past events may be of relevance, the principal question before the Committee is whether the complainant currently runs a risk of torture if returned to Sri Lanka.¹²

7.4 The Committee refers to its general comment No. 4 (2017), according to which the risk of torture must be assessed on grounds that go beyond mere theory or suspicion. Although the risk does not have to be shown to be “highly probable”, the burden of proof generally falls on the complainant, who must present an arguable case establishing that he or she faces a foreseeable, real and personal risk.¹³ The Committee also recalls that it gives considerable weight to findings of fact made by organs of the State party concerned, while, at the same time, it is not bound by such findings and instead has the power, under article 22 (4) of the Convention, to make a free assessment of the information available to it, taking into account all the circumstances relevant to each case.¹⁴

7.5 In the present case, the Committee notes the complainant’s claims that he would be in danger of facing treatment contrary to article 3 of the Convention if returned to Sri Lanka, as he would risk detention, acts of torture and ill-treatment because of his perceived connections to the Liberation Tigers of Tamil Eelam, particularly given the human rights situation in Sri Lanka, his Tamil ethnicity and his absence from the country. It also takes note of the complainant’s assertions that he was detained, interrogated and ill-treated and that the Sri Lankan authorities have, since then, been looking for him. In that regard, the Committee takes note of the documents provided by the complainant to support his claims – both those submitted to the Swiss authorities and those that were provided solely to the Committee after the Federal Administrative Court denied the complainant’s final appeal in the case relating to his asylum application and that were therefore not submitted to the authorities of the State party during the asylum proceedings.

7.6 The Committee notes the State party’s reference to the contradictions that the asylum authorities had identified in the complainant’s account and their conclusion that the complainant had failed to plausibly argue that he had attracted the attention of the Sri Lankan authorities. The Committee notes that the Swiss authorities duly examined – including with the help of the Embassy of Switzerland in Sri Lanka – the complainant’s allegations in support of his request for asylum, but highlighted the inconsistencies therein and expressed doubts as to their credibility.

7.7 Thus, the State Secretariat for Migration noted that the complainant had declared that he was arrested in the presence of his parents, while his parents never declared that he was arrested. Then the complainant declared before the State Secretariat for Migration that his brother had been arrested two months after his escape and was never seen again, while his parents declared to the Embassy of Switzerland that the complainant’s brother had disappeared around eight or nine years ago. The complainant also mentioned that, while in hospital, he had been visited on several occasions by Sri Lankan officers, while his parents declared that, during his stay in hospital, no one had asked to see him. Lastly, the State

¹² *N.K. v. Switzerland* (CAT/C/77/D/989/2020), para. 7.3.

¹³ See, inter alia, *Dadar v. Canada* (CAT/C/35/D/258/2004), para. 8.4; and *A.R. v. Netherlands* (CAT/C/31/D/203/2002), para. 7.3.

¹⁴ General comment No. 4 (2017), paras. 11, 39 and 50.

Secretariat for Migration noted that, according to the parents' explanations, only the complainant's brother had contact with the Liberation Tigers of Tamil Eelam, whereas the complainant had declared that his brother did not have any connection with the movement. The Committee notes that the complainant has not provided a convincing explanation for those discrepancies.

7.8 The Committee further notes that the Swiss authorities have not called into question the allegation that the complainant may have suffered from violence in Sri Lanka and had broken his forearms. They have, however, contested the credibility of his claims that his activities with the Liberation Tigers of Tamil Eelam led to his persecution by the Sri Lankan authorities and that the trauma he suffered had been caused by State agents. The Committee notes that the complainant has not produced any evidence for his claims.

7.9 The Committee takes note of the two expert opinions delivered after the complainant's examination in accordance with the Istanbul Protocol. However, the Committee notes that those reports – a physical examination and a psychological examination – were commissioned by the complainant only after the Federal Administrative Court had denied his appeal in the re-examination proceedings and were therefore not submitted to the authorities of the State party during the asylum proceedings. The Committee also notes that, in the ordinary proceedings, the complainant did not invoke any psychological problems and did not produce any medical report. It was only in support of his extraordinary re-examination proceedings that he produced a medical report attesting that he had started psychiatric treatment almost two months after the final rejection of his asylum application. The complainant does not explain why he chose to commission an examination in accordance with the Istanbul Protocol after the final decision in his re-examination proceedings instead of undergoing such an examination during the asylum proceedings, in order to use the report in support of his allegations.

7.10 With respect to the argument relating to the worsening of the human rights situation in Sri Lanka, the Committee recalls that the occurrence of human rights violations in the complainant's country of origin is not, in itself, sufficient for it to conclude that the complainant is personally at risk of being tortured there. The Committee notes that the complainant had ample opportunity to provide the State Secretariat for Migration and the Federal Administrative Court with supporting evidence and more information about his claims during the asylum proceedings and his request for re-examination. However, it cannot be concluded on the basis of the evidence provided that the complainant would personally be at risk of facing torture or inhuman or degrading treatment if he returned to Sri Lanka. Even if it were to accept the claim that the complainant was subjected to acts of torture and ill-treatment in the past – as allegedly supported by his physical and psychological examination in accordance with the Istanbul Protocol – the Committee recalls that the question is whether he remains, at present, at risk of torture in Sri Lanka in the event of his forcible return there.¹⁵ The Committee also notes that, according to its jurisprudence, it is normally for the complainant to present an arguable case.¹⁶

7.11 In the present case, the Committee is of the view that the complainant has not provided credible information suggesting that the Sri Lankan authorities are currently interested in him. In that sense, it notes that the complainant did not demonstrate before the Swiss asylum authorities that the alleged violence he suffered was due to the intervention of State agents or that the Sri Lankan authorities are currently searching for him. The complainant also did not demonstrate that his family is currently persecuted due to his own past activities.

8. On the basis of the above, and in the light of the material before it, the Committee considers that the complainant has not provided sufficient evidence to enable it to conclude that his deportation to his country of origin would expose him to a real, foreseeable, personal and present risk of being subjected to treatment contrary to article 3 of the Convention.

¹⁵ *N.K. v. Switzerland*, para. 7.10.

¹⁶ See, for example, *N.B.-M. v. Switzerland* (CAT/C/47/D/347/2008), para. 9.9; *C.A.R.M. et al. v. Canada* (CAT/C/38/D/298/2006), para. 8.10; and *M.A.K. v. Germany* (CAT/C/32/D/214/2002), para. 13.5.

9. The Committee, acting under article 22 (7) of the Convention, concludes that the return of the complainant to Sri Lanka would not constitute a violation of article 3 of the Convention by the State party.
