



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

Distr.: General  
11 December 2014

Original: English

## Committee against Torture

### Periodic report on follow-up to decisions on complaints submitted under article 22 of the Convention against Torture (28 April 2014–3 November 2014)

Report adopted by the Committee at its fifty-third session  
(3–28 November 2014)

#### Follow-up activities

1. The present report compiles information received from States parties and complainants since the fifty-second session of the Committee against Torture, which took place from 28 April to 23 May 2014.

State party	Tunisia
Case	Ben Salem, 269/2005
Decision adopted on	7 November 2007
Violation	Articles 1, 12, 13 and 14
Remedy recommended	The Committee urged the State party to conclude the investigation into alleged acts of torture inflicted on the complainant, with a view to bringing those responsible to justice.

2. On 8 April 2014, counsel (OMCT) submitted that they have been in regular contact with Ali Ben Salem and that he seeks effective implementation of the Committee's decision. The counsel regrets that no action has been taken since 2008 to implement the Committee's decision despite the change in power. Counsel states that they have learned of the existence of documents proving the interference of the political authorities under the regime of President Ben Ali in the opening of an investigation, following the Committee's decision. They invite the Government of Tunisia to disclose the above documents immediately, in particular the position on that case of the Minister of Human Rights at the time. The counsel asks the Committee to request that the Tunisian authorities allow Mr. Ben Salem full access to the documents concerning his case and to ensure his right to redress.

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3. On 7 July 2014, the State party submitted that the complainant's case is still pending before the investigating judge. The State party reiterates previous submissions. The State party further reports that many cases have been opened after the revolution regarding corruption, torture and other human rights violations issues. That has resulted in lengthy judicial proceedings. The State party is, however, cooperating inter alia with Office of United Nations High Commissioner for Human Rights (OHCHR), the World Bank and the European Union to enhance justice administration and render it more efficient. It also notes that ministries cannot interfere in the work of the judiciary owing to the principle of separation of powers.

4. On 11 September 2014, counsel submitted that the complainant would like to continue the follow-up until the full implementation of the decision. Fourteen years after the facts and seven years after the decision of the Committee, he is still waiting for effective investigation allowing for the punishment of the individuals responsible for the torture that he suffered and for rehabilitation and compensation. The lack of action by the investigating judge in charge constitutes a continuation of the violations of his rights. Documents from the Ministries of Interior, Justice and Human Rights and the Legal Department of the Presidency under the former regime prove that the executive authorities have ordered that the investigation be closed. Further, the complainant suffers from health problems resulting from the torture experienced and has not benefited from any medical care proposed by the authorities; he was forced to pay for treatment from his own funds. Counsel asks the Committee to appeal to the Tunisian authorities to implement its decision and to call a meeting between the Rapporteur on follow-up to communications, counsel and representatives of the State party.

5. The complainant's submission had been transmitted in October 2014 to the State party for comments.

**Committee's decision:** To keep the follow-up dialogue open. To propose a meeting to the Permanent Mission of Tunisia with the Rapporteur on follow-up to communications to discuss the follow up on the present decision and other decisions pending implementation.

State party	Tunisia
<b>Case</b>	<b>Ali, 291/2006</b>
<b>Decision adopted on</b>	21 November 2008
<b>Violation</b>	Articles 1, 12, 13 and 14
<b>Remedy recommended</b>	The Committee urged the State party to conclude the investigation into the alleged acts of torture inflicted on the complainant, with a view to bringing those responsible to justice.

6. On 7 July 2014, the State party submitted that the complainant's complaint was dismissed on 6 February 2009 by the Investigating Judge at the Magistrate Court in Tunis owing to a lack of evidence. The State party reiterates its previous submissions provided to the Committee on 10 December 2013, in which it reported that the complainant can appeal the decision if new evidence appeared. The complainant was invited to submit an appeal should she obtain new evidence that can strengthen her arguments.

7. The State party's submission had been transmitted in July 2014 to the complainant for comments.

**Committee's decision:** To keep the follow-up dialogue open. To propose a meeting to the Permanent Mission of Tunisia with the Rapporteur on follow-up to communications to discuss the follow up on the present decision and other decisions pending implementation.

<b>State party</b>	<b>Norway</b>
<b>Case</b>	<b>Eftekhary, 312/2006</b>
<b>Decision adopted on</b>	25 November 2011
<b>Violation</b>	Article 3 (deportation to the Islamic Republic of Iran)
<b>Remedy recommended</b>	The Committee asked the State party not to expel the complainant.

8. On 15 April 2014, the Secretariat sent to the State party a letter requesting an update on the complainant's situation and inquiring whether he had received a residence permit.

9. On 12 May 2014, the State party responded that, on 5 November 2013, the complainant was issued a residence permit on grounds of humanitarian considerations. The permit was valid for one year and the complainant would have to apply for its renewal upon expiration.

**Committee's decision:** To close the follow-up dialogue on the case with a note of satisfactory resolution.

<b>State party</b>	<b>Sweden</b>
<b>Case</b>	<b>Njamba and Balikosa, 322/2007</b>
<b>Decision adopted on</b>	14 May 2010
<b>Violation</b>	Article 3 (deportation to the Democratic Republic of the Congo)
<b>Remedy recommended</b>	The Committee asked the State party not to expel the complainant.

10. On 27 July 2010, the State party informed the Committee that the Migration Board had decided on 9 June 2010 to grant the complainants permanent residence in Sweden and enclosed the copies of the decisions. The State party submits that it will take no further action in the case and considers the matter closed under the follow-up procedure.

**Committee's decision:** To close the follow-up dialogue with a note of satisfactory resolution.

<b>State party</b>	<b>Ukraine</b>
<b>Case</b>	<b>Slyusar, 353/2008</b>
<b>Decision adopted on</b>	14 November 2011
<b>Violation</b>	Articles 1, 2, 12, 13 and 14
<b>Remedy recommended</b>	The Committee asked the State party to take the necessary steps to give effect to the Committee's decision.

11. On 6 September 2013, the State party submitted that, on 26 July 2006, the Solomyansky District Procurator's Office had refused to bring criminal charges against police officers for acts of torture; that the Kiev Procurator's Office on a number of occasions had responded to the complainant that the above decision was lawful and that he had a right to appeal, which he failed to do; and as the complainant's appeal, dated 14 December 2012, did not contain any new facts, on 19 December 2012, the pretrial investigation proceedings were terminated. The State party also reiterates that the Code of Criminal Procedure, which entered into force on 20 November 2012, introduced a range of novelties, which would contribute to the protection of human rights and the prohibition of torture in particular.

12. On 3 June 2014, the complainant notes that, according to the State party's submission, no investigative actions had taken place since July 2006. Since then, all his complaints were forwarded from one procurator's office to another and he received replies stating that either his case was being reviewed for unreasonably long periods of time or informing him that the 27 July 2006 decision was lawful and referring him to the courts. His 14 December 2012 complaint was entered in the Single Register of Pretrial Investigations and in five days was closed without any investigative action having taken place. The complainant's claims that the 2006 investigation was not conducted properly, and the Committee's decision and follow-up letters were ignored. The complainant maintains that the acts of torture against him have still not been investigated and the perpetrators remain unpunished.

13. The complainant's submission has been transmitted to the State party for comments.

**Committee's decision:** To keep the follow-up dialogue open. To send a letter to the State party requesting additional information regarding the investigation into the complainant's torture allegations.

State party	Morocco
<b>Case</b>	<b>Barry, 372/2009</b>
<b>Decision adopted on</b>	19 May 2014
<b>Violation</b>	Article 16
<b>Remedy recommended</b>	The Committee urged the State party to launch an impartial inquiry into the events for the purpose of prosecuting those persons responsible for the treatment inflicted on the complainant, and to take measures to provide the complainant with redress, including fair and adequate compensation. The State party is also under an obligation to take steps to prevent similar violations occurring in the future.

14. On 23 August 2014, the State party submits that its authorities are surprised that the Committee took its decision in May 2014, given that the facts date back to August 2008 and that no new piece of information had reached the Committee or had been transmitted to the authorities for the purpose of carrying out an investigation on time. They are also surprised that, since the communication's submission in November 2008, no reaction from the author or his counsels had reached the Committee, even less the authorities. However, the authorities remain available to receive any up-to-date information and, if and when, to consider adequate measures.

15. The State party submits that it is facing difficulties in taking measures expected by the Committee, as the information about the complainant is insufficient (even his name

being uncertain). It submits that the verification of data about foreigners in Morocco has not permitted it to obtain more information about the complainant and therefore it is impossible to open an investigation without reliable and up-to-date information.

16. The State party challenges counsel's allegations, which are, according to them, not based on any evidence, especially as no other member of the group has alleged any ill-treatment. According to the State party, the deportation to the border of a group of 78 individuals from sub-Saharan Africa was conducted in accordance with the law and human dignity. The State party also submits that the Committee's observations in paragraph 7.1 of the decision do not rely on any specific and objective source.

17. Finally, the State party submits that it initiated in September 2013 a new migration policy, which is more in accordance with the State's international obligations. Under that framework, it has initiated a process of regularizing illegal migrants. Since January 2014, thousands of people have gone through that process, but no one with a name similar to that of the complainant was reported.

18. The State party's observations have been transmitted in October 2014 to the complainant's counsel for comments.

**Committee's decision:** To keep the follow-up dialogue open. The Committee's rapporteur on follow-up will meet with the Permanent Mission of Morocco regarding the implementation of the present decision and other decisions.

<b>State party</b>	<b>Australia</b>
<b>Case</b>	<b>Dewage, 387/2009</b>
<b>Decision adopted on</b>	14 November 2013
<b>Violation</b>	Articles 3 and 22
<b>Remedy recommended</b>	The State party has an obligation to refrain from forcibly returning the author to Sri Lanka or to any other country where he runs a real risk of being expelled or returned to Sri Lanka.

19. On 28 February 2014, the State party submitted that it regretted the delay in providing a response to the Committee, that it was in the process of finalizing its response and that it would provide it to the Committee as soon as possible. On 8 August 2014, the State party submitted that the complainant had made a new application for a protection visa, which was being assessed by the Department of Immigration and Border Protection. It submits that the Committee's decision will be considered in the assessment of the protection visa application.

20. The State party's submission had been transmitted in October 2014 to the complainant for comments.

**Committee's decision:** To keep the follow-up dialogue open.

<b>State party</b>	<b>Australia</b>
<b>Case</b>	<b>Ke Chun Rong, 416/2010</b>
<b>Decision adopted on</b>	5 November 2012
<b>Violation</b>	Article 3 (deportation of the complainant to China)
<b>Remedy recommended</b>	The Committee invites the State party to inform it of the

<b>State party</b>	<b>Australia</b>
steps it has taken in accordance with its observations.	

21. On 6 July 2014, the counsel for the complainant submitted that, in September 2013, the complainant had received a letter from the Department of Immigration and Citizenship advising him that he was eligible to re-apply for a protection visa. The complainant did so. Counsel advised that they no longer represent the complainant in the above proceeding, but that he had obtained legal representation elsewhere.

**Committee's decision:** To close the follow-up dialogue on the case with a note of satisfactory resolution.

<b>State party</b>	<b>Germany</b>
<b>Case</b>	<b>Abichou, 430/2010</b>
<b>Decision adopted on</b>	21 May 2013
<b>Violation</b>	Article 3 (extradition to Tunisia)
<b>Remedy recommended</b>	The Committee urged the State party to provide redress to the victim, including adequate compensation.

22. On 1 April 2014, the State party submitted that the payment of compensation to the complainant would only be possible “insofar as claims before the German courts — assuming that the extradition ... would have been illegal under German law — might be accepted”. The State party submits that the complainant’s “positions” are “neither documented, nor comprehensible”. For instance lawyer’s fees of 15,000 euros without specifying any services rendered are not acceptable in the German courts. The alleged loss of business opportunities is purely speculative and has no bearings on the alleged violation by Germany of the Convention. That is also true for any social benefits mentioned, which in any case cannot be claimed retrospectively. The State party acknowledges the complainant’s “undoubted apprehensions” regarding his extradition to Tunisia and offers a “friendly settlement” which includes a payment of 5,000 euros.

23. On 15 July 2014, the complainant submits that, by ratifying the Convention, the State party undertook the obligation to respect article 14 of the Convention, namely that a victim of a violation has the right to obtain redress and has an enforceable right to fair and adequate compensation, regardless whether the issue concerns victims of torture or of ill-treatment. The complainant refers to the Committee’s general comment No. 3 (2012) on implementation of article 14 by States parties, in which the Committee states, in paragraph 20: “to give effect to article 14, States parties shall enact legislation specifically providing a victim of torture and ill-treatment with an effective remedy and the right to obtain adequate and appropriate redress, including compensation and as full rehabilitation as possible”. Therefore Germany should provide in its domestic legislation adequate mechanisms to allow victims access to redress, once an international body, such as the Committee has established that the complainant has been a victim of a violation. The victim should not have to pay further procedural fees or wait for extended periods of time. The complainant recalls that he has been effectively extradited and refers to the jurisprudence of the European Court of Human Rights in *Savridin Dzurayev v. Russia*,<sup>1</sup> where the Court found a violation of article 3 of the European Convention for the Protection of Human

<sup>1</sup> Application No. 71386/10, judgement of 25 April 2013.

Rights and Fundamental Freedoms and ordered the Russian Federation to pay 30,000 euros compensation. The complainant maintains that he suffered moral damages and that he should be compensated with 30,000 euros. He maintains that his wife and two young children also suffered moral and psychological distress and requests 10,000 euros compensation. The complainant maintains that he is also entitled to compensation for material damages. He renounces his claim for loss of business opportunities, and limits his claims to 15,309 euros for loss of income due to the suspension of his unemployment benefits in France, for the period from his arrest on 30 November 2009 until his liberation on 19 May 2011. Regarding the lawyers' fees, he submits that his lawyers are French and that the practice in France does not require that lawyers present detailed bills, but that the above bills are nonetheless legal. Further, the practice of the European Court is that States parties found in violation of the Convention may need to reimburse the victim for the fees for legal representation engaged during both the national and the international legal proceedings.<sup>2</sup> The complainant requests to be reimbursed for legal representation in Germany and before the Committee.

24. The submission was transmitted in October 2014 to the State party for comments.

**Committee's decision:** To keep the follow-up dialogue open.

State party	Kazakhstan
Case	Gerasimov, 433/2010
Decision adopted on	24 May 2012
Violation	Article 1 in conjunction with article 2 (para. 1) and of articles 12, 13, 14 and 22
Remedy recommended	Obligation to conduct a proper, impartial and effective investigation in order to bring to justice those responsible for the complainant's treatment, to take effective measures to ensure that the complainant and his family are protected from any forms of threats and intimidation, to provide the complainant with full and adequate reparation for the suffering inflicted, including compensation and rehabilitation, and to prevent similar violations in the future.

25. On 28 April 2014, the State party submits that, since the legislation in force in the State party does not provide for a procedure for compensation following findings of violation by United Nations committees, the complainants filed a lawsuit for moral damages against the Department of Internal Affairs of Kostanay District, requesting compensation in the amount of 21,609,703 tenge. The Court did not find that torture had taken place, but recognized that an illegal arrest had taken place and granted a compensation of 2 million tenge to the complainant. The second instance court confirmed the above decision and it has entered into force.

26. On 28 August 2014, the complainant submits that the courts' decisions to award him compensation for illegal detention are an important step towards the implementation of the Committee's decision, although the Department of Internal Affairs may still seek a further review of the decision. However, the Government's recognition that there is currently no legal mechanism for such awards and that the Committee's decision has no domestic legal

<sup>2</sup> *Savridin Dzuraev v. Russia*, application No. 71386/10, judgement of 25 April 2013; *Azimov v. Russia*, application No. 67474/11, judgement of 18 April 2013.

status is troubling. The Committee should encourage the Government to clearly establish the legal basis and mechanism for making such awards, where required to implement the views of a United Nations treaty body which has found a violation of rights. The complainant submits that, in September 2013, his legal representatives filed a claim with the Kostanai City Court requesting moral damages and compensation, based on the Committee's decision. On 18 November 2013, the Kostanai City Court ruled that it could not establish the fact of torture because there had been no guilty verdict against the police officer on the national level, but stated that: "the guilt of the police officer re torture and illegal detention was established by the decision of the UN Committee against Torture and that the decision has a binding character for Kazakhstan because on 19 December 2007 Kazakhstan declared competence of the Committee against Torture. This establishes responsibility of Kazakhstan as a member state to the Convention against Torture to take measures to compensate damages caused by the defendant." In assessing the amount of compensation to award, the court considered the importance of the rights violated, the degree of mental and physical suffering inflicted based on psychological reports, and the premeditated nature of the police officers' actions, as determined by the decision of the Committee against Torture. In the light of these factors, the court ordered the Department of Internal Affairs to pay 2 million tenge (approximately USD 13,000) to Mr. Gerasimov. That decision was subsequently upheld on appeal, on 23 January 2014, by the Appeal Court of Kostanai province. In particular, the Appeal Court ruled that the City Court reasonably applied paragraph 12.8 of the Committee's decision, which held that the civil proceedings should be available regardless of the criminal proceedings and found a violation of article 14 because such proceedings had not been available in the present case, and stated that the lack of a conviction in relation to specific individuals cannot justify exemption from redress. The Appeal Court agreed that the guilt of police officers in the torture and illegal detention of Mr. Gerasimov was established by the decision of the Committee against Torture, the conclusions of which are binding for Kazakhstan, and that the other requirements for compensation (damage and a causal link) were present. The Department of Internal Affairs continued to challenge the decision before the Court of Cassation. On 12 March 2014, the Court of Cassation confirmed that the City Court acted reasonably when it took into account the decision of the Committee against Torture, which had legal consequences for Kazakhstan since Kazakhstan is a member State to the Convention. Specifically, the Court of Cassation upheld the lower courts' reliance on paragraph 12.8 of the Committee's decision, which states that lack of criminal conviction cannot be a barrier for moral damages compensation. In March 2014, following the Court of Cassation decision, the Ministry of Interior of Kazakhstan paid the compensation ordered to Mr. Gerasimov. On 24 April 2014, the Supreme Court has also rejected an application by the Department of Internal Affairs to review the case, as it did not find any fundamental breach of the rules of substantive or procedural law and agreed with lower courts that the compensation should not be delayed until the establishment of criminal responsibility. In its ruling, the Supreme Court reiterated that the decision of the Committee is binding on Kazakhstan as Kazakhstan has recognized the competence of the Committee and its decisions thus impose an obligation on Kazakhstan as a member State to the Convention to take measures to award compensation for moral damages. Despite the ruling, the Department of Internal Affairs may still request that the Procurator General's office files an objection to the plenary board of the Supreme Court. Any such request must be made by 23 January 2015.

27. The complainant further submits that, given that the legal system in Kazakhstan does not consider decisions in prior cases to be a source of law, they do not establish a binding legal precedent that could influence implementation of other decisions of the Committee (or other United Nations treaty bodies), and there is no guarantee that such findings will be repeated in future cases. Future victims will have to apply to the courts and argue that point anew, and given the persistent appeals by the Ministry of Interior that may well be fiercely



contested. Indeed, the Government acknowledged that the Committee's decisions lack domestic legal status in its observations. He asks the Committee to urge the Government to take up the principles set out by the courts in the case and formalize them in its law, as a necessary part of the accession of Kazakhstan to the Convention against Torture and other United Nations human rights treaties. That could include establishing an administrative mechanism for the payment of compensation where required under a decision by a United Nations committee, and formally recognizing the status of the decisions of such committees in domestic law, both for the purposes of compensation and also in order to reopen any criminal investigations that were found to be ineffective.

28. The complainant also submits that, while the Government has provided compensation, it has failed to take any of the other steps required to implement the decision. He request the Committee: to welcome the court decisions affirming the obligation of the State to implement decision of the Committee, and request that the Government update the Committee in February 2015 on whether any request has been made to object to that ruling to the plenary board of the Supreme Court; to call on the Government to introduce into domestic law a provision recognizing the binding nature of decisions of United Nations treaty bodies, as recognized in the present case by the domestic courts, and to develop a mechanism for the implementation of such decisions; to call on the Government to develop an action plan describing how it will implement the aspect of the Committee's decision requesting measures to prevent similar violations in the future; to call on the Government continue to ensure that the complainant does not suffer from further intimidation.

29. The complainant's comments were transmitted in October 2014 to the State party for comments.

**Committee's decision:** To keep the follow-up dialogue open until it is clear that the Procurator General's office will not file a further objection to the plenary board of the Supreme Court.

State party	Kazakhstan
<b>Case</b>	<b>Nasirov, 475/2011</b>
<b>Decision adopted on</b>	14 May 2014
<b>Violation</b>	Article 3 (extradition to Uzbekistan)
<b>Remedy recommended</b>	The Committee invited the State party to inform it of the steps it has taken in accordance with the observations contained in its Views.

30. On 1 September 2014, the State party submits that, following the Committee's interim measures request, the extradition proceedings against the complainant were interrupted and, on 24 July 2012, he was released from detention. At present, the complainant is in the territory of the Russian Federation. On 27 March 2012, the Uralsk City Court rejected the complainant's appeal against the decision of the Migration Service to reject the complainant's asylum request. The complainant may appeal that decision before the Supreme Court.

31. The State party's submission had been transmitted in October 2014 to the complainant for comments.

**Committee's decision:** To keep the follow-up dialogue open.

<b>State party</b>	<b>Morocco</b>
<b>Case</b>	<i>Aarrass, 477/2011</i>
<b>Decision adopted on</b>	19 May 2014
<b>Violation</b>	Articles 2 (para. 1), 11, 12, 13 and 15
<b>Remedy recommended</b>	The Committee urged the State party to inform it of the measures that it has taken in accordance with the observations set forth in its Views. Those measures must include the initiation of an impartial and in-depth investigation into the complainant's allegations. Such an investigation must include the conduct of medical examinations in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

32. On 24 August 2014, the State party submits that the decision, adopted on 19 May 2014, was transmitted to it with an undue delay of 10 days, after the decision had already been posted online, which was very detrimental. The State party reaffirms its commitment to pursuing an interactive and constructive dialogue with the United Nations human rights mechanisms. It points out that it is in a dialogue also with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, including regarding Mr. Aarass' case. It submits that it has also taken into consideration Amnesty International's campaign for torture eradication. The Ministry of Justice has thus sent a circular to all public prosecutors' offices insisting on the importance of the criminal procedure provisions that foresee the possibility of ordering medical expertise in case of torture or ill-treatment allegations.

33. In that connection, the State party submits that it has reconsidered the complainant's case, and decided to open a new investigation, even before the Committee's decision had been transmitted. On 21 May 2014, the Prosecutor General, based on the Special Rapporteur's conclusions in his mission report (A/HRC/22/53/Add.2), issued in March 2013, and on Amnesty International's report, asked the Court of Appeal of Rabat to reopen Mr. Aarass' case and to investigate his allegations. The State party submits that an investigating judge has summoned Mr. Aarass for three interviews. He has been interviewed in the presence of his lawyer and a sworn interpreter. The investigation is ongoing. In that context, the State party is requesting additional time to provide the Committee with additional information regarding the follow-up of the case.

34. On 25 August 2014, counsel submitted that Mr. Aarass' situation had deteriorated after information regarding the Committee's decision had appeared in the press. She provides an article, according to which the prison authorities affirmed that Mr. Aarass enjoys all the rights guaranteed by the law while in prison and denied any act of torture or humiliating acts. According to the complainant's sister, the prison guards allowed the individuals who had tortured him in the past to visit him and to threaten him.

35. The State party's and the counsel's submissions had been transmitted in October 2014 to the respective other parties for comments.

**Committee's decision:** To keep the follow-up dialogue open. The Committee's Rapporteur on follow-up to communications will meet with the Permanent Mission of Morocco regarding the implementation of the present decision and other decisions.

<b>State party</b>	<b>Switzerland</b>
<b>Case</b>	<b>K.N., F.W. and S.N., 481/2011</b>
<b>Decision adopted on</b>	19 May 2014
<b>Violation</b>	Articles 3 and 22 (deportation of the complainants and their minor children to the Islamic Republic of Iran)
<b>Remedy recommended</b>	The Committee urged the State party to inform it of the steps taken in response to the decision expressed in its Views.

36. On 27 June 2014, the State party submitted that, in response to the Committee's decision, on 25 June 2014, the Federal Office of Migration granted the complainants refugee status and that the latter are no longer at risk of deportation to the Islamic Republic of Iran.

37. On 24 July 2014, the complainants submitted that they were satisfied by the decision of the State party's authorities and that they had no further comments.

**Committee's decision:** To close the follow-up dialogue on the case with a note of satisfactory resolution.

<b>State party</b>	<b>Finland</b>
<b>Case</b>	<b>Mr. X and Mr. Z, 483/2011 and 485/2011</b>
<b>Decision adopted on</b>	12 May 2014
<b>Violation</b>	Article 3 (deportation to the Islamic Republic of Iran)
<b>Remedy recommended</b>	The Committee is of the view that the State party has an obligation to refrain from forcibly returning the complainants to the Islamic Republic of Iran or to any other country where they run a real risk of being expelled or returned to the Islamic Republic of Iran.

38. On 1 September 2014, the State party submits that, on 12 October 2012, the complainants had already been granted asylum and received permanent residence permits, valid for four years. The State party maintains that the complainants had the responsibility to inform the Committee of the positive outcome of their case. The State party maintains that the Committee's decision should be "revoked and removed" or alternatively to revise its decision, to deal with the matter as a technical mistake and strike the communication from its list of cases. The State party refers to the rule 44C of the Rules of the European Court of Human Rights, which reads: "Where a party fails to adduce evidence or provide information requested by the Court or to divulge relevant information of its own motion or otherwise fails to participate effectively in the proceedings, the Court may draw such inferences as it deems appropriate". It maintains that the complainants, by failing to inform the Committee of decisive facts, have failed to effectively participate in the proceedings and that their failure "cannot be held against the Government".

39. On 22 October 2014, the complainant's counsel confirms that the complainants had been granted refugee status on 12 October 2012. She further submits that the State party was well aware of the procedure before the Committee and could and should have informed it that the complainants had been granted refugees status. At the time of submission of the complaint, the decision to refuse the complainants refugee status had been taken by the

Finnish Immigration Service and confirmed by the Helsinki Administrative Court and they were at risk of deportation in violation of article 3 of the Convention. She submits that the Committee's decision is important in order to improve national jurisprudence and procedures in similar cases. She maintains that there are no grounds for the Committee to revoke the decision or to strike it from the list.

**Committee's decision:** To close the follow-up dialogue on the case with a note of satisfactory resolution.

<b>State party</b>	<b>Burundi</b>
<b>Case</b>	<b>Ntikarahera, 503/2012</b>
<b>Decision adopted on</b>	12 May 2014
<b>Violation</b>	Articles 2 (para. 1), 11, 12, 13 and 14, read in conjunction with articles 1 and 16
<b>Remedy recommended</b>	The Committee urged the State party to conduct an impartial investigation into the events in question for the purpose of prosecuting those allegedly responsible for the victim's treatment, and provide adequate and fair compensation encompassing the means for as full rehabilitation as possible.

40. On 14 October 2014, the State party submits that its authorities had no knowledge of the individual communication No. 503/2012 and only learned from Mr. Ntikarahera's complaint after receiving the Committee's decision on 23 May 2014. It maintains that it has sufficiently searched into the correspondence registers and denies having received any communication allowing observations. The State party further submits that it was unable, without being at fault, to react, because it was not aware of the communication and considers that the accusation of absence of cooperation is unfair. For those reasons, the State party did not have the opportunity of submit observations on time, which constitutes a violation by the Committee of article 22 of the Convention. Because of those irregularities, the State party considers that the Committee's decision is not enforceable against the Government of Burundi. The State party proceeds to extensively argue the merits of the communication.

**Committee's decision:** To keep the follow-up dialogue open. To send a letter by the Committee's Rapporteur on follow-up to communications to the Permanent Mission of Burundi, informing them that the initial communication and reminders had been duly sent by the Secretariat.