

SWEDEN

Follow-up - Jurisprudence Action by Treaty Bodies

CAT A/59/44 (2004)

V. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE
CONVENTION

...

D. Follow-up activities

...

269. *Chedli Ben Ahmed Karoui v. Sweden*, case No. 185/2001, decision adopted on 8 May 2002. The case concerned the risk of being subjected to torture if the complainant were returned to Tunisia. The Committee found a violation of article 3 of the Convention. On 11 December 2002 the State party informed the Committee that a new application for, inter alia, a residence permit had been lodged with the Aliens Appeals Board by the complainant and his family, and that the Committee's decision had been invoked in support of the application. On 4 June 2002, the Board revoked the expulsion decisions regarding the complainant and his family, who were subsequently granted permanent residence permits.

...

CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

D. Follow-up activities

150. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22.

151. The Rapporteur on follow-up submitted an oral report to the Committee at its thirty-third session. The report contained information received since the thirty-second session from either the complainants or the States parties on the issue of follow-up to a number of decisions in which the Committee had found violations of the Convention. During the consideration of this report, the Committee requested the Special Rapporteur to provide information on follow-up to all decisions in which the Committee had found violations of the Convention, including decisions in which the Committee found violations, prior to the commencement of the Rapporteur's mandate.

152. During the thirty-fourth session, the Special Rapporteur presented a report on follow-up to all the Committee's decisions, including new information received from both the complainants and States parties since the thirty-third session. This report is provided below.

Report on follow-up to individual complaints to the¹ Committee against Torture

Complaints in which the Committee has found violations of the Convention up to thirty-fourth session

Case	Date of adoption	Nationality of complainant and country of removal if applicable	Article of Covenant violated	Interim measures granted and State party's response	Remedy	Follow-up	Further action
...							
No. 39/1996 <i>Tapia Páez v. Sweden</i>	28 April 1997	Peruvian to Peru	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning Gorki Ernesto Tapia Paez to Peru	No information provided	Request information
No. 41/1996 <i>Kisoki v. Sweden</i>	8 May 1996	Zairian to Zaire	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning Pauline Muzonzo Paku Kisoki to Zaire	No information provided	Request information
No. 43/1996 <i>Tala v. Sweden</i>	15 Nov. 1996	Iranian to Iran	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning Kaveh Yaragh Tala to Iran	No information provided	Request information
...							
No. 88/1997 <i>Avedes Hamayak Korban v. Sweden</i>	16 Nov. 1998	Iraqi to Iraq	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning the complainant to Iraq. It also has an obligation to	No information provided	Request information

					refrain from forcibly returning the complainant to Jordan, in view of the risk he would run of being expelled from that country to Iraq.		
No. 89/1997 <i>Ali Falakflaki v. Sweden</i>	8 May 1998	Iranian to Iran	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning Ali Falakflaki to Iran	No information provided	Request information
...							
No. 97/1997 <i>Orhan Ayas v. Sweden</i>	12 Nov. 1998	Turkish to Turkey	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of being expelled or returned to Turkey.	No information provided	Request information
No.101/1997 <i>Halil Haydin v. Sweden</i>	20 Nov. 1998	Turkish to Turkey	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of being expelled or returned to Turkey.	No information provided	Request information
...							

No. 149/1999 <i>A.S. v. Sweden</i>	24 Nov. 2000	Iranian to Iran	3	Granted and acceded to by the State party	The State party has an obligation to refrain from forcibly returning the complainant to Iran or to any other country where she runs a risk	On 22 February 2001, the State party informed the Committee that on 30 January 2001, the Aliens Appeals Board had examined a new application	No further consideration under the follow-up procedure as the State
------------------------------------	--------------	-----------------	---	---	--	--	---

					of being expelled or returned to Iran.	for a residence permit lodged by the complainant. The Board decided to grant the complainant a permanent residence permit in Sweden and to quash the expulsion order. The Board also granted the complainant's son a permanent residence permit.	party has complied with the Committee's decision.
...							
No.185/2001 <i>Chedli Ben Ahmed Karoui v. Sweden</i>	8 May 2002	Tunisian to Tunisia	3	Granted and acceded to by the State party	None	No further consideration under follow-up procedure. See first follow-up report (CAT/C/32/FU/1) in which it was stated that, on 4 June 2002, the Board revoked the expulsion decisions regarding the complainant and his family. They were also granted permanent residence permits on the basis of this decision.	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
...							

No. 226/2003 <i>Tharina v. Sweden</i>	6 May 2005	Bangladeshi to Bangladesh	3	Granted and acceded to by the State party	Given the specific circumstances of the case, the deportation of the complainant and her daughter would amount to a breach of article 3 of the Convention. The Committee wishes to be informed, within 90 days from the date of the transmittal of this decision, of the steps taken in response to its observation	90 days has not ex
No. 233/2003 <i>Agiza v. Sweden</i>	20 May 2005	Egyptian to Egypt	3 x 2 (substantive and procedural violations) and 22 x 2 ⁸	None	In pursuance of rule 112, paragraph 5, of its rules of procedure, the Committee requests the State party to inform it, within 90 days from the date of the transmittal of this decision, of the steps it has taken in response to the Committee's observations. The State party is also under an obligation to prevent similar violations in the future.	90 days has not ex
...						

¹ The present report reflects information up to the end of the thirty-fourth session

...

⁸ (1) The Committee observes, moreover, that by making the declaration under article 22 of the Convention, the State party undertook to confer upon persons within its jurisdiction the right to invoke the complaints jurisdiction of the Committee. That jurisdiction includes the power to indicate interim measures, if necessary, to stay the removal and preserve the subject matter of the case pending final decision. In order for this exercise of the right of complaint to be meaningful rather than illusory, however, an individual must have a reasonable period of time before execution of a final decision to consider whether, and if so to in fact, seize the Committee under its article 22 jurisdiction. In the present case, however, the Committee observes that the complainant was arrested and removed by the State party immediately upon the Government's decision of expulsion being taken; indeed, the formal notice of decision was only served upon the complainants counsel the following day. As a result, it was impossible for the complainant to consider the possibility of invoking article 22, let alone seize the Committee. As a result, the Committee concludes that the State party was in breach of its obligations under article 22 of the Convention to respect the effective right of individual communication conferred thereunder.

(2) Having addressed the merits of the complaint, the Committee must address the failure of the State party to cooperate fully with the Committee in the resolution of the complaint. The Committee observes that, by making the declaration provided for in article 22 extending to individual complainants the right to complain to the Committee alleging a breach of a State party's obligations under the Convention, a State party assumes an obligation to cooperate fully with the Committee, through the procedures set forth in article 22 and in the Committee's rules of procedure. In particular, article 22, paragraph 4, requires a State party to make available to the Committee all information relevant and necessary for the Committee appropriately to resolve the complaint presented to it. The Committee observes that its procedures are sufficiently flexible and its powers sufficiently broad to prevent an abuse of process in a particular case. It follows that the State party committed a breach of its obligations under article 22 of the Convention by neither disclosing to the Committee relevant information, nor presenting its concerns to the Committee for an appropriate procedural decision

CAT/C/SR.717 (2006)

COMMITTEE AGAINST TORTURE

Thirty-sixth session

SUMMARY RECORD OF THE 717th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 16 May 2006, at 10 a.m.

...

CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE
CONVENTION (agenda item 9) (continued)

50. The CHAIRPERSON invited the Special Rapporteur to introduce the report on follow-up activities (document without a symbol) relating to the Committee's decisions on complaints submitted under article 22 of the Convention.

51. Mr. MARIÑO MENÉNDEZ, Special Rapporteur on Follow-up, summarized the comprehensive report on replies received with regard to all cases in which the Committee had found violations of the Convention and one case in which it had not found a violation but had made a recommendation.

52 It was proposed to send reminders requesting information or updates to the following States parties with regard to the specified communications: Austria (Halimi-Nedibi Qani, 8/1991); Canada (Tahir Hussain Khan, 15/1994; Falcon Ríos, 133/1999); France (Brada, 195/2003); Netherlands (A, 91/1997); Serbia and Montenegro (Ristic, 113/1998; Hajrizi Dzemajl et al., 161/2000; Nikolic, 174/2000; Dimitrijevic, Dragan, 207/2002); Spain (Ecaración Blanco Abad, 59/1996; Urra Guridi, 212/2002); Sweden (Tharina, 226/2003; Agiza, 233/2003); Venezuela (Chipana, 110/1998).

...

CAT, CAT/C/SR.749 (2006)

COMMITTEE AGAINST TORTURE

Thirty seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 749th MEETING

Held at the Palais Wilson, Geneva,

on Wednesday, 22 November 2006, at 3 p.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Follow up procedures (CAT/C/37/R.2)

1. Mr. MARIÑO MENÉNDEZ, Rapporteur on follow up to communications, reporting on follow up to communications during the thirty sixth and thirty seventh sessions, drew attention to document CAT/C/37/R.2. It explained the status of communications on which the Committee had requested additional information or further action. Five States parties had not responded to the Committee's requests for information. The document contained detailed information on six communications.

...

6. In the Tharina v. Sweden case, the State party had complied with the Committee's decision and revoked the expulsion order concerning the complainant. No follow up action was therefore required.

7. Regarding the Agiza v. Sweden case, requests for compensation had been rejected, and the Egyptian authorities refused to allow the complainant to return to Sweden in order to serve his sentence or be retried there. The Committee could therefore merely request the State party to report regularly on its visits to the complainant, who was being held in an Egyptian prison.

...

CAT, A/61/44 (2006)

...

CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

D. Follow-up activities

75. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, *inter alia*, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non-response, and upon the receipt henceforth of all letters from complainants concerning non-implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow-up visits to States parties; preparing periodic reports to the Committee on his/her activities.

76. During its thirty-fourth session, the Committee, through its Special Rapporteur on follow-up to decisions, decided that in cases in which it had found violations of the Convention, including Decisions made by the Committee prior to the establishment of the follow-up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's Decisions.

77. In a follow-up report presented to the Committee during the thirty-fifth session, the Special Rapporteur on follow-up to decisions provided information received from four States parties pursuant to this request: France; Serbia and Montenegro (in relation to 113/1998, Ristic); Switzerland; and Sweden. The following countries did not respond to the request: Austria; Canada (with respect to Tahir Hussain Khan, 15/1994); the Netherlands; Spain; and Serbia and Montenegro (in relation to 161/2000, Hajrizi Dzemajl, 171/2000, Dimitrov, and 207/2002, Dragan Dimitrijevic).

78. Action taken by the States parties in the following cases complied fully with the Committee's Decisions and no further action will be taken under the follow-up procedure: *Mutombo v. Switzerland* (13/1993); *Alan v. Switzerland* (21/1995); *Aemei v. Switzerland* (34/1995); *Tapia Paez v. Sweden* (39/1996); *Kisoki v. Sweden* (41/1996); *Tala v. Sweden* (43/1996); *Avedes Hamayak Korban v. Sweden* (88/1997); *Ali Falakaflaki v. Sweden* (89/1997); *Orhan Ayas v. Sweden* (97/1997); *Halil Haydin v. Sweden* (101/1997). In the following cases, the States parties either responded partially to the request, are in the process of taking further measures and further updates will be requested or comments on the action taken by the State are

awaited from the complainant: *Arana v. France* (63/1997); *Brada v. France* (195/2003); *Ristic v. Serbia and Montenegro* (113/1998); and *Agiza v. Sweden* (233/2003).

79. During the thirty-sixth session, the Special Rapporteur on follow-up to decisions presented new follow-up information that had been received since the thirty-fifth session with respect to the following cases: *Dadar v. Canada* (258/2004), *Thabti v. Tunisia* (187/2001), *Abdelli v. Tunisia* (188/2001) and *Ltaief v. Tunisia* (189/2001) and *Chipana v. Venezuela* (110/1998). Represented below is a comprehensive report of replies received with regard to all cases in which the Committee has found violations of the Convention to date and in one case in which it did not find a violation but made a recommendation. Where there is no field entitled "Committee's decision" at the end of the provision of information in a particular case, the follow-up to the case in question is ongoing and further information has or will be requested of the complainant or the State party.

Complaints in which the Committee has found violations of the Convention up to the thirty-fourth session

...

State party	SWEDEN
Case	Tapia Páez, 39/1996
Nationality and country of removal if applicable	Peruvian to Peru
Views adopted on	28 April 1997
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Gorki Ernesto Tapia Páez to Peru.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 23 June 1997.

Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Kisoki, 41/1996
Nationality and country of removal if applicable	Democratic Republic of the Congo citizen to Democratic Republic of the Congo
Views adopted on	8 May 1996
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Pauline Muzonzo Paku Kisoki to Democratic Republic of the Congo.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 7 November 1996.
Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Tala, 43/1996
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	15 November 1996

Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Kaveh Yaragh Tala to Iran.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1997.
Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Avedes Hamayak Korban, 88/1997
Nationality and country of removal if applicable	Iraqi to Iraq
Views adopted on	16 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iraq. It also has an obligation to refrain from forcibly returning the complainant to Jordan, in view of the risk he would run of being expelled from that country to Iraq.
Due date for State party response	None
Date of reply	23 August 2005

State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1999.
Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Ali Falakaflaki, 89/1997
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	8 May 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Ali Falakaflaki to the Islamic Republic of Iran.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 17 July 1998.
Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Orhan Ayas, 97/1997
Nationality and country of removal if applicable	Turkish to Turkey

applicable

Views adopted on

12 November 1998

Issues and violations found

Removal - article 3

Interim measures granted and State party response

Granted and acceded to by the State party

Remedy recommended

The State party has an obligation to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of being expelled or returned to Turkey.

Due date for State party response

None

Date of reply

23 August 2005

State party response

Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 8 July 1999.

Author's response

None

Committee's decision

No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case

Halil Haydin, 101/1997

Nationality and country of removal if applicable

Turkish to Turkey

Views adopted on

20 November 1998

Issues and violations found

Removal - article 3

Interim measures granted and State party response

Granted and acceded to by the State party

Remedy recommended

The State party has an obligation to refrain from forcibly returning the complainant to Turkey, or to any other country where he runs a real risk of being expelled or returned to Turkey.

Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 19 February 1999.
Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	A.S., 149/1999
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	24 November 2000
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iran or to any other country where she runs a real risk of being expelled or returned to Iran.
Due date for State party response	None
Date of reply	22 February 2001
State party response	The State party informed the Committee that on 30 January 2001, the Aliens Appeals Board examined a new application for residence permit lodged by the complainant. The Board decided to grant the complainant a permanent residence permit in Sweden and to quash the expulsion order. The Board also granted the author's son a permanent residence permit.

Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Chedli Ben Ahmed Karoui, 185/2001
Nationality and country of removal if applicable	Tunisian to Tunisia
Views adopted on	8 May 2002
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	None
Due date for State party response	None
Date of reply	23 August 2005
State party response	No further consideration under follow-up procedure. See first follow-up report (CAT/C/32/FU/1) in which it was stated that, on 4 June 2002, the Board revoked the expulsion decisions regarding the complainant and his family. They were also granted permanent residence permits on the basis of this decision.
Author's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Tharina, 226/2003
Nationality and country of removal if applicable	Bangladeshi to Bangladesh
Views adopted on	6 May 2005

Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	Given the specific circumstances of the case, the deportation of the complainant and her daughter would amount to a breach of article 3 of the Convention. The Committee wishes to be informed, within 90 days, from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.
Due date for State party response	15 August 2005
Date of reply	None
State party response	None
Author's response	None
Case	Agiza, 233/2003
Nationality and country of removal if applicable	Egyptian to Egypt
Views adopted on	20 May 2005
Issues and violations found	Removal - articles 3 (substantive and procedural violations) on two counts and 22 on two counts <u>7/</u>
Interim measures granted and State party response	None
Remedy recommended	In pursuance of rule 112, paragraph 5, of its rules of procedure, the Committee requests the State party to inform it, within 90 days from the date of the transmittal of this decision, of the steps it has taken in response to the views expressed above. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	20 August 2005

Date of reply

18 August 2005

State party response

The Committee's decision was brought to the attention of several authorities outside the Government Offices, including the Director-Generals of the Aliens Appeals Board, the Migration Board and the Security Police, the Parliamentary Ombudsmen and the Office of the Chancellor of Justice. On 16 June 2005, the Swedish embassies in Cairo and Washington were instructed to inform the relevant authorities in Egypt and in the United States of the Committee's decision. The instructions were implemented in August 2005.

In a bill to Parliament, the Government, on 26 May 2005, tabled a proposal for a completely new Aliens Act and a number of consequential amendments with regard to other acts (Government Bill 2004/05:170). The main feature of the reform is the replacement of the Aliens Appeals Board with three regional Migration Courts and a Supreme Migration Court. Parliament is expected to pass the bill during the autumn of this year and the reform in its entirety is scheduled to enter into force on 31 March 2006. In the proposal for judicial reform in this field, security cases are defined as cases where the Security Police - for reasons pertaining to the security of the realm or to general security - recommends that an alien is either refused entry into the country or expelled/deported, or that a residence permit is denied or revoked. According to the proposal, the Migration Board will determine security cases in the first instance. Appeals may be lodged with the Government by the alien and also by the Security Police. The appealed case shall be referred from the Migration Board directly to the Supreme Migration Court, which shall hold an oral hearing and issue a written opinion. The case-file, including the Court's opinion, shall then be forwarded to the Government for a decision in the matter. If, for instance, the Supreme Migration Court has come to the conclusion that there are impediments to the enforcement of a decision to expel an alien - on account of a risk of

torture, for example - the Government may not decide to expel her/him. In other words, the Court's opinion in this respect is binding on the Government.

Under the reform, a new ground for issuing a residence permit will be introduced. Thus, when an international body with competence to examine individual complaints has concluded that a decision to refuse an alien entry, or to expel/deport an alien, is in breach of Sweden's treaty obligations, the alien in question shall be given a residence permit unless there are extraordinary reasons against such measure. No application on the part of the alien will be needed.

Within the framework of the European Union, the Commission has proposed the adoption of a directive on minimum standards when it comes to the procedure for granting or revoking asylum status. For this reason, the Government decided on 11 August 2005 that an expert is to be appointed by the Minister for Asylum Policy and Migration with the mandate to examine how the directive may be implemented in Sweden. In the Government's opinion, security cases may not be put on an entirely equal footing with asylum cases in general. This viewpoint is also expressed in the draft directive's preamble. However, the draft directive includes no particular operative provisions with regard to security cases. It is therefore necessary to look into how a special procedure for the handling of security cases may be established within the framework of the draft directive.

Activities within the Council of Europe

Against the events of 11 September 2001, a set of Guidelines on Human Rights and the Fight against Terrorism was adopted by the Council of Europe in July 2002. It was followed this year by a set of Guidelines on the Protection of Victims of Terrorist Acts. Following a meeting of the Council of Europe in June 2005, Sweden proposed to initiate the elaboration of a non-binding instrument circumscribing the use of diplomatic assurances in aliens' cases. It was stressed that such a document was not to be given the same status as the two already existing sets of Council of Europe guidelines in this

field since diplomatic assurances should be a rare phenomenon and be resorted to - if at all - only in exceptional circumstances and when they could be expected to have the intended effect. The suggestion was accepted and a meeting for this purpose was scheduled for December 2005.

International investigation with the assistance of the United Nations

As to the discussions concerning a possible international inquiry under the auspices of the United Nations High Commissioner for Human Rights, while understanding her concerns, the State party expresses its disappointment that the High Commissioner had found no grounds in which the Office could supplement the Committee against Torture's assessment and findings in this case and thus her unwillingness to undertake a proposed investigation.

The State party has had further contact with the Egyptian authorities who continue to deny the allegations of torture. Their reaction to a proposal for an international commission of enquiry is still awaited.

Parliament's Constitutional Committee

In her letter of 26 May 2005 to the Swedish Foreign Minister, the High Commissioner for Human Rights referred to an ongoing investigation undertaken by Parliament's Constitutional Committee. The investigation was initiated in May 2004 by five members of Parliament, requesting that the Constitutional Committee examine the Government's handling of the matter that led to, inter alia, the complainant's expulsion to Egypt. The Constitutional Committee has requested the Government to answer a number of questions in writing. The State party noted that the report on this investigation was not expected until September 2005, at the earliest.

The issue of criminal prosecution

As to the public prosecutor's investigations, the State party informs the Committee that following a complaint from a private individual, a district prosecutor in Stockholm decided on 18 June 2004 not

to initiate a preliminary investigation on the issue of whether or not a criminal offence had been committed in connection with the enforcement of the Government's decision to expel the complainant. The reason for the decision was that there was no ground for assuming that a criminal offence under public prosecution had been committed by a representative of the Swedish police in connection with the enforcement. The district prosecutor referred the case to the Prosecutor-Director at the Public Prosecution Authority in Stockholm who similarly found that there was no reason to assume that a criminal offence under public prosecution had been committed by the pilot of the foreign aircraft. Furthermore, the Prosecutor-General decided on 4 April 2005 not to resume the preliminary investigation, following a complaint from the Helsinki Committee for Human Rights. The conclusion was reached that it was not possible to review the Parliamentary Ombudsman's decision to refrain from using his powers to prosecute. It could also be seriously questioned whether the Prosecutor-General could make a new assessment of the issue of whether to start or resume a preliminary, criminal investigation when the matter had already been determined by the Parliamentary Ombudsman.

Continued monitoring by the Swedish Embassy in Cairo

Since the Government last informed the Committee on the visits conducted by the Swedish Embassy in Cairo in order to monitor the complainant's situation (observations of 11 March 2005), there have been three further visits during which the complainant mentioned inter alia that the treatment in prison continued to be good and that there had been no changes in that regard. The Embassy's staff has now visited the complainant on 32 occasions in the prison where he is detained. The intention is for the visits to continue regularly.

Author's response

None

7/ (1) The Committee observes, moreover, that by making the declaration under article 22 of the Convention, the State party undertook to confer upon persons within its jurisdiction the right to invoke the complaints' jurisdiction of the Committee. That jurisdiction included the power to indicate interim measures, if necessary, to stay the removal and preserve the subject matter of the case pending final decision. In order for this exercise of the right of complaint to be meaningful rather than illusory, however, an individual must have a reasonable period of time before execution of a final decision to consider whether, and if so to in fact, seize the Committee under its article 22 jurisdiction. In the present case, however, the Committee observes that the complainant was arrested and removed by the State party immediately upon the Government's decision of expulsion being taken; indeed, the formal notice of decision was only served upon the complainant's counsel the following day. As a result, it was impossible for the complainant to consider the possibility of invoking article 22, let alone seize the Committee. As a result, the Committee concludes that the State party was in breach of its obligations under article 22 of the Convention to respect the effective right of individual communication conferred thereunder.

(2) Having addressed the merits of the complaint, the Committee must address the failure of the State party to cooperate fully with the Committee in the resolution of the current complaint. The Committee observes that, by making the declaration provided for in article 22 extending to individual complainants the right to complain to the Committee alleging a breach of a State party's obligations under the Convention, a State party assumes an obligation to cooperate fully with the Committee, through the procedures set forth in article 22 and in the Committee's rules of procedure. In particular, article 22, paragraph 4, requires a State party to make available to the Committee all information relevant and necessary for the Committee appropriately to resolve the complaint presented to it. The Committee observes that its procedures are sufficiently flexible and its powers sufficiently broad to prevent an abuse of process in a particular case. It follows that the State party committed a breach of its obligations under article 22 of the Convention by neither disclosing to the Committee relevant information, nor presenting its concerns to the Committee for an appropriate procedural decision.

CAT, A/62/44 (2007)

...

VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

Complaints in which the Committee has found violations of the Convention up to the thirty-eighth session

...

State party	SWEDEN
Case	Tapia Páez, 39/1996
Nationality and country of removal if applicable	Peruvian to Peru
Views adopted on	28 April 1997
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Gorki Ernesto Tapia Páez to Peru.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 23 June 1997.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Kisoki, 41/1996

Nationality and country of removal if applicable	Democratic Republic of the Congo citizen to Democratic Republic of the Congo.
Views adopted on	8 May 1996
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Pauline Muzonzo Paku Kisoki to Democratic Republic of the Congo.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 7 November 1996.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Tala, 43/1996
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	15 November 1996
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Kaveh Yaragh Tala to Iran.
Due date for State party response	None

Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1997.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Avedes Hamayak Korban, 88/1997
Nationality and country of removal if applicable	Iraqi to Iraq
Views adopted on	16 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iraq. It also has an obligation to refrain from forcibly returning the complainant to Jordan, in view of the risk he would run of being expelled from that country to Iraq.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1999.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case	Ali Falakaflaki, 89/1997
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	8 May 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Ali Falakaflaki to the Islamic Republic of Iran.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 17 July 1998.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Orhan Ayas, 97/1997
Nationality and country of removal if applicable	Turkish to Turkey
Views adopted on	12 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of

	being expelled or returned to Turkey.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 8 July 1999.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Halil Haydin, 101/1997
Nationality and country of removal if applicable	Turkish to Turkey
Views adopted on	20 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Turkey, or to any other country where he runs a real risk of being expelled or returned to Turkey.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 19 February 1999.
Complainant's response	None

Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	A.S., 149/1999
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	24 November 2000
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iran or to any other country where she runs a real risk of being expelled or returned to Iran.
Due date for State party response	None
Date of reply	22 February 2001
State party response	The State party informed the Committee that on 30 January 2001, the Aliens Appeals Board examined a new application for residence permit lodged by the complainant. The Board decided to grant the complainant a permanent residence permit in Sweden and to quash the expulsion order. The Board also granted the complainant's son a permanent residence permit.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Chedli Ben Ahmed Karoui, 185/2001
Nationality and country of removal if applicable	Tunisian to Tunisia
Views adopted on	8 May 2002

Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	None
Due date for State party response	None
Date of reply	23 August 2005
State party response	No further consideration under follow-up procedure. See first follow-up report (CAT/C/32/FU/1) in which it was stated that, on 4 June 2002, the Board revoked the expulsion decisions regarding the complainant and his family. They were also granted permanent residence permits on the basis of this decision.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Tharina, 226/2003
Nationality and country of removal if applicable	Bangladeshi to Bangladesh
Views adopted on	6 May 2005
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	Given the specific circumstances of the case, the deportation of the complainant and her daughter would amount to a breach of article 3 of the Convention. The Committee wishes to be informed, within 90 days, from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.
Due date for State party response	15 August 2005

Date of reply	17 August 2005 (was not received by OHCHR, so re-sent by the State party on 29 June 2006).
State party response	On 20 June 2005, the Board decided to revoke the expulsion decision regarding the complainant and her daughter and to grant them residence permits.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Agiza, 233/2003
Nationality and country of removal if applicable	Egyptian to Egypt
Views adopted on	20 May 2005
Issues and violations found	Removal - articles 3 (substantive and procedural violations) on two counts and 22 on two counts. ¹³
Interim measures granted and State party response	None
Remedy recommended	In pursuance of rule 112, paragraph 5, of its rules of procedure, the Committee requests the State party to inform it, within 90 days from the date of the transmittal of this decision, of the steps it has taken in response to the views expressed above. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	20 August 2005
Date of reply	Latest information 1 September 2006 (it had provided a response on 18 August 2005 - annual report of the Committee, A/61/44).
State party's response	The Committee will recall the State party's submission on follow-up in which it referred inter alia to the enactment of a new Aliens Act and the continual monitoring of the complainant by staff from the Swedish Embassy in Cairo. See annual

report of the Committee (A/61/44) for a full account of its submission.

On 1 September 2006, the State party provided an update on its monitoring of the complainant. It stated that since its last update, embassy staff had made seven further visits to see Mr. Agiza, the last one on 7 August 2006. Mr. Agiza has been in consistently good spirits and is receiving regular visits in prison from his mother, sometimes together with his brother. He receives regular visits to hospital and his former problems with his back and knee have improved. His spinal cord was X-rayed in February and is said to be satisfactory. His health is said to be stable and he visits Manial Hospital once a week for physiotherapy treatment.

The Egyptian National Council for Human Rights (NCHR) visited Mr. Agiza for the second time. The Embassy has not yet received its reports. In this context, he complained about his transport to and from the hospital, which he said was uncomfortable and tiring, particularly during the summer months. He said that he had sent a letter complaining about it to the NCHR. A doctor from the NCHR also visited Mr. Agiza. Mr. Agiza said that there was nothing to complain about since his last visit. However, he claimed that he had been threatened by a security guard that he would be shot if he tried to escape during his trips to the hospital. His mother has also repeatedly complained in letters to the Ministry of the Interior and the security service about his health. The State party notes that there are substantial discrepancies between the picture presented by Mr. Agiza to the Swedish Embassy and that given by his mother. The Egyptian security service denies the assertions that he was threatened. The Embassy's staff has visited him now on 39 occasions and will continue the visits.

Complainant's response

On 31 October 2006, the complainant's counsel responded to the State party's submission. He stated that he had had a meeting with the Swedish Ambassador on 24 January 2006. During this meeting, counsel emphasized that it was essential

that the embassy continue their visits as regularly as it has been doing. According to information available to counsel, the post-surgery treatment for his back has been inadequate and his recovery unsatisfactory. The Embassy promised to continue to emphasize the importance of necessary medical care within the diplomatic framework. However, it was reluctant to make a request to the Egyptian Government for telephone contact between Mr. Agiza and his wife and children who remain in Sweden as refugees. The Ambassador was unclear as to whether he would request the complainant's retrial. Counsel provided arguments as to why his trial in April 2004 was unfair and also requested that the prohibition on the complainant returning to Sweden be lifted, in the event that he is released from prison at some stage in the future. According to the Ambassador, this is up to the Migration Board. Counsel requested the State party to consider having a retrial in Sweden or to allow him to complete his imprisonment there (as suggested by the Special Rapporteur on Torture) but the State party responded that no such steps are possible. In addition, requests for compensation ex gratia have been refused and it was suggested that a formal claim should be lodged under the Compensation Act. This has been done.

According to counsel, although the monitoring aspect of the State party's efforts is satisfactory its efforts as a whole are said to be inadequate with respect to the request for contact with his family in Sweden, a retrial etc.

Case	279/2005, C.T. and K.M.
Nationality and country of removal if applicable	Rwandan, Rwanda
Views adopted on	17 November 2006
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party

Remedy recommended	The removal of the complainants to Rwanda would amount to a breach of article 3 of the Convention. The Committee urges the State party, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the decision expressed above.
Due date for State party response	1 March 2007
Date of reply	19 February 2007
State party response	On 29 January 2007, the Migration Board decided to grant the complainants permanent residence permits. They were also granted refugee status and travel documents.
Committee's decision	No further consideration under the follow-up procedure, as the State party has complied with the Committee's decision.

...

...

13/ (1) The Committee observes, moreover, that by making the declaration under article 22 of the Convention, the State party undertook to confer upon persons within its jurisdiction the right to invoke the complaints' jurisdiction of the Committee. That jurisdiction included the power to indicate interim measures, if necessary, to stay the removal and preserve the subject matter of the case pending final decision. In order for this exercise of the right of complaint to be meaningful rather than illusory, however, an individual must have a reasonable period of time before execution of a final decision to consider whether, and if so to in fact, seize the Committee under its article 22 jurisdiction. In the present case, however, the Committee observes that the complainant was arrested and removed by the State party immediately upon the Government's decision of expulsion being taken; indeed, the formal notice of decision was only served upon the complainant's counsel the following day. As a result, it was impossible for the complainant to consider the possibility of invoking article 22, let alone seize the Committee. As a result, the Committee concludes that the State party was in breach of its obligations under article 22 of the Convention to respect the effective right of individual communication conferred thereunder.

(2) Having addressed the merits of the complaint, the Committee must address the failure of the State party to cooperate fully with the Committee in the resolution of the current complaint. The Committee observes that, by making the declaration provided for in article 22 extending to individual complainants the right to complain to the Committee alleging a breach of a State party's obligations under the Convention, a State party assumes an obligation to

cooperate fully with the Committee, through the procedures set forth in article 22 and in the Committee's rules of procedure. In particular, article 22, paragraph 4, requires a State party to make available to the Committee all information relevant and necessary for the Committee appropriately to resolve the complaint presented to it. The Committee observes that its procedures are sufficiently flexible and its powers sufficiently broad to prevent an abuse of process in a particular case. It follows that the State party committed a breach of its obligations under article 22 of the Convention by neither disclosing to the Committee relevant information, nor presenting its concerns to the Committee for an appropriate procedural decision.

CAT, A/63/44 (2008)

...

CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

D. Follow up activities

93. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non response, and upon the receipt henceforth of all letters from complainants concerning non implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow up visits to States parties; preparing periodic reports for the Committee on his/her activities.

94. During its thirty fourth session, the Committee, through its Special Rapporteur on follow up to decisions, decided that in cases in which it had found violations of the Convention, including Decisions made by the Committee prior to the establishment of the follow up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the Decisions...

95. Action taken by the States parties in the following cases complied fully with the Committee's Decisions and no further action will be taken under the follow up procedure:... *Tapia Paez v. Sweden* (No. 39/1996); *Kisoki v. Sweden* (No. 41/1996); *Tala v. Sweden* (No. 43/1996); *Avedes Hamayak Korban v. Sweden* (No. 88/1997); *Ali Falakaflaki v. Sweden* (No. 89/1997); *Orhan Ayas v. Sweden* (No. 97/1997); *Halil Haydin v. Sweden* (No. 101/1997); *A.S. v. Sweden* (No. 149/1999); *Chedli Ben Ahmed Karoui v. Sweden* (No. 185/2001);... *Tharina v. Sweden* (No. 266/2003); *C.T. and K.M. v. Sweden* (No. 279/2005);...

...

97. In the following cases, either further information is awaited from the States parties or the complainants and/or the dialogue with the State party is ongoing:... *Agiza v. Sweden* (No. 233/2003);...

98. During the thirty ninth and fortieth sessions, the Special Rapporteur on follow up to decisions presented new follow up information that had been received since the last annual report with respect to the following cases:... *Agiza v. Sweden* (No. 233/2003);...

99. Represented below is a comprehensive report of replies received with regard to all 45 cases in which the Committee has found violations of the Convention to date and in one case in which although the Committee did not find a violation of the Convention it did make a recommendation.

**Complaints in which the Committee has found violations of the
Convention up to the fortieth session**

...

State party	SWEDEN
Case	Tapia Páez, 39/1996
Nationality and country of removal if applicable	Peruvian to Peru
Views adopted on	28 April 1997
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Gorki Ernesto Tapia Páez to Peru.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 23 June 1997.
Complainant's response	None

Committee's decision No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case

Kisoki, 41/1996

Nationality and country of removal if applicable Democratic Republic of the Congo citizen to the Democratic Republic of the Congo.

Views adopted on 8 May 1996

Issues and violations found Removal - article 3

Interim measures granted and State party response Granted and acceded to by the State party.

Remedy recommended The State party has an obligation to refrain from forcibly returning Pauline Muzonzo Paku Kisoki to the Democratic Republic of the Congo.

Due date for State party response None

Date of reply 23 August 2005

State party response Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 7 November 1996.

Complainant's response None

Committee's decision No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case

Tala, 43/1996

Nationality and country of removal if applicable Iranian to Iran

Views adopted on 15 November 1996

Issues and violations found Removal - article 3

Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Kaveh Yaragh Tala to Iran.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1997.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Avedes Hamayak Korban, 88/1997
Nationality and country of removal if applicable	Iraqi to Iraq
Views adopted on	16 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iraq. It also has an obligation to refrain from forcibly returning the complainant to Jordan, in view of the risk he would run of being expelled from that country to Iraq.
Due date for State party response	None

Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1999.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Ali Falakaflaki, 89/1997
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	8 May 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Ali Falakaflaki to the Islamic Republic of Iran.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 17 July 1998.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case**Orhan Ayas, 97/1997**

Nationality and country of removal if applicable

Turkish to Turkey

Views adopted on

12 November 1998

Issues and violations found

Removal - article 3

Interim measures granted and State party response

Granted and acceded to by the State party.

Remedy recommended

The State party has an obligation to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of being expelled or returned to Turkey.

Due date for State party response

None

Date of reply

23 August 2005

State party response

Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 8 July 1999.

Complainant's response

None

Committee's decision

No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case**Halil Haydin, 101/1997**

Nationality and country of removal if applicable

Turkish to Turkey

Views adopted on

20 November 1998

Issues and violations found

Removal - article 3

Interim measures granted and State party

Granted and acceded to by the State party.

response

Remedy recommended

The State party has an obligation to refrain from forcibly returning the complainant to Turkey, or to any other country where he runs a real risk of being expelled or returned to Turkey.

Due date for State party response

None

Date of reply

23 August 2005

State party response

Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 19 February 1999.

Complainant's response

None

Committee's decision

No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case

A.S., 149/1999

Nationality and country of removal if applicable

Iranian to Iran

Views adopted on

24 November 2000

Issues and violations found

Removal - article 3

Interim measures granted and State party response

Granted and acceded to by the State party.

Remedy recommended

The State party has an obligation to refrain from forcibly returning the complainant to Iran or to any other country where she runs a real risk of being expelled or returned to Iran.

Due date for State party response

None

Date of reply

22 February 2001

State party response

The State party informed the Committee that

on 30 January 2001, the Aliens Appeals Board examined a new application for residence permit lodged by the complainant. The Board decided to grant the complainant a permanent residence permit in Sweden and to quash the expulsion order. The Board also granted the complainant's son a permanent residence permit.

Complainant's response

None

Committee's decision

No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case

Chedli Ben Ahmed Karoui, 185/2001

Nationality and country of removal if applicable

Tunisian to Tunisia

Views adopted on

8 May 2002

Issues and violations found

Removal - article 3

Interim measures granted and State party response

Granted and acceded to by the State party.

Remedy recommended

None

Due date for State party response

None

Date of reply

23 August 2005

State party response

No further consideration under follow-up procedure. See first follow-up report (CAT/C/32/FU/1) in which it was stated that, on 4 June 2002, the Board revoked the expulsion decisions regarding the complainant and his family. They were also granted permanent residence permits on the basis of this decision.

Complainant's response

None

Case

Tharina, 226/2003

Nationality and country of removal if applicable	Bangladeshi to Bangladesh
Views adopted on	6 May 2005
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	Given the specific circumstances of the case, the deportation of the complainant and her daughter would amount to a breach of article 3 of the Convention. The Committee wishes to be informed, within 90 days, from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.
Due date for State party response	15 August 2005
Date of reply	17 August 2005 (was not received by OHCHR, so resent by the State party on 29 June 2006).
State party response	On 20 June 2005, the Board decided to revoke the expulsion decision regarding the complainant and her daughter and to grant them residence permits.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Agiza, 233/2003
Nationality and country of removal if applicable	Egyptian to Egypt
Views adopted on	20 May 2005
Issues and violations found	Removal - articles 3 (substantive and procedural violations) on two counts and 22

on two counts.¹³

Interim measures granted and State party response

None

Remedy recommended

In pursuance of rule 112, paragraph 5, of its rules of procedure, the Committee requests the State party to inform it, within 90 days from the date of the transmittal of this decision, of the steps it has taken in response to the views expressed above. The State party is also under an obligation to prevent similar violations in the future.

Due date for State party response

20 August 2005

Date of reply

Latest information 25 May and 5 October 2007 (it had provided a response on 18 August 2005 - annual report of the Committee, A/61/44 and 1 September 2006 - annual report of the Committee, A/62/44).

State party's response

The Committee will recall the State party's submission on follow-up in which it referred inter alia to the enactment of a new Aliens Act and the continual monitoring of the complainant by staff from the Swedish Embassy in Cairo. See annual report of the Committee (A/61/44) for a full account of its submission.

On 1 September 2006, the State party provided an update on its monitoring of the complainant. It stated that embassy staff had made seven further visits to Mr. Agiza. Mr. Agiza had been in consistently good spirits and received regular visits in prison from his mother and brother. His health was said to be stable and he visited Manial Hospital once a week for physiotherapeutic treatment. The Embassy's staff has visited him now on 39 occasions and will continue the visits.

On 25 May 2007 the State party reported that five additional visits to the complainant had

been conducted, which made a total of 44 visits. His well-being and health remained unchanged. He had on one occasion obtained permission to telephone his wife and children and he received visits from his mother. His father died in December 2006, but he did not receive permission to attend the funeral. Early in 2007, Mr. Agiza lodged a request to be granted a permanent residence permit in Sweden as well as compensation. The Government instructed the Office of the Chancellor of Justice to attempt to reach an agreement with Mr. Agiza on the issue of compensation. The request for a residence permit is being dealt with by the Migration Board.

On 5 October 2007, the State party informed the Committee of two further visits to Mr. Agiza, conducted on 17 July and 19 September 2007, respectively. He kept repeating that he was feeling well, although in summer he complained about not receiving sufficiently frequent medical treatment. That situation seems to have again improved. The Embassy's staff has visited Mr. Agiza in the prison on 46 occasions. These visits will continue. Furthermore, it is not possible at this moment to predict when the Migration Board and the Chancellor of Justice will be able to conclude Mr. Agiza's cases.

Complainant's response

On 31 October 2006, the complainant's counsel responded that he had a meeting with the Ambassador of the Swedish Embassy on 24 January 2006. During this meeting, counsel emphasized that it was essential that the embassy continue their visits as regularly as it has been doing. Counsel requested the State party to consider having a retrial in Sweden or to allow him to complete his imprisonment there, but the State party responded that no such steps were possible. In addition, requests for compensation ex gratia had been refused and it was suggested that a formal claim should be lodged under the Compensation Act. This has been done. According to

counsel, although the monitoring aspect of the State party's efforts is satisfactory its efforts as a whole were said to be inadequate with respect to the request for contact with his family in Sweden, a retrial etc.

On 20 July 2007, counsel reported that the meetings between Mr. Agiza and staff from the Swedish Embassy took place under the presence of prison officials and were video recorded. The officials had ordered Mr. Agiza not to express any critics against the prison conditions and he was under the threat of being transferred to a far remote prison. Furthermore, the medical treatment he received was insufficient and suffered, inter alia, from neurological problems which caused him difficulties to control his hands and legs, as well as from urination difficulties and a problem with a knee joint. The State party has repealed the expulsion decision of 18 December 2001. However, no decision has been taken yet by the Migration Board and the Chancellor of Justice.

Further action taken/or required

The State party provided follow-up information during the examination of its third periodic report to the Committee, which took place during the Committee's fortieth session, between 28 April and 16 May 2008. It indicated to the Committee that the office of the Chancellor of Justice was considering a request from the complainant for compensation for the violation of his rights under the Convention.

Committee's decision

The Committee considers the dialogue ongoing.

Case

279/2005, C.T. and K.M.

Nationality and country of removal if applicable

Rwandan to Rwanda

Views adopted on

17 November 2006

Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The removal of the complainants to Rwanda would amount to a breach of article 3 of the Convention. The Committee urges the State party, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the decision expressed above.
Due date for State party response	1 March 2007
Date of reply	19 February 2007
State party response	On 29 January 2007, the Migration Board decided to grant the complainants permanent residence permits. They were also granted refugee status and travel documents.
Committee's decision	No further consideration under the follow-up procedure, as the State party has complied with the Committee's decision.

...

...

13/ (1) The Committee observes, moreover, that by making the declaration under article 22 of the Convention, the State party undertook to confer upon persons within its jurisdiction the right to invoke the complaints' jurisdiction of the Committee. That jurisdiction included the power to indicate interim measures, if necessary, to stay the removal and preserve the subject matter of the case pending final decision. In order for this exercise of the right of complaint to be meaningful rather than illusory, however, an individual must have a reasonable period of time before execution of a final decision to consider whether, and if so to in fact, seize the Committee under its article 22 jurisdiction. In the present case, however, the Committee observes that the complainant was arrested and removed by the State party immediately upon the Government's decision of expulsion being taken; indeed, the formal notice of decision was only served upon the complainant's counsel the following day. As a result, it was impossible for the complainant to consider the possibility of invoking article 22, let alone seize the Committee. As a result, the Committee concludes that the State party was in breach of its obligations under article 22 of the Convention to respect the effective right of individual communication conferred thereunder.

(2) Having addressed the merits of the complaint, the Committee must address the failure of the State party to cooperate fully with the Committee in the resolution of the current complaint. The Committee observes that, by making the declaration provided for in article 22 extending to individual complainants the right to complain to the Committee alleging a breach of a State party's obligations under the Convention, a State party assumes an obligation to cooperate fully with the Committee, through the procedures set forth in article 22 and in the Committee's rules of procedure. In particular, article 22, paragraph 4, requires a State party to make available to the Committee all information relevant and necessary for the Committee appropriately to resolve the complaint presented to it. The Committee observes that its procedures are sufficiently flexible and its powers sufficiently broad to prevent an abuse of process in a particular case. It follows that the State party committed a breach of its obligations under article 22 of the Convention by neither disclosing to the Committee relevant information, nor presenting its concerns to the Committee for an appropriate procedural decision.

...

VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

D. Follow-up activities

89. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non response, and upon the receipt henceforth of all letters from complainants concerning non implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow up visits to States parties; preparing periodic reports for the Committee on his/her activities.

90. During its thirty fourth session, the Committee, through its Special Rapporteur on follow up to decisions, decided that in cases in which it had found violations of the Convention, including decisions made by the Committee prior to the establishment of the follow up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the decisions. ...

91. Action taken by the States parties in the following cases complied fully with the Committee's decisions and no further action will be taken under the follow up procedure: ... *Tapia Paez v. Sweden* (No. 39/1996); *Kisoki v. Sweden* (No. 41/1996); *Tala v. Sweden* (No. 43/1996); *Avedes Hamayak Korban v. Sweden* (No. 88/1997); *Ali Falakaflaki v. Sweden* (No. 89/1997); *Orhan Ayas v. Sweden* (No. 97/1997); *Halil Haydin v. Sweden* (No. 101/1997); *A.S. v. Sweden* (No. 149/1999); *Chedli Ben Ahmed Karoui v. Sweden* (No. 185/2001); ... *Tharina v. Sweden* (No. 266/2003); *C.T. and K.M. v. Sweden* (No. 279/2005); ...

...

93. In the following cases, either further information is awaited from the States parties or the complainants and/or the dialogue with the State party is ongoing: ... *Agiza v. Sweden* (No. 233/2003);...

94. During the forty-first and forty-second sessions, the Special Rapporteur on follow up to decisions presented new follow up information that had been received since the last annual report with respect to the following cases: ... *Agiza v. Sweden* (No. 233/2003); ...

95. Represented below is a comprehensive report of replies received with regard to all 48 cases in which the Committee has found violations of the Convention to date and in 1 case in which although the Committee did not find a violation of the Convention it did make a recommendation.

Complaints in which the Committee has found violations of the Convention up to the forty-second session

...

State party	SWEDEN
Case	Tapia Páez, 39/1996
Nationality and country of removal if applicable	Peruvian to Peru
Views adopted on	28 April 1997
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Gorki Ernesto Tapia Páez to Peru.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 23 June 1997.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Kisoki, 41/1996

Nationality and country of removal if applicable	Democratic Republic of the Congo citizen to the Democratic Republic of the Congo.
Views adopted on	8 May 1996
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Pauline Muzonzo Paku Kisoki to the Democratic Republic of the Congo.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 7 November 1996.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Tala, 43/1996
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	15 November 1996
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Kaveh Yaragh Tala to Iran.

Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1997.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Avedes Hamayak Korban, 88/1997
Nationality and country of removal if applicable	Iraqi to Iraq
Views adopted on	16 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iraq. It also has an obligation to refrain from forcibly returning the complainant to Jordan, in view of the risk he would run of being expelled from that country to Iraq.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1999.

Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Ali Falakaflaki, 89/1997
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	8 May 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Ali Falakaflaki to the Islamic Republic of Iran.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 17 July 1998.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Orhan Ayas, 97/1997
Nationality and country of removal if applicable	Turkish to Turkey
Views adopted on	12 November 1998

Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of being expelled or returned to Turkey.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 8 July 1999.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	Halil Haydin, 101/1997
Nationality and country of removal if applicable	Turkish to Turkey
Views adopted on	20 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Turkey, or to any other country where he runs a real risk of being expelled or returned to Turkey.
Due date for State party response	None

Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 19 February 1999.
Complainant's response	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	A.S., 149/1999
Nationality and country of removal if applicable	Iranian to Iran
Views adopted on	24 November 2000
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iran or to any other country where she runs a real risk of being expelled or returned to Iran.
Due date for State party response	None
Date of reply	22 February 2001
State party response	The State party informed the Committee that on 30 January 2001, the Aliens Appeals Board examined a new application for residence permit lodged by the complainant. The Board decided to grant the complainant a permanent residence permit in Sweden and to quash the expulsion order. The Board also granted the complainant's son a permanent residence permit.
Complainant's response	None

Committee's decision No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case **Chedli Ben Ahmed Karoui, 185/2001**

Nationality and country of removal if applicable Tunisian to Tunisia

Views adopted on 8 May 2002

Issues and violations found Removal - article 3

Interim measures granted and State party response Granted and acceded to by the State party.

Remedy recommended None

Due date for State party response None

Date of reply 23 August 2005

State party response See first follow-up report (CAT/C/32/FU/1) in which it was stated that, on 4 June 2002, the Board revoked the expulsion decisions regarding the complainant and his family. They were also granted permanent residence permits on the basis of this decision.

Complainant's response None

Committee's decision No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case **Tharina, 226/2003**

Nationality and country of removal if applicable Bangladeshi to Bangladesh

Views adopted on 6 May 2005

Issues and violations found Removal - article 3

Interim measures granted and State party response Granted and acceded to by the State party.

party response

Remedy recommended

Given the specific circumstances of the case, the deportation of the complainant and her daughter would amount to a breach of article 3 of the Convention. The Committee wishes to be informed, within 90 days, from the date of the transmittal of this decision, of the steps taken in response to the views expressed above.

Due date for State party response

15 August 2005

Date of reply

17 August 2005 (was not received by OHCHR, so resent by the State party on 29 June 2006).

State party response

On 20 June 2005, the Board decided to revoke the expulsion decision regarding the complainant and her daughter and to grant them residence permits.

Complainant's response

None

Committee's decision

No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case

Agiza, 233/2003

Nationality and country of removal if applicable

Egyptian to Egypt

Views adopted on

20 May 2005

Issues and violations found

Removal - articles 3 (substantive and procedural violations) on two counts and 22 on two counts.¹²

Interim measures granted and State party response

None

Remedy recommended

In pursuance of rule 112, paragraph 5, of its rules of procedure, the Committee requests the State party to inform it, within 90 days from the date of the transmittal of this decision, of the steps it has taken in response to the views expressed above. The State party is also under an obligation to prevent similar violations in the future.

Due date for State party response

20 August 2005

Date of reply

Latest information 16 December 2008 (it also provided information on 25 May and 5 October 2007 and 18 August 2005) (see annual report of the Committee, A/61/44) and 1 September 2006 (see annual report of the Committee, A/62/44).

State party's response

The Committee will recall the State party's submission on follow-up in which it referred *inter alia* to the enactment of a new Aliens Act and the continual monitoring of the complainant by staff from the Swedish Embassy in Cairo. See annual report of the Committee (A/61/44) for a full account of its submission.

On 1 September 2006, the State party provided an update on its monitoring of the complainant. It stated that embassy staff had made seven further visits to Mr. Agiza. Mr. Agiza had been in consistently good spirits and received regular visits in prison from his mother and brother. His health was said to be stable and he visited Manial Hospital once a week for physiotherapeutic treatment. The Embassy's staff has visited him now on 39 occasions and will continue the visits.

On 25 May 2007, the State party reported that 5 additional visits to the complainant had been conducted, which made a total of 44 visits. His well-being and health remained unchanged. He had on one occasion obtained permission to telephone his wife and children and he received visits from his mother. His father died in December 2006, but he did not receive permission to attend the funeral. Early in 2007, Mr. Agiza lodged a request to be granted a permanent residence permit in Sweden as well as compensation. The Government instructed the Office of the Chancellor of Justice to attempt to reach an agreement with Mr. Agiza on the issue of compensation. The request for a residence permit

is being dealt with by the Migration Board.

On 5 October 2007, the State party informed the Committee of two further visits to Mr. Agiza, conducted on 17 July and 19 September 2007, respectively. He kept repeating that he was feeling well, although in summer he complained about not receiving sufficiently frequent medical treatment. That situation seems to have again improved. The Embassy's staff has visited Mr. Agiza in the prison on 46 occasions. These visits will continue. Furthermore, it is not possible at this moment to predict when the Migration Board and the Chancellor of Justice will be able to conclude Mr. Agiza's cases.

The State party provided follow-up information during the examination of its third periodic report to the Committee, which took place during the Committee's fortieth session, between 28 April and 16 May 2008. It indicated to the Committee that the office of the Chancellor of Justice was considering a request from the complainant for compensation for the violation of his rights under the Convention.

On 16 December 2008, the State party informed the Committee that representatives of the Swedish Embassy in Cairo continued to visit the complainant regularly in prison and conducted their 53rd visit in November 2008. His family was due to visit him in December and he availed of the possibility on several occasions of contacting his family on a cell-phone provided by the Embassy.

It informed the Committee that compensation of SEK 3,097,920 (379,485.20 USD) was paid to the complainant's lawyer on 27 October 2008 following a settlement made by the Chancellor of Justice and the complainant. This compensation was paid in full and final settlement with the exception of non-pecuniary damage suffered as a result of a violation of article 8 of the ECHR, any damage suffered as a result of a violation of article 6 of the ECHR and any loss of income. The Chancellor decided that as the liability for the

events were partly attributed to the Swedish Security police they should pay a portion of the award (SEK 250,000).

As to the complainant's application for a residents permit, this was turned down by the Migration Board on 9 October 2007, and subsequently by the Supreme Court of Migration on 25 February 2008. Both bodies were of the view that the preconditions for granting a residence permit were lacking, since he was still serving his prison sentence in Egypt, i.e. that he does not only intend to but also has a real possibility of coming and staying in the country. It remained with the government to examine the appeal which is still pending.

Complainant's response

On 31 October 2006, the complainant's counsel responded that he had a meeting with the Ambassador of the Swedish Embassy on 24 January 2006. During this meeting, counsel emphasized that it was essential that the embassy continue their visits as regularly as it has been doing. Counsel requested the State party to consider having a retrial in Sweden or to allow him to complete his imprisonment there, but the State party responded that no such steps were possible. In addition, requests for compensation ex gratia had been refused and it was suggested that a formal claim should be lodged under the Compensation Act. This has been done. According to counsel, although the monitoring aspect of the State party's efforts is satisfactory its efforts as a whole were said to be inadequate with respect to the request for contact with his family in Sweden, a retrial etc.

On 20 July 2007, counsel reported that the meetings between Mr. Agiza and staff from the Swedish Embassy took place under the presence of prison officials and were video recorded. The officials had ordered Mr. Agiza not to express any criticism against the prison conditions and he was under the threat of being transferred to a far remote prison. Furthermore, the medical treatment he received was insufficient and suffered, inter alia,

from neurological problems which caused him difficulties to control his hands and legs, as well as from urination difficulties and a problem with a knee joint. The State party has repealed the expulsion decision of 18 December 2001. However, no decision has been taken yet by the Migration Board and the Chancellor of Justice.

On 20 January 2009, the complainant's counsel confirmed that the State party had provided the compensation awarded. On the issue of a residence permit, he states that even if Mr. Agiza were unable to avail immediately of a residence permit the grant of same would be a great psychological relief to both him and his family. Thus, an important part of the reparation of the harm caused to him.

Further action taken/or required

Following the forty-second session, the Committee considered that the State party should be reminded of its obligation to make reparation for the violation of article 3. Serious consideration should be made of the complainant's appeal for a residence permit.

Committee's decision

The Committee considers the dialogue ongoing.

Case

C.T. and K.M., 279/2005

Nationality and country of removal if applicable

Rwandan to Rwanda

Views adopted on

17 November 2006

Issues and violations found

Removal - article 3

Interim measures granted and State party response

Granted and acceded to by the State party.

Remedy recommended

The removal of the complainants to Rwanda would amount to a breach of article 3 of the Convention. The Committee urges the State party, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps

taken in response to the decision expressed above.

Due date for State party response

1 March 2007

Date of reply

19 February 2007

State party response

On 29 January 2007, the Migration Board decided to grant the complainants permanent residence permits. They were also granted refugee status and travel documents.

Committee's decision

No further consideration under the follow-up procedure, as the State party has complied with the Committee's decision.

...

...

12/ (1) The Committee observes, moreover, that by making the declaration under article 22 of the Convention, the State party undertook to confer upon persons within its jurisdiction the right to invoke the complaints' jurisdiction of the Committee. That jurisdiction included the power to indicate interim measures, if necessary, to stay the removal and preserve the subject matter of the case pending final decision. In order for this exercise of the right of complaint to be meaningful rather than illusory, however, an individual must have a reasonable period of time before execution of a final decision to consider whether, and if so to in fact, seize the Committee under its article 22 jurisdiction. In the present case, however, the Committee observes that the complainant was arrested and removed by the State party immediately upon the Government's decision of expulsion being taken; indeed, the formal notice of decision was only served upon the complainant's counsel the following day. As a result, it was impossible for the complainant to consider the possibility of invoking article 22, let alone seize the Committee. As a result, the Committee concludes that the State party was in breach of its obligations under article 22 of the Convention to respect the effective right of individual communication conferred thereunder.

(2) Having addressed the merits of the complaint, the Committee must address the failure of the State party to cooperate fully with the Committee in the resolution of the current complaint. The Committee observes that, by making the declaration provided for in article 22 extending to individual complainants the right to complain to the Committee alleging a breach of a State party's obligations under the Convention, a State party assumes an obligation to cooperate fully with the Committee, through the procedures set forth in article 22 and in the Committee's rules of procedure. In particular, article 22, paragraph 4, requires a State party to make available to the Committee all information relevant and necessary for the Committee appropriately to resolve the complaint presented to it. The Committee observes that its procedures are sufficiently flexible and its powers sufficiently broad to prevent an abuse of process in a particular case. It follows that the State party committed a breach of its obligations under article 22 of the

Convention by neither disclosing to the Committee relevant information, nor presenting its concerns to the Committee for an appropriate procedural decision.

...

CAT, A/65/44 (2010)

...

CHAPTER VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

...

D. Follow-up activities

108. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22. At its 527th meeting, on 16 May 2002, the Committee decided that the Rapporteur shall engage, inter alia, in the following activities: monitoring compliance with the Committee's decisions by sending notes verbales to States parties enquiring about measures adopted pursuant to the Committee's decisions; recommending to the Committee appropriate action upon the receipt of responses from States parties, in situations of non-response, and upon the receipt henceforth of all letters from complainants concerning non-implementation of the Committee's decisions; meeting with representatives of the permanent missions of States parties to encourage compliance and to determine whether advisory services or technical assistance by the Office of the United Nations High Commissioner for Human Rights would be appropriate or desirable; conducting with the approval of the Committee follow-up visits to States parties; preparing periodic reports for the Committee on his/her activities.

109. During its thirty-fourth session, the Committee, through its Rapporteur for follow-up of decisions on complaints, decided that in cases in which it had found violations of the Convention, including decisions made by the Committee prior to the establishment of the follow-up procedure, the States parties should be requested to provide information on all measures taken by them to implement the Committee's recommendations made in the decisions. To date, the following countries have not yet responded to these requests: Canada (with respect to *Tahir Hussain Khan*, No. 15/1994); Serbia¹ and Montenegro (with respect to *Dimitrov*, No. 171/2000,² *Danil Dimitrijevic*, No. 172/2000, *Nikolić, Slobodan and Ljiljana*, No. 174/2000, *Dragan Dimitrijevic*, No. 207/2002 and *Besim Osmani v. Republic of Serbia*, No. 261/2005); and Tunisia (with respect to *Ali Ben Salem*, No. 269/2005).

110. Action taken by the States parties in the following cases complied fully with the Committee's decisions and no further action will be taken under the follow-up procedure: *Halimi-Nedibi Quani v. Austria* (No. 8/1991); *M.A.K. v. Germany* (No. 214/2002);³ *Hajrizi Dzemajl et al. v. Serbia and Montenegro* (No. 161/2000), *the Netherlands* (with respect to *A.J.*, No. 91/1997); *Mutombo v. Switzerland* (No. 13/1993); *Alan v. Switzerland* (No. 21/1995); *Aemei v. Switzerland* (No. 34/1995); *V.L. v. Switzerland* (No. 262/2005); *El Rgeig v. Switzerland* (No. 280/2005); *Tapia Paez v. Sweden* (No. 39/1996); *Kisoki v. Sweden* (No. 41/1996); *Tala v. Sweden* (No. 43/1996); *Avedes Hamayak Korban v. Sweden* (No. 88/1997); *Ali Falakflaki v.*

Sweden (No. 89/1997); *Orhan Ayas v. Sweden* (No. 97/1997); *Halil Haydin v. Sweden* (No. 101/1997); *A.S. v. Sweden* (No. 149/1999); *Chedli Ben Ahmed Karoui v. Sweden* (No. 185/2001); *Dar v. Norway*⁴ (No. 249/2004); *Tharina v. Sweden* (No. 266/2003); *C.T. and K.M. v. Sweden* (No. 279/2005); and *Jean-Patrick Iya v. Switzerland* (No. 299/2006).

111. In the following cases, the Committee considered that for various reasons no further action should be taken under the follow-up procedure: *Elmi v. Australia* (No. 120/1998); *Arana v. France* (No. 63/1997); and *Ltaief v. Tunisia* (No. 189/2001). In one case, the Committee deplored the State party's failure to abide by its obligations under article 3 having deported the complainant, despite the Committee's finding that there were substantial grounds for believing that he would be in danger of being tortured: *Dadar v. Canada* (No. 258/2004). In one case, given the author's voluntary return to his country of origin, the Committee decided not to consider the case any further under the follow-up procedure: *Falcon Rios v. Canada* (No. 133/1999).

112. In the following cases, either further information is awaited from the States parties or the complainants and/or the dialogue with the State party is ongoing: *Dadar v. Canada* (No. 258/2004); *Brada v. France* (No. 195/2003); *Guengueng et al. v. Senegal* (No. 181/2001); *Ristic v. Serbia and Montenegro* (No. 113/1998); *Blanco Abad v. Spain* (No. 59/1996); *Urta Guridi v. Spain* (No. 212/2002); *Agiza v. Sweden* (No. 233/2003); *Thabti v. Tunisia* (No. 187/2001); *Abdelli v. Tunisia* (No. 188/2001); *M'Barek v. Tunisia* (No. 60/1996); *Saadia Ali v. Tunisia* (No. 291/2006); *Chipana v. Venezuela* (No. 110/1998); *Pelit v. Azerbaijan* (No. 281/2005); *Bachan Singh Sogi v. Canada* (No. 297/2006); *Tebourski v. France* (No. 300/2006); and *Besim Osmani v. Republic of Serbia* (No. 261/2005).

113. During the forty-third and forty-fourth sessions, the Rapporteur for follow-up of decisions on complaints presented new follow-up information that had been received since the last annual report with respect to the following cases: *Guengueng et al. v. Senegal* (No. 181/2001); *Agiza v. Sweden* (No. 233/2003); *Bachan Singh Sogi v. Canada* (No. 297/2006); *Falcon Rios v. Canada* (No. 133/1999); *Blanco Abad v. Spain* (No. 59/1996); *Urta Guridi v. Spain* (No. 212/2002); *M'Barek v. Tunisia* (No. 60/1996); *Saadia Ali v. Tunisia* (No. 291/2006).

114. Represented below is a comprehensive report of replies received with regard to all 49 cases in which the Committee has found violations of the Convention to date and in 1 case in which although the Committee did not find a violation of the Convention it did make a recommendation.

¹ On 11 June 2008, following requests by the Committee to Serbia and Montenegro to confirm which State would be following up on Decisions adopted by the Committee and registered against the State party "Serbia and Montenegro", the Secretariat received a response from Montenegro only which stated that all the cases were within the remit of the Republic of Serbia.

² In December 2009, the Secretariat learned verbally from the State party that this case had been subsequently reopened but nothing has been received in writing to this effect.

³ Although no violation was found in this case, the Committee welcomed the State party's readiness to monitor the complainant's situation and subsequently provided satisfactory information in this regard (see chart below).

⁴ The State had already remedied the breach prior to consideration of the case.

Complaints in which the Committee has found violations of the Convention up to the forty-fourth session

...

State party	Sweden
Case	<i>Tapia Páez, 39/1996</i>
Nationality and country of removal if applicable	Peruvian to Peru
Views adopted on	28 April 1997
Issues and violations found	Removal - Article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Gorki Ernesto Tapia Páez to Peru.
Due date for State party response	None
Date of reply	25 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 23 June 1997.

Complainant's comments	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	<i>Kisoki, 41/1996</i>
Nationality and country of removal if applicable	Democratic Republic of the Congo citizen to the Democratic Republic of the Congo
Views adopted on	8 May 1996
Issues and violations found	Removal - Article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Pauline Muzonzo Paku Kisoki to the Democratic Republic of the Congo.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 7 November 1996.
Complainant's comments	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case	<i>Tala, 43/1996</i>
Nationality and country of removal if applicable	Iranian to the Islamic Republic of Iran
Views adopted on	15 November 1996
Issues and violations found	Removal - Article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning Mr. Kaveh Yaragh Tala to Iran.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1997.
Complainant's comments	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case *Avedes Hamayak Korban, 88/1997*

Nationality and country of removal if applicable Iraqi to Iraq

Views adopted on	16 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by the State party.
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iraq. It also has an obligation to refrain from forcibly returning the complainant to Jordan, in view of the risk he would run of being expelled from that country to Iraq.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 18 February 1999.
Complainant's comments	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	<i>Ali Falakaflaki, 89/1997</i>
Nationality and country of removal if applicable	Iranian to the Islamic Republic of Iran
Views adopted on	8 May 1998
Issues and violations found	Removal - Article 3
Interim measures granted and State party response	Granted and acceded to by State party

party response

Remedy recommended The State party has an obligation to refrain from forcibly returning Mr. Ali Falakaflaki to the Islamic Republic of Iran.

Due date for State party response None

Date of reply 23 August 2005

State party response Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 17 July 1998.

Complainant's comments None

Committee's decision No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

Case *Orhan Ayas, 97/1997*

Nationality and country of removal if applicable Turkish to Turkey

Views adopted on 12 November 1998

Issues and violations found Removal - article 3

Interim measures granted and State party response Granted and acceded to by State party

Remedy recommended The State party has an obligation to refrain from forcibly returning the complainant to Turkey or to any other country where he runs a real risk of being expelled or returned to Turkey.

Due date for State party response None

Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 8 July 1999.
Complainant's comments	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	<i>Halil Haydin, 101/1997</i>
Nationality and country of removal if applicable	Turkish to Turkey
Views adopted on	20 November 1998
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Turkey, or to any other country where he runs a real risk of being expelled or returned to Turkey.
Due date for State party response	None
Date of reply	23 August 2005
State party response	Pursuant to the Committee's request of 25 May 2005 on follow-up, the State party informed the Committee that the complainant was granted a permanent residence permit on 19 February 1999.

Complainant's comments	None
Committee's decision	No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.
Case	<i>A.S., 149/1999</i>
Nationality and country of removal if applicable	Iranian to the Islamic Republic of Iran
Views adopted on	24 November 2000
Issues and violations found	Removal - article 3
Interim measures granted and State party response	Granted and acceded to by State party
Remedy recommended	The State party has an obligation to refrain from forcibly returning the complainant to Iran or to any other country where she runs a real risk of being expelled or returned to Iran.
Due date for State party response	None
Date of reply	22 February 2001
State party response	The State party informed the Committee that on 30 January 2001, the Aliens Appeals Board examined a new application for residence permit lodged by the complainant. The Board decided to grant the complainant a permanent residence permit in Sweden and to quash the expulsion order. The Board also granted the complainant's son a permanent residence permit.
Complainant's comments	None
Committee's	No further consideration under the follow-up procedure as the State

decision party has complied with the Committee's decision.

Case *Chedli Ben Ahmed Karoui, 185/2001*

Nationality and country of removal if applicable Tunisian to Tunisia

Views adopted on 8 May 2002

Issues and violations found Removal - article 3

Interim measures granted and State party response Granted and acceded to by State party

Remedy recommended None

Due date for State party response None

Date of reply 23 August 2005

State party response See first follow-up report in which it was stated that, on 4 June 2002, the Board revoked the expulsion decisions regarding the complainant and his family. They were also granted permanent residence permits on the basis of this decision¹⁴

Complainant's comments None

Committee's decision No further consideration under the follow-up procedure as the State party has complied with the Committee's decision.

¹⁴ [Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 44 (A/59/44)], para. 269.

Case	<i>Agiza, 233/2003</i>
Nationality and country of removal if applicable	Egyptian to Egypt
Views adopted on	20 May 2005
Issues and violations found	Removal - articles 3 (substantive and procedural violations) on two counts and 22 on two counts ¹⁵
Interim measures granted and State party response	None
Remedy recommended	In pursuance of rule 112, paragraph 5, of its rules of procedure, the Committee requests the State party to inform it, within 90 days from the date of the transmittal of this decision, of the steps it has taken in response to the views expressed above. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	20 August 2005
Date of reply	Latest information on 7 December 2009 (it also provided information on 18 August 2005, (see annual report of the Committee, A/61/44), 1 September 2006 (see annual report of the Committee, A/62/44), 25 May and 5 October 2007, and 16 December 2008).
State party response	<p>The Committee will recall the State party's submission on follow-up in which it referred inter alia to the enactment of a new Aliens Act and the continual monitoring of the complainant by staff from the Swedish Embassy in Cairo. See annual report of the Committee (A/61/44) for a full account of its submission.</p> <p>On 1 September 2006, the State party provided an update on its monitoring of the complainant. It stated that embassy staff had made seven further visits to Mr. Agiza. Mr. Agiza had been in consistently good spirits and received regular visits in prison from his mother and brother. His health was said to be stable and he visited Manial Hospital once a week for physiotherapeutic treatment. The Embassy's staff has visited him now on 39 occasions and will continue the visits.</p>

**Complainant's
comments**

On 31 October 2006, the complainant's counsel responded that he had a meeting with the Ambassador of the Swedish Embassy on 24 January 2006. During this meeting, counsel emphasized that it was essential that the embassy continue their visits as regularly as it has been doing. Counsel requested the State party to consider having a retrial in Sweden or to allow him to complete his imprisonment there, but the State party responded that no such steps were possible. In addition, requests for compensation ex gratia had been refused and it was suggested that a formal claim should be lodged under the Compensation Act. This has been done. According to counsel, although the monitoring aspect of the State party's efforts is satisfactory its efforts as a whole were said to be inadequate with respect to the request for contact with his family in Sweden, a retrial etc.

**State party
response**

On 25 May 2007, the State party reported that 5 additional visits to the complainant had been conducted, which made a total of 44 visits. His well-being and health remained unchanged. He had on one occasion obtained permission to telephone his wife and children and he received visits from his mother. His father died in December 2006, but he did not receive permission to attend the funeral. Early in 2007, Mr. Agiza lodged a request to be granted a permanent residence permit in Sweden as well as compensation. The Government instructed the Office of the Chancellor of Justice to attempt to reach an agreement with Mr. Agiza on the issue of compensation. The request for a residence permit is being dealt with by the Migration Board.

**Complainant's
comments**

On 20 July 2007, counsel reported that the meetings between Mr. Agiza and staff from the Swedish Embassy took place under the presence of prison officials and were video recorded. The officials had ordered Mr. Agiza not to express any criticism against the prison conditions and he was under the threat of being transferred to a far remote prison. Furthermore, the medical treatment he received was insufficient and he suffered, inter alia, from neurological problems which caused him difficulties to control his hands and legs, as well as from urination difficulties and a problem with a knee joint. The State party has repealed the expulsion decision of 18 December 2001. However, no decision has been taken yet by the Migration Board and the Chancellor of Justice.

State party

On 5 October 2007, the State party informed the Committee of two

response

further visits to Mr. Agiza, conducted on 17 July and 19 September 2007, respectively. He kept repeating that he was feeling well, although in summer he complained about not receiving sufficiently frequent medical treatment. That situation seems to have again improved. The Embassy's staff has visited Mr. Agiza in the prison on 46 occasions. These visits will continue. Furthermore, it is not possible at this moment to predict when the Migration Board and the Chancellor of Justice will be able to conclude Mr. Agiza's cases.

The State party provided follow-up information during the examination of its third periodic report to the Committee, which took place during the Committee's fortieth session, between 28 April and 16 May 2008. It indicated to the Committee that the office of the Chancellor of Justice was considering a request from the complainant for compensation for the violation of his rights under the Convention.

On 16 December 2008, the State party informed the Committee that representatives of the Swedish Embassy in Cairo continued to visit the complainant regularly in prison and conducted their 53rd visit in November 2008. His family was due to visit him in December and he availed of the possibility on several occasions of contacting his family on a cell phone provided by the Embassy.

It informed the Committee that compensation of SEK 3,097,920 (US\$ 379,485.20) was paid to the complainant's lawyer on 27 October 2008 following a settlement made by the Chancellor of Justice and the complainant. This compensation was paid in full and final settlement with the exception of non-pecuniary damage suffered as a result of a violation of article 8 of the European Convention on Human Rights, any damage suffered as a result of a violation of article 6 of that Convention and any loss of income. The Chancellor decided that as the liability for the events were partly attributed to the Swedish Security police they should pay a portion of the award (SEK 250,000).

As to the complainant's application for a residence permit, this was turned down by the Migration Board on 9 October 2007, and subsequently by the Supreme Court of Migration on 25 February 2008. Both bodies were of the view that the preconditions for granting a residence permit were lacking, since he was still serving his prison sentence in Egypt, i.e. that he does not only intend to but also has a real possibility of coming and staying in the country. It remained with the Government to examine the appeal which is still pending.

Complainant's

On 20 January 2009, the complainant's counsel confirmed that the

comments

State party had provided the compensation awarded. On the issue of a residence permit, he states that even if Mr. Agiza were unable to avail immediately of a residence permit the grant of same would be a great psychological relief to both him and his family. Thus, an important part of the reparation of the harm caused to him.

State party response

On 7 December 2009, the State party submitted that following the decisions of the Migration Board on 9 October 2007, and the Supreme Court of Migration of 25 February 2008, the Government made a decision on the complainant's renewed request for a residence permit on 19 November 2009. His application was made under the new 2005 Aliens Act. The Government found that chapter 5, section 4 of the Act, was applicable with regard to his application which reads, "If an international body that is competent to examine complaints from individuals had found that a refusal-of-entry or expulsion order in a particular case is contrary to a Swedish commitment under a convention, a residence permit shall be granted to the person covered by the order, unless there are exceptional grounds against granting a residence permit." After comprehensive consultations with the Swedish Security Police, the Government concluded that there were *exceptional grounds* against granting Mr. Agiza a residence permit owing to reasons relating to national security. The Government considered inter alia that, "the activities in which the complainant was involved were of such a serious nature that it feared that if he were granted a residence permit he could engage in similar activities threatening national security in Sweden".

Frequent visits continued to be conducted by the Swedish embassy to monitor the complainant's situation in prison. At the time of the State party's submission, 58 visits had been undertaken - the latest on 18 October 2009. The complainant has repeatedly stated that he is feeling well. His health-care appears to be functioning satisfactorily again and he is receiving necessary medication. He has complained about his treatment during transport to hospital, which he describes as uncomfortable and tiring. He has also claimed that a security guard threatened him with being shot if he tried to escape during his transport to hospital. He stated also that his lawyer intended to make a new petition for his release from prison for health reasons. The State party submits that there are substantial discrepancies in the description of his treatment and his health given to the Embassy representatives by the complainant and by his mother. The security service informally denied this claim that he was threatened and his mother's claim that he was ill-treated.

Given the State party's efforts to date to implement the decision in this

case, the State party submits that it will take no further action in this case and considers the matter closed under the follow-up procedure.

Further action taken/or required

Following the forty-second session, the Committee considered that the State party should be reminded of its obligation to make reparation for the violation of article 3. Serious consideration should be made of the complainant's appeal for a residence permit.

Committee's decision

The Committee considers the follow-up dialogue ongoing.

...

¹⁵ (1) The Committee observes, moreover, that by making the declaration under article 22 of the Convention, the State party undertook to confer upon persons within its jurisdiction the right to invoke the complaints' jurisdiction of the Committee. That jurisdiction included the power to indicate interim measures, if necessary, to stay the removal and preserve the subject matter of the case pending final decision. In order for this exercise of the right of complaint to be meaningful rather than illusory, however, an individual must have a reasonable period of time before execution of a final decision to consider whether, and if so to in fact, seize the Committee under its article 22 jurisdiction. In the present case, however, the Committee observes that the complainant was arrested and removed by the State party immediately upon the Government's decision of expulsion being taken; indeed, the formal notice of decision was only served upon the complainant's counsel the following day. As a result, it was impossible for the complainant to consider the possibility of invoking article 22, let alone seize the Committee. As a result, the Committee concludes that the State party was in breach of its obligations under article 22 of the Convention to respect the effective right of individual communication conferred thereunder.

(2) Having addressed the merits of the complaint, the Committee must address the failure of the State party to cooperate fully with the Committee in the resolution of the current complaint. The Committee observes that, by making the declaration provided for in article 22 extending to individual complainants the right to complain to the Committee alleging a breach of a State party's obligations under the Convention, a State party assumes an obligation to cooperate fully with the Committee, through the procedures set forth in article 22 and in the Committee's rules of procedure. In particular, article 22, paragraph 4, requires a State party to make available to the Committee all information relevant and necessary for the Committee appropriately to resolve the complaint presented to it. The Committee observes that its procedures are sufficiently flexible and its powers sufficiently broad to prevent an abuse of process in a particular case. It follows that the State party committed a breach of its obligations under article 22 of the Convention by neither disclosing to the Committee relevant information, nor presenting its concerns to the Committee for an appropriate procedural decision.

Case	<i>C.T. and K.M., 279/2005</i>
Nationality and country of removal if applicable	Rwandan to Rwanda
Views adopted on	17 November 2006
Issues and violations found	Removal - Article 3
Interim measures granted and State party response	Granted and acceded to by the State party
Remedy recommended	The removal of the complainants to Rwanda would amount to a breach of article 3 of the Convention. The Committee urges the State party, in accordance with rule 112, paragraph 5, of its rules of procedure, to inform it, within 90 days from the date of the transmittal of this decision, of the steps taken in response to the decision expressed above.
Due date for State party response	1 March 2007
Date of reply	19 February 2007
State party response	On 29 January 2007, the Migration Board decided to grant the complainants permanent residence permits. They were also granted refugee status and travel documents.
Committee's decision	No further consideration under the follow-up procedure, as the State party has complied with the Committee's decision.

...