



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

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Committee against Torture

Communication No. 381/2009

**Decision adopted by the Committee at its forty-seventh session, 31
October to 25 November 2011**

<i>Submitted by:</i>	Abolghasem Faragollah et al. (represented by counsel, Urs Ebnöther)
<i>Alleged victim:</i>	The complainants
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	17 April 2009 (initial submission)
<i>Date of decision:</i>	21 November 2011
<i>Subject matter:</i>	Deportation of the complainant from Switzerland to the Islamic Republic of Iran; risk of torture and cruel, inhuman or degrading treatment
<i>Procedural issues:</i>	
<i>Substantive issues:</i>	Risk of torture following deportation; risk of cruel, inhuman or degrading treatment or punishment following deportation
<i>Article of the Convention:</i>	Article 3

Annex

Decision of the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (forty-seventh session)

concerning

Communication No. 381/2009

Submitted by: Abolghasem Faragollah et al. (represented by counsel, Urs Ebnöther)

Alleged victim: The complainants

State party: Switzerland

Date of complaint: 17 April 2009 (initial submission)

The Committee against Torture, established under article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Meeting on 21 November 2011,

Having concluded its consideration of complaint No. 381/2009, submitted to the Committee against Torture on behalf of Mr. Abolghasem Faragollah et al. under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Having taken into account all information made available to it by the complainant, his counsel and the State party,

Adopts the following:

Decision under article 22, paragraph 7, of the Convention against Torture

1.1 The complainant is Abolghasem Faragollah, born on 1 November 1956, accompanied by his wife Mitra Pishan, born on 27 September 1962, and their son Armin Faragollah, born on 6 December 1992.¹ All are nationals of the Islamic Republic of Iran. He claims that their return to the Islamic Republic of Iran would constitute a violation by Switzerland of article 3 of the Convention. He is represented by counsel, Urs Ebnöther.

1.2 In accordance with article 22, paragraph 3, of the Convention, the Committee brought the complaint to the State party's attention on 23 April 2009. At the same time, the Committee, pursuant to rule 108, paragraph 1, of its rules of procedure, requested the State party not to deport the complainant and his family to the Islamic Republic of Iran while the complaint was being considered.

¹ It transpires from the file that the complainant has another adult son, Arash Faragollah, born on 19 September 1983, who is not associated with the initial submission.

Factual backgrounds

2.1 The complainant and his family are Iranian nationals and claim to have left the Islamic Republic of Iran for political reasons.² Upon his arrival in Switzerland, the complainant submitted an application for asylum on 3 September 2000, which was turned down by Federal Office for Refugees (now the Federal Office for Migration) on 19 April 2002. An appeal against that decision was rejected by the Swiss Asylum Appeals Commission (now part of the Federal Administrative Tribunal) on 15 June 2004. The complainant's wife, Mitra Pishan, filed an initial asylum application on her own behalf and on that of their son, Amin, on 20 March 2003.³ The application was rejected on 18 March 2004 by the Federal Office for Refugees and that decision was upheld by the Swiss Asylum Appeals Commission on 15 June 2004. On 6 April 2005, the complainant requested that the decisions of the Federal Office for Refugees of 19 April 2002 and 18 March 2004 be reconsidered. That appeal was turned down by the Federal Office for Migration on 10 August 2005.

2.2 The complainant argues that, since October 2005, he has been a member of the Democratic Association for Refugees, an Iranian migrant organization that he claims is highly critical of the present regime in the Islamic Republic of Iran and attempts to raise awareness of the woeful human rights situation there, including the issue of the death penalty and the prevailing climate of discrimination against and repression of members of the opposition and minorities.

2.3 In April 2007, the complainant was elected representative for the Canton of Obwald by the executive committee of the Democratic Association for Refugees. In that capacity, he has written articles denouncing the present regime in the Islamic Republic of Iran, which have appeared in the association's publications, and been involved in events organized by NGOs and local churches in his canton in order to alert the public to the human rights violations committed in the Islamic Republic of Iran. The complainant takes part in meetings of the association's leaders at the cantonal level and contributes to the strategic planning of its activities. He works closely with the association's executive committee, directors and deputy director.

2.4 On the basis of his political activities in Switzerland, on 24 July 2006 the complainant submitted a new asylum application, which was rejected by the Federal Office for Migration on 4 October 2007. The court ruled that given the complainant's political profile and level of activities, he was unlikely to attract the attention of the Iranian authorities. On appeal, that decision was upheld by the Federal Administrative Tribunal on 19 March 2009. The Tribunal argued that the Iranian secret service kept a close watch only on the activities of persons whose role went beyond low-profile political protests of exiles, and that the Iranian authorities were aware that asylum-seekers did all they could to highlight their activities in order to secure residence permits in the host country. According to the Tribunal, the complainant had not done enough to bring himself to the attention of the Iranian authorities. Mere identifiability did not constitute a risk of persecution and only those of the regime's opponents who, by dint of their personality, represented a real threat to the regime were kept under surveillance and on file. The Tribunal considered that the close and regular contacts maintained by the complainant with cantonal and national leaders of the Democratic Association for Refugees amounted to little more than the association's internal activities that did not raise his profile above that of any ordinary member. As a result, the Tribunal considered that such activities did not expose him to any

² There is no further mention in the file of "the political reasons" behind the departure from the Islamic Republic of Iran of the complainant and his family.

³ The State party maintains that the application was made on 20 February 2003.

danger from the Iranian regime. Similarly, the Tribunal judged that the complainant's publications in no way contributed to any risk he might run, as similar writings containing stereotypical criticisms of the present regime and attempting to tarnish its reputation were plentiful and appeared regularly on various websites. In the wake of that judgement, the Federal Office for Migration ordered the complainant and his family to leave Switzerland by 21 April 2009 at the latest, a decision that is the subject of the complaint submitted by the complainant to the Committee. He maintains that the Tribunal, in its ruling of 19 March 2009, had mistakenly concluded that his role and activities as representative for the Canton of Obwald in the Democratic Association for Refugees did not expose him to a risk of persecution should he be deported to the Islamic Republic of Iran.

2.5 The complainant insists that the Tribunal's ruling of 19 March 2009 differs considerably from earlier rulings made in similar cases, given that the same court had granted asylum to other cantonal representatives of the Democratic Association for Refugees in leadership positions, thereby recognizing the risks to those opponents of the regime.⁴ He adds that the Federal Office for Migration has already decided that cantonal representatives of the Democratic Association for Refugees, regardless of the size of the canton, risk persecution should they return to the Islamic Republic of Iran.⁵ Moreover, he claims that the Tribunal explicitly deemed the post of cantonal representative of the Democratic Association for Refugees to entail a real risk of persecution and that such persons would have a well-founded fear of suffering if they were forced to return to Iran.⁶ In a subsequent ruling of 19 February 2009, the Tribunal granted asylum to a member of the Democratic Association for Refugees who, although not a cantonal representative, was especially active in the association, organizing and participating in demonstrations, contributing articles critical of the present regime in the Islamic Republic of Iran to websites and helping to organize other activities of the association. The Tribunal therefore considered in its ruling that, given his role, the appellant would obviously be seen to be connected with the Democratic Association for Refugees and therefore perceived as dangerous by the authorities, thus leading to a risk of persecution.⁷ The complainant adds that, in addition to such rulings, numerous credible reports show that the Iranian authorities keep a close watch on and record the political activities of members of the Iranian diaspora.⁸

2.6 In the light of those reports and of the Tribunal's own jurisprudence, the complainant is surprised by the various authorities' conclusions that he runs no risk in the event of his return to the Islamic Republic of Iran. He reiterates that he is a cantonal

⁴ The complainant refers to a ruling made by the Tribunal on 29 August 2007, in which he claims that it recognized that the Iranian authorities monitored the political activities of Iranian political opponents residing abroad and kept a record of supposedly subversive activities through Internet searches. Similarly, he claims that the Tribunal recognized in the same ruling that the Democratic Association for Refugees was the most important and active opposition group in Switzerland and that its former director was well known to the Iranian authorities. The Tribunal therefore concluded, he says, that anyone having regular contact with him ran the risk of being documented by the Iranian authorities.

⁵ The complainant invokes cases N 440 341 of July 2006, N 409 182 of November 2006, N 397 027 of February 2007 and N 404 499 of February 2009.

⁶ Decision No. D-6849/2006 of 16 August 2008, pp. 12–13, para. 4.2.2.2.

⁷ Decision No. D-4581/2006 of 19 February 2009, pp. 8–9, para. 4.3.

⁸ The complainant refers to a report by the German Ministry of the Interior (*Verfassungsschutzbericht*, 2007, p. 297) and another by the Swiss Refugee Council entitled "*Iran: Dangers encourus par les activistes et membres des organisations politiques en exil de retour dans leur pays. Moyens d'accès à l'information des autorités iraniennes*" (Michael Kirschner, 4 April 2006), attached to the file, according to which Iranian citizens living in Switzerland and occupying positions of importance in the Democratic Association for Refugees face a risk of persecution.

representative, a position of responsibility, of the Democratic Association for Refugees and that his name and address have been published.⁹ He plans and coordinates many of the association's demonstrations and meetings, and his activities extend beyond mere participation in such events and the publication of articles. He reiterates that he is involved in the association's strategic planning, working closely with the association's director. For those reasons, the complainant reiterates that it is highly likely that he has drawn the attention of the Iranian authorities to himself and that his political activities will be seen by them not only as defamatory toward the present regime — itself a crime in Iran — but also as a threat to the country's internal security. He adds that the Tribunal has recently decided that a person who performs the duties of cantonal representative of the Democratic Association for Refugees runs a real risk of persecution in the event of return to the Islamic Republic of Iran, and that the same reasoning should apply in his case.

The complaint

3. The complainant claims that his deportation from Switzerland to the Islamic Republic of Iran, as well as that of his wife and son, would be in violation of article 3 of the Convention, as there are substantial grounds for believing that they would be in danger of being subjected to torture if sent back.

State party's observations on the merits

4.1 On 22 October 2009, the State party submitted its observations on the merits of the communication. It states that the complainant has failed to establish that he would face a personal, real and foreseeable risk of torture upon his return to the Islamic Republic of Iran. While noting the worrisome human rights situation in Iran and referring to general comment No. 1 of the Committee,¹⁰ the State party recalls that this situation is not in itself a sufficient basis for concluding that the complainant would be in danger of being subjected to torture if returned. It contends that he has failed to demonstrate that he faces a foreseeable, personal and real risk of torture if returned to Iran.

4.2 According to the State party, the complainant declared, during the domestic judicial proceedings, that he had been arrested in 2003 near the University of Teheran on suspicion of having taken part in the university revolt of Kuye Daneshgah. The arrest, however, apparently did not prompt his departure from the Islamic Republic of Iran. The complainant does not claim to have been tortured and has focused his communication before the Committee on his second asylum application, which is based exclusively on his political activities since his departure from the Islamic Republic of Iran.

4.3 With regard to the complainant's political activities in Switzerland, the State party notes that in many decisions concerning the removal of unsuccessful asylum-seekers to the Islamic Republic of Iran, the Federal Administrative Tribunal has found that the Iranian secret service may carry out surveillance of political activities in opposition to the regime undertaken abroad, but only when those involved in such activities fit a certain profile, take action that falls outside the usual scope of the mass opposition movement, and hold office or carry out activities of such a nature that they represent a serious and real threat to the Government concerned.¹¹ The State party adds, making reference to various sources, that

⁹ *Kanoun*, the monthly publication of the Democratic Association for Refugees (No. 4, April 2009, p. 8).

¹⁰ General comment No. 1, A/53/44, annex IX (see HRI/GEN/1/Rev.9, vol. II). The State party also refers to communications No. 94/1997, *K.N. v. Switzerland*, decision adopted on 19 May 1998, and No. 100/1997, *J.U.A. v. Switzerland*, decision adopted on 10 November 1998.

¹¹ The State party refers to the decision of the Federal Administrative Tribunal of 26 August 2008, para.

persons suspected of being involved in a serious crime or of acting on behalf of specific political groups also risk being arrested.

4.4 The State party asserts that nothing in the report of the Swiss Refugee Council cited by the claimant leads to the conclusion that people who hold a particular position within the Democratic Association for Refugees would be exposed to a specific risk if they were to return to Iran. According to the same report, even repeated support for actions in opposition to the current Iranian regime would not lead to an increased risk of reprisals. The report does note, however, that carrying out violent actions or holding a particularly senior post in certain opposition groups might increase that risk.¹² Moreover, the Council cites as examples only the most important and especially well-known organizations. The State party also suggests that numerous organizations in Switzerland, aside from the Democratic Association for Refugees, take pains to appoint their members to particular posts so that they may be shown to be especially exposed to the danger of being subjected to ill-treatment should they be sent back to their countries of origin. The Iranian authorities are unable to identify and monitor every individual, even when they are aware of the political activities of Iranian citizens in exile. They are interested in identifying only those persons whose activities represent a real threat to the country's political system.

4.5 With reference to the conclusions of the Federal Office for Migration, the State party asserts that the complainant's activities on behalf of the Democratic Association for Refugees, especially in his capacity as its representative for the Canton of Obwald and his regular involvement in demonstrations and the distribution of pamphlets and magazines, do not constitute a ground for fearing that he would receive treatment prohibited by the Convention should he return to Iran. The complainant does not occupy a leadership position of sufficient importance or with a high enough profile to warrant the conclusion that he would be at risk of ill-treatment should he return. The same can be said of his contacts with the association's leadership and the publication on the Internet of his articles, which contain no more than the same kind of stereotypical criticisms of the regime that appear regularly under other names. Given that the association is active above all in Switzerland, there is little reason to believe that its monthly publication has much readership outside the country. There is no evidence that the Iranian regime has taken any measures against the complainant because of his activities in Switzerland.

4.6 With regard to the complainant's claims that the Federal Administrative Tribunal has made rulings granting asylum to other people occupying similar positions, the State party asserts that each case is examined on its merits. It notes that, although asylum has indeed been granted to some members of the Democratic Association for Refugees, that was not so in many other cases of people who occupy various posts in the association.¹³ The Tribunal has issued around 40 decisions since the beginning of 2007 concerning persons who have adduced political activities as members of the Democratic Association for Refugees and has granted asylum only in a certain number of cases after due consideration of all the circumstances. Even if they have undertaken similar activities in the Democratic Association for Refugees, two individuals may be exposed to a different level of risk if returned to Iran because other factors influence how much attention the Iranian authorities focus on them.

4.7 The State party also maintains that the Iranian authorities are capable of distinguishing between political activities deriving from a serious, personal conviction,

4.2.2.1; see footnote 5 above.

¹² The State party refers to the aforementioned report of the Swiss Refugee Council; see footnote 3 above.

¹³ The State party refers to various rulings of the Federal Administrative Tribunal, attached to the file.

which thus represent a potentially significant source of instability, and those aimed primarily at providing the individuals concerned with a residence permit. Moreover, the Democratic Association for Refugees has become known for its systematic attempts to provide its members with personal grounds for requesting asylum, by setting up stalls as often as once a week with around a dozen participants, who are photographed carrying pamphlets. Those photographs are then published on its website. When the Federal Administrative Tribunal confirmed its ruling that simply being a member of the association did not in itself constitute personal grounds for asylum after having fled from another country, it established a variety of posts, such as logistics or security manager, etc. Since then, almost all cases involving its members have had to do with persons playing a “leading role” in the association. In this particular case, the complainant has not demonstrated that he would be exposed to a substantial risk as a result of his activities in the association.

Complainant’s comments on the State party’s observations on the merits

5.1 In his comments of 13 January 2010, the complainant contends that the fact that the Democratic Association for Refugees is not included in the list of the most prominent Iranian opposition organizations is explained by the fact that this list is only indicative. He further states that, when the report of the Swiss Refugee Council was published in 2006, the association was still a young organization and not yet sufficiently well known to be classified alongside other, older opposition movements. Nevertheless, the existence of the Democratic Association for Refugees has been acknowledged in several court decisions of the State party.

5.2 The complainant rejects suggestions by the State party that he is one of many applicants seeking asylum for economic rather than political reasons and attempting to obtain residence permits by joining political organizations. The complainant has been a member of the Democratic Association for Refugees since October 2005 and has occupied the post of cantonal representative since April 2007. His personal and financial commitment in recent years, attesting to his political motivation, is genuine and credible. The Democratic Association for Refugees currently has 12 cantonal representatives in Switzerland. Given that the association has around 200 members, the post of cantonal representative is clearly one of the most senior positions.

5.3 The complainant draws a distinction between the various decisions of the Federal Administrative Tribunal mentioned by the State party, noting that four of them¹⁴ dealt with association security personnel or ordinary members with no management position, which is not the complainant’s current situation. He adds that the Federal Office for Migration has granted refugee status to several persons acting as cantonal representatives of the Democratic Association for Refugees.¹⁵ In conclusion, given the present situation in the Islamic Republic of Iran, marked by massive human rights violations,¹⁶ and in view of his continued political commitment and profile, the complainant maintains that he would be exposed to a substantial risk of treatment prohibited by article 3 of the Convention if he were forcibly returned to Iran.

¹⁴ Decisions of 2 July 2007, 21 January 2008, 18 September 2008 and 16 January 2009.

¹⁵ The complainant refers to decision Nos. N 440 341 of July 2006, N 409 182 of November 2006, N 397 027 of February 2007, and N 404 499 of February 2009 of the Federal Office for Migration.

¹⁶ The complainant refers to a decision of the Federal Administrative Tribunal of 9 July 2009, pp. 25–27.

Additional comments by the State party

6.1 On 10 February 2010, the State party, referring to the decision of the Federal Administrative Tribunal of 9 July 2009, mentioned by the complainant in his comments above, explained that the decision concerned an Iranian complainant who was accompanied by her two young children and had converted to Christianity before her departure from the Islamic Republic of Iran. The Tribunal had ruled that her allegations regarding the period prior to her departure were not plausible and that no grounds had emerged since she had fled the country to justify the granting of political asylum. Nevertheless, the Tribunal granted the complainant temporary admission, deeming it not to be in the best interests of the children, who had completed the greater part of their schooling in Switzerland, to return them to the Islamic Republic of Iran.

Additional observations by the complainant

7.1 On 5 May 2010, the complainant informed the Committee that, on 27 April, the Federal Office for Migration had granted refugee status to his son Arash Faragollah, born on 19 September 1983. He had requested asylum independently of his parents and, in his latest application, of 4 February 2008, set out the risks to which he claimed to be exposed as a result of his political activities in the Democratic Association for Refugees. Arash Faragollah had devoted a great deal of time to collecting signatures for petitions, distributing *Kanoun*, the association's magazine, and taking part in a radio project on behalf of the association in conjunction with radio LoRa. Having started as a technician for *Stimme des Widerstands* (Voice of Resistance), he later took over editorial responsibility for the programme. After assessing all the circumstances, the Federal Office for Migration found that the profile of the complainant's son might attract the attention of the Iranian authorities and that he would therefore have reason to believe that he could face serious harm should he return to the Islamic Republic of Iran.¹⁷

7.2 Under these circumstances, the complainant alleges that the risk he runs of being subjected to torture and other cruel, inhuman or degrading treatment is greater still, given that he is the father of a recognized refugee in Switzerland and that he has the same dissident profile.

Issues and proceedings before the Committee*Consideration of admissibility*

8.1 Before considering any claim contained in a complaint, the Committee against Torture must decide whether or not it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22, paragraph 5 (a), of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

8.2 Noting that there is no impediment to the admissibility of the complaint, the Committee proceeds to its consideration of the merits.

Consideration of the merits

9.1 The issue before the Committee is whether the removal of the complainant to the Islamic Republic of Iran would constitute a violation of the State party's obligation under article 3 of the Convention not to expel or to return a person to another State where there

¹⁷ This information was transmitted to the State party on 23 June 2010.

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

9.2 In assessing whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if returned to the Islamic Republic of Iran, the Committee must take account of all relevant considerations, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights in the Islamic Republic of Iran. However, the aim of such an analysis is to determine whether the complainant runs a personal risk of being subjected to torture in the country to which he would be returned.

9.3 The Committee recalls its general comment on the implementation of article 3 of the Convention, which states that the risk of torture must be assessed on grounds that go beyond mere theory or suspicion. Although the risk does not have to meet the test of being highly probable, the Committee recalls that the burden of proof normally falls to the complainant, who must present an arguable case establishing that he runs a “foreseeable, real and personal” risk.¹⁸ Furthermore, in its general comment the Committee states that it must also determine whether the complainant has engaged in political activity within or outside the State concerned that would appear to make him particularly vulnerable to the risk of being subjected to torture.¹⁹ The Committee also recalls that, while it gives considerable weight to the findings of fact of the State party’s bodies, it is entitled freely to assess the facts of each case, taking into account the circumstances.

9.4 Referring to its recent jurisprudence,²⁰ the Committee recalls that the human rights situation in the Islamic Republic of Iran is extremely worrisome, particularly since the elections held in the country in June 2009. The Committee has seen many reports describing, in particular, the repression and arbitrary detention of many reformers, students, journalists and human rights defenders, some of whom have been detained in secret and others sentenced to death and executed.²¹ The State party itself has recognized that the human rights situation in Iran is worrisome on many levels.

9.5 The Committee notes that the complainant arrived in Switzerland in 2000. Since 2005, he has been active in the Democratic Association for Refugees, of which he is the representative for the Canton of Obwald. He has written articles that are critical of the

¹⁸ See general comment No. 1 of the Committee, footnote 8 above, and communication No. 203/2002, *A.R. v. The Netherlands*, decision adopted on 21 November 2003, para. 7.3.

¹⁹ See general comment No. 1, *ibid.*, para. 8 (e).

²⁰ See communication No. 357/2008, *Jahani v. Switzerland*, decision adopted on 23 May 2011, para. 9.4.

²¹ For example, on 7 July 2009, six special procedures mandate holders of the Human Rights Council (arbitrary detention; extrajudicial, summary or arbitrary executions; right to freedom of opinion and expression; torture and other cruel, inhuman or degrading treatment or punishment; situation of human rights defenders; and enforced or involuntary disappearances) expressed their concern regarding the protests linked to the Iranian presidential elections of 2009, following which at least 20 people were killed and hundreds of others seriously injured in clashes with security forces, who allegedly used live ammunition and rubber bullets. The same experts have also expressed their concern about reports of arrests and detention without charge and ill-treatment of detainees. See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=8383&LangID=E>; see also the documents prepared by OHCHR for the universal periodic review in respect of Iran: A/HRC/WG.6/7/IRN/2 (25 November 2009), e.g. paras. 28, 31 and 56; and A/HRC/WG.6/7/IRN/3 (30 November 2009), paras. 28–29. See also the statement made by the High Commissioner for Human Rights on 2 February 2011 on the execution of at least 66 persons in the month of January 2011, including at least 3 political prisoners (<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10698&LangID=E>).

present regime in Iran, distributed publications put out by the association and participated in various events organized by NGOs and local churches in his canton. As a senior member of the association, he claims to take part in the strategic planning of its activities, and his name and address have been published in its monthly magazine. The Committee also notes that the complainant's son has been granted refugee status on the basis of activities comparable to those carried out by his father in the association, in particular the collection of signatures for petitions, the distribution of its monthly magazine, *Kanoun*, and involvement in a radio project. The State party has not contested this information. Given that the State party concluded that the complainant's son could not be returned to the Islamic Republic of Iran on account of his political profile, which would imperil his safety upon return, the Committee finds that there is a difference in treatment, since the same authorities are prepared to send his father back to the Islamic Republic of Iran, even though he carries out similar activities and is exposed to similar risks.

9.6 In the light of all these circumstances, including the general human rights situation in the Islamic Republic of Iran, the personal situation of the complainant, who continues to engage in opposition activities for the Democratic Association for Refugees and whose son has been granted refugee status, and bearing in mind its preceding jurisprudence,²² the Committee is of the opinion that he could well have attracted the attention of the Iranian authorities. The Committee therefore considers that there are substantial grounds for believing that he would risk being subjected to torture if returned to the Islamic Republic of Iran with his wife and his son, Armin Faragollah. Moreover, the Committee notes that, since Iran is not a party to the Convention, the complainant would be deprived of the legal option of recourse to the Committee for protection of any kind.

10. The Committee against Torture, acting under article 22, paragraph 7, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consequently concludes that the removal of the complainant and his family to the Islamic Republic of Iran would constitute a violation of article 3 of the Convention.

11. 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.

[Adopted in English, French and Spanish, the French text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

²² See the Committee's communications No. 339/2008, *Amini v. Denmark*, decision adopted on 15 November 2010, para 9.8, and No. 357/2008, *Jahani v. Switzerland*, see footnote 19 above, para. 9.4.