



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

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Committee against Torture

Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 738/2016*, **

<i>Communication submitted by:</i>	Z, represented by counsel
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	23 March 2016 (initial submission)
<i>Date of the present decision:</i>	9 August 2018
<i>Subject matter:</i>	Expulsion to the Democratic Republic of the Congo
<i>Procedural issues:</i>	
<i>Substantive issues:</i>	Risk of torture upon return to country of origin
<i>Articles of the Convention:</i>	3

1.1 The complainant is Z, a Congolese national born in 1980. He applied for asylum in Switzerland, but his application was rejected. He is facing removal to the Democratic Republic of the Congo and claims that his forced repatriation would constitute a violation by Switzerland of article 3 of the Convention. He is represented by Mr. Alfred wa Mwanza.

1.2 On 8 April 2015, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party to refrain from expelling the complainant to the Democratic Republic of the Congo while his complaint was being considered by the Committee.

The facts as submitted by the complainant

2.1 The complainant submitted an initial application for asylum in Switzerland on 27 October 2003. His application was rejected in a final decision handed down by the Federal Administrative Court on 15 May 2009 and the expulsion order against him became enforceable.

2.2 On 11 April 2011, the complainant submitted a second asylum application to the State Secretariat for Migration, in which he invoked developments that had occurred since he fled the Democratic Republic of the Congo. His application was rejected by the relevant authority on 17 August 2012 and he continued to face expulsion from Switzerland. On

* Adopted by the Committee at its sixty-fourth session (23 July–10 August 2018).

** The following members of the Committee participated in the examination of the communication: Essadia Belmir, Felice Gaer, Abdelwahab Hani, Claude Heller Rouassant, Jens Modvig, Ana Racu, Diego Rodríguez-Pinzón, Sébastien Touzé, Bakhtiyar Tuzmukhamedov and Honghong Zhang.



17 September 2012, the complainant lodged an appeal against this decision with the Federal Administrative Court. The Court did not rule in his favour and upheld the decision of the lower authority. The complainant was given until 30 August 2013 to leave Switzerland. He requested a review of the judgment handed down by the Federal Administrative Court. The latter once again ruled that he must leave Swiss territory.

2.3 The complainant did not leave Switzerland; instead, he filed an application for reconsideration of the decision of the State Secretariat for Migration on 1 December 2014. In a decision issued on 12 December 2014, the State Secretariat for Migration suspended the enforcement of the order regarding his expulsion to the Democratic Republic of the Congo. Eventually, on 5 January 2016, the State Secretariat for Migration rejected his application and confirmed that he must leave Switzerland. Consequently, on 11 February 2016, the complainant lodged an appeal with the Federal Administrative Court. In a judgment handed down on 4 March 2016, the Court declared his appeal inadmissible. The complainant has exhausted all domestic remedies and fears that he may be expelled to the Democratic Republic of the Congo at any time.

2.4 The complainant is afraid to return to his country because of the activities in which he took part after he fled and because he remains involved in the Alliance des patriotes pour la refondation du Congo (Alliance of Patriots for the Refoundation of the Congo) (APARECO) movement. The president of the movement is Honoré Ngbanda, an opponent of the current Government. The aim of this political organization is to free the Democratic Republic of the Congo from occupation by Rwanda and its allies. The Government of the Democratic Republic of the Congo accuses APARECO of instigating the rebellion that occurred in late 2009 and early 2010 in the Province of Équateur and plotting a coup d'état with a Congolese military commander, General Faustin Munene.

2.5 The complainant claims to have been very active within this organization since 2010. He allegedly holds a position of responsibility in the Zurich committee of APARECO Switzerland.¹ Furthermore, the complainant reports that he often makes public statements on the current situation in the Democratic Republic of the Congo. When submitting his asylum applications, he included several documents and photographs that proved his commitment and affiliation to this dissident political movement.²

2.6 As a result of his political activities, members of his family who live in Kinshasa have been persecuted by the security services of the Democratic Republic of the Congo, who accuse them of maintaining links with APARECO. His younger brother was arrested by the security services on account of the complainant's political activities in Switzerland. Moreover, the complainant himself frequently receives death threats by email, post and telephone.³

The complaint

3. The complainant maintains that he is the victim of a violation of article 3 of the Convention by the Swiss authorities, who have ordered his expulsion to the Democratic Republic of the Congo, where he will be at risk of being subjected to torture and other cruel, inhuman or degrading treatment or punishment. Given his political involvement and activities in Switzerland, his life and physical integrity are at considerable risk.

State party's observations on the merits

4.1 On 29 September 2016, the State party submitted its observations on the merits of the communication. It recalls that the complainant submitted an initial communication to the Committee on 8 July 2009 (communication No. 394/2009). On 1 May 2014, the Committee struck that communication off the list of cases because the complainant had not made contact with the Committee since filing the complaint. It then recalls the facts and the

¹ From 2010 to 2011, he served as a councillor for youth affairs; since 2011, he has held the position of municipal committee secretary.

² See the attached record of the hearing of 1 May 2012.

³ Evidence of such threats was provided during his asylum application hearing (see the record of the hearing of 1 May 2012).

steps taken by the complainant in Switzerland with a view to obtaining asylum. It notes that the asylum authorities have duly considered the complainant's arguments. It states that the present communication does not contain any new information that might invalidate the decisions made by those authorities.

4.2 The State party recalls that, under article 3 of the Convention, States parties are prohibited from expelling, returning or extraditing a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. For the purpose of determining whether there are such grounds, the competent authorities must take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights. With reference to the Committee's general comment No. 1 (1997) on the implementation of article 3 of the Convention in the context of article 22, the State party adds that the author must establish the existence of a personal, present and substantial risk of being subjected to torture upon return to his or her country of origin. The risk of torture must be assessed on grounds that go beyond mere theory or suspicion. There must be other reasons for declaring the risk of torture to be substantial (paras. 6 and 7). The following elements must be taken into account in order to ascertain the existence of such a risk: any evidence of a consistent pattern of gross, flagrant or mass violations of human rights in the country of origin; any claims of torture or ill-treatment in the recent past and independent evidence to support those claims; the political activity of the author within or outside the country of origin; any evidence as to the credibility of the author; and any factual inconsistencies in the author's claims (para. 8).

4.3 The State party points out that the existence of a consistent pattern of gross, flagrant or mass violations of human rights does not, in itself, constitute sufficient grounds for determining that a particular person would be subjected to torture upon return to his or her country of origin. The Committee must determine whether the complainant is personally at risk of being subjected to torture in the country to which he or she would be returned.⁴ Additional grounds must be adduced in order for the risk of torture to qualify as foreseeable, real and personal for the purposes of article 3 (1) of the Convention.⁵ The risk of torture must be assessed on grounds that go beyond mere theory or suspicion.⁶

4.4 The State party considers that, although the human rights situation in the Democratic Republic of the Congo is worrying in several respects, it does not, in itself, constitute sufficient grounds for concluding that the complainant would be at risk of torture if returned there. The complainant has not shown that he faces a foreseeable, real and personal risk of being subjected to torture if he is returned to the Democratic Republic of the Congo.

4.5 With regard to claims of torture or ill-treatment in the recent past and the existence of independent evidence to support those claims, the State party points out that States parties to the Convention have a duty to take into account such claims when assessing the risk that the complainant would be subjected to torture if returned to his or her country of origin.⁷ The State party recalls that, in the present case, the complainant does not state that he suffered torture or ill-treatment in the past, nor did he make any such statement in his first application for asylum.

4.6 As regards the political activity of the complainant within or outside his country of origin, the State party notes that the present procedure concerns only the political activities that the complainant claims to have conducted in Switzerland since 2010. In his first application for asylum, the complainant asserted that he had been politically active in the Democratic Republic of the Congo before leaving the country. However, the Swiss authorities found that those claims lacked credibility.

4.7 As regards the political activities of the complainant in Switzerland, the State party notes that the complainant claims to have joined APARECO in 2010. The stated aim of this

⁴ *K.N. v. Switzerland* (CAT/C/20/D/94/1997), para. 10.2.

⁵ *Ibid.*, para. 10.5, and *J.U.A. v. Switzerland* (CAT/C/21/D/100/1997), paras. 6.3 and 6.5.

⁶ General comment No. 1, para. 6.

⁷ *Ibid.*, para. 8 (b).

organization is to free the Democratic Republic of the Congo from occupation by Rwanda and its allies, in the person of President Joseph Kabila and his regime. The complainant claims to be very active in this organization; he is always on the front line at demonstrations and he makes public statements against the current regime in the Democratic Republic of the Congo. He claims to have held several positions in the organization. He was a councillor for youth affairs until the end of 2011; roles were then reassigned and he became secretary of the Zurich municipal committee. In that capacity, his task is to raise awareness among and mobilize Congolese nationals in Zurich and to draw their attention to the aims of the movement. He is allegedly well known within the Congolese diaspora in Switzerland, on account of his political involvement and his generally critical attitude towards the current regime. As a result of these activities, the complainant allegedly received several threats, including death threats, via telephone calls, text messages and emails, in the period up to mid-2011. His younger brother was reportedly abducted in Kinshasa more than a year ago. His wife is also being monitored by the security services, which means that he is unable to make contact with her or his child.⁸

4.8 The State party does not contest the fact that the complainant has played an active role in APARECO since around 2010. The State party notes that, when he presented the grounds for his second asylum application, he provided detailed information about the organization and its aims and activities. Likewise, the claim that he has held the position of secretary of the Zurich municipal committee since 2011 seems credible. In addition, the photographs submitted as evidence show that he took part in a demonstration in front of the United Nations Office at Geneva on 13 December 2011, at which the demonstrators called for international criminal proceedings to be brought against the Presidents of the Democratic Republic of the Congo and Rwanda. An extract from a website that was submitted as evidence to the Federal Administrative Court shows that a television channel for the Congolese diaspora most probably broadcast a news report on this demonstration.

4.9 The State party notes that, according to the documents submitted by the complainant and other information gathered by the domestic authorities, APARECO is an active political organization in exile, founded in 2005 in France by Honoré Ngbanda, former Minister of Defence and Security Adviser to the former President of the Democratic Republic of the Congo (then Zaire), Mobutu Sese Seko. Essentially, the organization is opposed to the regime of the current President, Joseph Kabila, whom it considers to be a representative of Rwanda, guilty of electoral fraud, corruption and poor governance. While APARECO is not publicly active in the Democratic Republic of the Congo, it has links with the Congolese opposition party Union pour la démocratie et le progrès social (Union for Democracy and Social Progress), which is led by the former Prime Minister, Etienne Tshisekedi. APARECO is mainly known for its activities in France, especially its efforts to prevent the summit of the International Organization of la Francophonie from being held in Kinshasa in 2012. In Paris, Brussels and London, members of the Congolese opposition have attacked representatives of the Democratic Republic of the Congo; however, those events have not been linked to APARECO. In Switzerland, APARECO has been represented in public at isolated demonstrations where participants called for the Government of Joseph Kabila to be removed from office. On 6 December 2011, several people, one of whom seemed to have been a member of APARECO, forced their way into the Embassy of the Democratic Republic of the Congo in Bern.

4.10 The State party emphasizes that, even if the Congolese authorities took an interest in the political activities of Congolese nationals in exile, they would focus on persons with a specific role, whose activities went beyond involvement in the political rank and file and marked them out as serious and potentially dangerous opponents. On that basis, leaders of

⁸ The complainant submitted several documents to prove his political involvement in APARECO, namely: an undated article from the newspaper *La Référence*; an article published on the website of *La Référence*, dated 13 April 2011; an email dated 1 May 2011; a photograph of the complainant carrying a placard at the Place des Nations in Geneva; an article from the newspaper *La Manchette*, dated 8 January 2013; a letter from the Swiss branch of APARECO to the Federal Office for Migration, dated 24 August 2012; a list of APARECO office holders in Europe; and a letter from the Regional Vice-President for Europe and President of the Swiss branch of APARECO to the representative of the complainant, dated 30 June 2014.

APARECO who are particularly visible and people who have taken part in attacks on representatives of the Government might be at risk of ill-treatment if they were sent back to the Democratic Republic of the Congo. In the present case, however, the State party notes that the complainant does not seem to have reached the level of political exposure described above.

4.11 Firstly, the State party notes that the complainant did not join APARECO until his first asylum application had been definitively rejected. As regards his participation in a demonstration in front of the United Nations Office at Geneva on 13 December 2011, the available evidence does not give any indication of the extent to which the complainant spoke out personally and publicly against the current regime at that event. The case file does not contain any other clear evidence of the complainant's particular political prominence, although he claimed to have attended several demonstrations in Zurich, Bern and Geneva, as confirmed by APARECO in its letter of 30 June 2014. Likewise, as regards the statement that he has occupied the role of secretary of the Zurich municipal committee since 2011 and is responsible, in that capacity, for mobilizing and raising awareness among the Congolese community in exile, the complainant has not provided any evidence, aside from several letters of confirmation from APARECO, that would enable the authorities to objectively evaluate the nature and importance of his activities. As noted by the Federal Administrative Court, during his hearing, the complainant stated that he was always on the front line at demonstrations, led delegations and took action against the Congolese regime and that he was responsible for presenting arguments at press conferences. Although the complainant claims to have played a major role, this claim is not clearly substantiated by his case file or by public sources, which suggests that he has either misrepresented or exaggerated the scale of his involvement. In short, the State party considers that, in the present case, there is no real evidence that the complainant's level of political exposure is such as to have attracted the attention of the Congolese authorities and to have put him at risk of persecution within the meaning of article 3 of the Convention if he were returned to the Democratic Republic of the Congo. The State party notes that this assessment takes into account the reasons for flight given by the complainant in his first asylum application, which were deemed by the domestic authorities to lack credibility.

4.12 As regards the complainant's allegations concerning his brother's arrest and the measures taken against his family, the State party notes that the complainant made similar claims in his first asylum application and that the domestic authorities found those claims to lack credibility. In his second asylum application, the complainant did not provide any additional information or evidence that might cause the authorities to change their position. The evidence submitted by the complainant in his case file does not lead to any other conclusion. As regards the article published in the Congolese newspaper *La Manchette* on 8 January 2013, which states that the complainant is a prominent member of APARECO and that he took part in attacks on representatives of the Congolese authorities in Europe, the content of the article differs so greatly from the facts related by the complainant and recorded by the domestic authorities that there is reason to believe the article has been falsified. That piece of evidence therefore cannot be considered proof of the alleged arrest of the author's brother in the Democratic Republic of the Congo, either. The same can be said of the articles from the newspaper *La Référence*, which were attached to the communication but not submitted during the domestic proceedings. The first is an undated copy, while the second, dated 13 April 2011, was taken from the newspaper's website. One quotes the complainant's mother, while the other quotes his family in Kinshasa; both sources claim that the family faces persecution because of the complainant's political activities in Switzerland. The first article has limited evidential value as it is available to the Swiss authorities only in the form of a copy. The evidential value of articles also depends on the nature of the sources they cite. In the present case, the articles simply quote members of the complainant's family, whose statements do not constitute objective proof of the alleged facts. The State party further notes that, according to the article of 13 April 2011, the complainant's younger brother went missing on 18 March 2011 at 7 p.m., whereas the complainant states in his communication of 14 March 2016 that his brother was arrested "more than a year ago"; his claims are therefore not consistent with the evidence submitted. Lastly, these articles should be considered in relation to the article from *La Manchette*, which the Federal Administrative Court believed to have been falsified. For all the above

reasons, the State party considers the newspaper articles in the case file to be devoid of evidential value.

4.13 As regards the transcriptions and copies of emails and text messages containing threats against the complainant, which were submitted in full to the domestic authorities and in part to the Committee, the State party notes that the domestic authorities concluded that it was impossible to verify whether those messages were genuine and who had written them. They should therefore be considered devoid of evidential value. Moreover, those threats stopped in the middle of 2011, even though the complainant claims to have remained involved in APARECO. They are not sufficient to prove that the complainant would run a risk of persecution if he were to return to the Democratic Republic of the Congo. As regards the various letters from APARECO in the case file, these were clearly provided as an accommodation and cannot be considered proof that he would be at risk of ill-treatment if he were to return to his country.

4.14 The State party notes that the complainant has declared to the Committee that the domestic authorities should have conducted further investigations, including through the Embassy of Switzerland in the Democratic Republic of the Congo. In this regard, the State party recalls that the authorities sought information from the Embassy following the complainant's first asylum application. According to the Embassy report of 21 January 2009, the documents submitted with that application lacked evidential value or had been falsified, and the complainant was not wanted by the Congolese authorities. Given those facts and the overall circumstances of the present case, there was no need for the domestic authorities to seek further information from the Embassy.

4.15 In view of the above, the State party considers that the complainant has not been able to prove that, owing to his political activity in exile, he would be at risk of being subjected to treatment that is contrary to article 3 of the Convention if he were returned to the Democratic Republic of the Congo.

Complainant's comments on the State party's submission

5.1 On 14 May 2017, the complainant submitted his comments on the State party's observations. He asserts that the State party's submission is based solely on the arguments of the Federal Administrative Court, especially its judgment of 27 August 2013, which put an end to the second asylum procedure initiated by the complainant. In his view, that judgment should not, in any way, bind the Committee in its consideration of his complaint as far as his fear of being subjected to torture and ill-treatment within the meaning of article 3 of the Convention is concerned.

5.2 He notes that the State party also makes reference to his first asylum application, even though the present complaint does not focus on the facts relating to that procedure and the resulting decision has already entered into force. The complainant's first complaint, which was submitted to the Committee in 2009 and subsequently struck off the list, was based on facts that occurred before he fled the Democratic Republic of the Congo, not the facts invoked in the present complaint. The complainant's political activity in Switzerland began in 2010. This means that the facts set forth in the present complaint and the evidence supplied by the complainant date from after 2010. This complaint concerns the risk of being subjected to torture and ill-treatment following the definitive rejection of the complainant's second asylum application. In his second asylum application, the complainant did not invoke facts relating to his first asylum application. He asserts that the State party's argument regarding his first complaint to the Committee is therefore not justified.

5.3 The complainant alleges that his political behaviour in Switzerland makes him an enemy of the Government. Since 2010, he has been an active member of APARECO, an organization that cannot officially operate in the Democratic Republic of the Congo because its members are at risk of severe persecution. This movement can operate only in foreign countries such as Switzerland, where the rights to freedom of expression and freedom of association are guaranteed. The complainant has been the secretary of the committee for the largest city in Switzerland for several years. His appointment was announced on the website of APARECO. He must therefore have come to the attention of the Congolese authorities, for the APARECO website is monitored particularly closely by

the intelligence services of the Democratic Republic of the Congo. The photographs of the complainant, the videos on YouTube, the letters of confirmation provided by APARECO and the complainant's membership card are all evidence of the action he has taken against the Government of the Democratic Republic of the Congo.

5.4 According to the complainant, it is unlikely that the intelligence services would show no interest in him if he were to return to the Democratic Republic of the Congo because he has received threats in Switzerland that must have been sent by the Congolese authorities. He also emphasizes that the newspaper articles submitted as evidence prove that his wife suffered persecution in the Democratic Republic of the Congo as a result of his political activities in Switzerland. For that reason, she left the country to seek protection in Switzerland. An examination of the merits of her asylum application has not yet been conducted by the State party because her case is covered by the Dublin III Regulation. On that basis, the complainant states that, owing to the activities in which he has been involved with a certain intensity on a permanent and regular basis since 2010, he would run a significant personal risk if he were to return to the Democratic Republic of the Congo. In addition, the conditions set forth in paragraph 8 of the Committee's general comment No. 1 have been fulfilled and the evidence provided by the complainant is credible and consistent.

5.5 The complainant recalls that, under Swiss law, post-flight grounds for seeking asylum are defined as events and circumstances that arise after the applicant's departure from the country of origin. The threat of persecution in the country of origin for reasons that are unrelated to the cause of departure leads to recognition as a refugee, provided that the other legal requirements are met (persecution on grounds specified in law), but not to the granting of asylum. The complainant maintains that his political activities constitute post-flight grounds for seeking asylum.

5.6 On 17 November 2017, the complainant submitted, as evidence, undated photographs showing his participation in recent demonstrations against the Government of the Democratic Republic of the Congo in front of the Palais des Nations in Geneva. He points out that those photographs were posted on social networks and were no doubt brought to the attention of the Congolese authorities by their services.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claims 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 (5) (a) of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

6.2 The Committee recalls that, in accordance with article 22 (5) (b) of the Convention, it may not consider any communications from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. It notes that, in the present case, the State party does not contest the exhaustion of all available domestic remedies by the complainant or the admissibility of the complaint.

6.3 The Committee considers that the complaint raises substantive issues under article 3 of the Convention and that those issues should be examined on the merits. The Committee sees no obstacle to the admissibility of the present communication and thus declares it admissible.

Consideration of the merits

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

7.2 With regard to the complainant's claim under article 3 of the Convention, the Committee must determine whether there are substantial grounds for believing that he would be personally in danger of being subjected to torture, should he be returned to the Democratic Republic of the Congo. The Committee recalls, first and foremost, that the

prohibition against torture is absolute and non-derogable and that no exceptional circumstances may be invoked by a State party to justify acts of torture.⁹ In assessing the risk, the Committee must take account of all relevant considerations, pursuant to article 3 (2) of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights. The Committee recalls, however, that the aim of such an analysis is to determine whether the complainant runs a personal, foreseeable and real risk of being subjected to torture in the country to which he or she would be returned. It follows that the existence of a consistent pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute sufficient grounds for determining that a particular person would be in danger of being subjected to torture on return to that country; additional grounds must be adduced to show that the individual concerned would be personally at risk. Conversely, the absence of a consistent pattern of flagrant violations of human rights does not mean that a person might not be subjected to torture in his or her specific circumstances.

7.3 The Committee recalls its general comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22, according to which the non-refoulement obligation exists whenever there are substantial grounds for believing that a person would be in danger of being subjected to torture in a State to which he or she is facing deportation, either as an individual or a member of a group which may be at risk of being tortured in the State of destination. The Committee's practice in such circumstances has been to determine that "substantial grounds" exist whenever the risk of torture is "foreseeable, personal, present and real".¹⁰ Indications of personal risk may include: the complainant's ethnic background; previous torture; incommunicado detention or other form of arbitrary and illegal detention in the country of origin; and clandestine escape from the country of origin for threats of torture.¹¹ The Committee also recalls that it gives considerable weight to findings of fact made by organs of the State party concerned; however, it is not bound by such findings and will make a free assessment of the information available to it in accordance with article 22 (4) of the Convention, taking into account all the circumstances relevant to each case.¹²

7.4 The Committee notes that the complainant submitted an initial communication on 8 July 2009, which the Committee struck off the list of cases on 1 May 2014 because the complainant had not made contact with the Committee since filing the complaint. The Committee also notes that the complainant maintains in his second communication that he has played an active role in APARECO since 2010. In this regard, the Committee observes that the State party does not contest the complainant's participation or his position in APARECO.

7.5 With regard to post-flight grounds for seeking asylum, the Committee recalls that the complainant's involvement in political activities outside the State of origin could make him vulnerable to the risk of being subjected to torture were he returned to the State in question.¹³ However, the Committee notes that, even though the complainant's membership of APARECO has not been contested, he did not join APARECO until his first asylum application had been definitively rejected. The Committee also notes that the complainant's level of political exposure is not such as to have attracted the interest of the Congolese authorities, since the latter would focus on people whose activities go beyond involvement in the political rank and file and mark them out as serious and potentially dangerous opponents, such as leaders of APARECO who are particularly visible and people who have taken part in attacks on representatives of the Government of the Democratic Republic of the Congo. The Committee further notes that the complainant's political involvement in Switzerland does not constitute an activity that might be considered a real and serious threat to the current Government. The Committee observes that, although the complainant has made a number of allegations, he has not provided clear and sufficient evidence that he

⁹ See the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, para. 5.

¹⁰ See general comment No. 4, para. 11.

¹¹ *Ibid.*, para. 45.

¹² *Ibid.*, para. 50.

¹³ *Ibid.*, para. 49 (f).

would face a personal, present, foreseeable and real risk of torture if he were returned to the Democratic Republic of the Congo.

7.6 The Committee recalls that it must ascertain whether the complainant currently runs a risk of being subjected to torture if returned to the Democratic Republic of the Congo. The Committee notes that the complainant had ample opportunity to provide supporting evidence and more details about his claims, at the national level, to the Federal Office for Migration and the Federal Administrative Court, but that the evidence provided did not allow the national authorities to conclude that his participation in political activities could place him at risk of being subjected to torture or inhuman or degrading treatment upon his return. Furthermore, the Committee recalls that the existence of human rights violations in the complainant's country of origin is not, in itself, sufficient for it to conclude that a complainant runs a personal risk of being tortured. On the basis of the information before it, the Committee finds that the complainant has not proved that his political activities are important enough to attract the interest of the authorities of his country of origin and concludes that the information provided does not demonstrate that he would be personally at risk of torture or inhuman or degrading treatment if he were to return to the Democratic Republic of the Congo.

8. In the light of the above, the Committee considers that the information submitted by the complainant is insufficient to substantiate his claim that he would face a personal, foreseeable and real risk of torture if he were returned to the Democratic Republic of the Congo.

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