



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

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Committee against Torture

**Decision adopted by the Committee at its forty-eighth session,
7 May to 1 June 2012**

Communication No. 364/2008

<i>Submitted by:</i>	J.L.L.
<i>Alleged victims:</i>	The complainant and his children, A.N. and M.L.
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	18 November 2008 (initial submission)
<i>Date of decision:</i>	18 May 2012
<i>Subject matter:</i>	Risk of deportation of the complainant and his children to the Democratic Republic of the Congo
<i>Procedural issue:</i>	Non-exhaustion of domestic remedies
<i>Substantive issue:</i>	Deportation of an individual to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture
<i>Articles of the Convention:</i>	3 and 22, paragraph 5 (b)

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-eighth session)

concerning

Communication No. 364/2008

Submitted by: J.L.L.
Alleged victims: The complainant and his children, A.N. and M.L.
State party: Switzerland
Date of complaint: 18 November 2008 (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 18 May 2012,

Having concluded its consideration of communication No. 364/2008, submitted to the Committee against Torture by J.L.L. 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 and the State party,

Adopts the following:

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

1. The complainant in the communication dated 18 November 2008 is Mr. J.L.L., born on 20 May 1968, and his two minor children, A.N., born in 1995, and M.L., born in 2000, who are nationals of the Democratic Republic of the Congo and currently residing in Switzerland. He claims that their return from Switzerland to the Democratic Republic of the Congo would violate article 3 of the Convention against Torture. The complainant is not represented by counsel.

Factual background¹

2.1 The complainant was born in Kinshasa to a Rwandan Tutsi father and a Congolese mother. On 2 August 1998, during the attack on the Democratic Republic of the Congo by Rwandan-backed rebels, the complainant, who was living in Kinshasa at the time, allegedly

¹ In order to provide as comprehensive and coherent a factual background as possible, this section has been based on both the initial complaint and on the court decisions and other documents contained in the complainant's case file.

suffered ill-treatment at the hands of students, neighbours and Congolese State agents and was eventually arrested because of his origins. The authorities were reportedly unable to protect him.

2.2 The complainant arrived in Switzerland and applied for asylum on 2 July 2003. During the review of his asylum application by the Swiss authorities, the complainant claimed that, as a law student at the University of Kinshasa, he had been arrested by State agents because of his Rwandan origin on or around 10 November 1998 and had been taken to the home of Laurent-Désiré Kabila, from which he had escaped with the help of a guard after spending one week in captivity. The complainant claims that he then fled to Bunia (Ituri). On 1 May 2003, the complainant was allegedly abducted and mistreated by Lendu militiamen who mistook him for a Hema because of his appearance. They allegedly attempted to make him disclose the names of people who were planning to attack them. During his transfer on 5 May 2003, the complainant allegedly managed to escape with the help of one of the militiamen, who had recognized him. He fled to Uganda by pirogue on 7 May 2003. He then continued on to Kenya and thence to Rome by plane on 29 June 2003. He then made his way to Switzerland, arriving on 2 July 2003, and applied for asylum the same day.

2.3 On 2 February 2005, the Federal Office for Migration rejected the complainant's asylum application. It established, through investigations conducted by the Swiss embassy in the Democratic Republic of the Congo, that the complainant's father was Rwandan, but of Hutu ethnicity, not Tutsi, as the complainant claims. What is more, the complainant could not speak Tutsi, knew nothing about Tutsi traditions and could not name his father's place of origin. In the complaint before the Committee, the complainant claims to be of Tutsi ethnicity, which contradicts the findings of the Swiss authorities. Furthermore, based on the investigations conducted by the Swiss mission in Kinshasa, the Federal Office for Migration has established that the complainant apparently did not live in Bunia from 1998 to 2003. The complainant has maintained this claim and requested permission to call on individuals from Bunia to testify on his behalf. The Federal Office for Migration denied this request. It did confirm, however, that the complainant had been the victim of harassment in 1998, but established that the harassment was not sufficiently intense to prevent him from remaining in Kinshasa until 2003.

2.4 On 11 July 2005, the Swiss Asylum Appeals Commission, later replaced by the Federal Administrative Tribunal, rejected the complainant's appeal and ordered his deportation from Switzerland on 8 September 2005. The Commission maintained that it had not been established that the complainant was actually of Tutsi origin and that his claims regarding his two escapes from detention in Kinshasa and Bunia were not plausible. The Commission did acknowledge, however, that the complainant had experienced difficulties in Kinshasa in 1998, but found that there were no grounds for believing that the complainant would be exposed to any real, specific or substantial risk of torture, as defined under article 3 of the Convention if he were to be returned to the Democratic Republic of the Congo.

2.5 On 22 August 2005, the complainant's two children applied for asylum. The Federal Office for Migration denied their application on 20 December 2007. On 24 September 2008, the Federal Administrative Tribunal rejected their appeal and ordered their deportation from Switzerland by 3 November 2008. The children had allegedly left the Democratic Republic of the Congo after being threatened and persecuted because of their Rwandan origin. In August 2005, an unknown "white female" allegedly informed their father that the children had arrived in Switzerland. The Federal Administrative Tribunal decided that the children's statements were not plausible and that their claim to Tutsi origin could not be accepted, given that their father's own origin was in dispute. The Federal Administrative Tribunal also affirmed that the psychological problems referred to in the

medical report on the complainant's children did not constitute an obstacle to their return, since treatment was available in Kinshasa. The Tribunal concluded that the complainant's children had not established that they personally would be in danger of being subjected to torture if they were to be returned to the Democratic Republic of the Congo.

The complaint

3.1 The complainant asserts that his and his children's deportation to the Democratic Republic of the Congo would constitute a violation of article 3 of the Convention against Torture because of their Rwandan Tutsi origins, for which they would be persecuted by State agents and members of the community.

3.2 The complainant adds that, although the end of the war has facilitated the inclusion of members of the different sides in the management of the affairs of State, the peace remains uneasy. There has been an unremitting rebellion in the east of the Democratic Republic of the Congo since 2005. The goal of this uprising, which is supported by Rwanda and led by Nkunda Batware, a Congolese Tutsi, is to protect persecuted Tutsis in the Democratic Republic of the Congo. In the media and in schools, the instability plaguing the entire country is blamed on Tutsis.

State party's observations on admissibility and on the merits

4.1 On 26 January 2009, the State party contested the admissibility of the communication on the ground of non-exhaustion of domestic remedies, given that the complainant had filed a request for reconsideration on 18 December 2008, which was after he had submitted his complaint to the Committee. In a decision dated 30 December 2008, the Federal Office for Migration had denied the complainant's request. In a letter of 13 May 1999, the State party informed the Committee that the complainant had lodged an appeal before the Federal Administrative Tribunal on 4 February 2009. On 23 June 2009, the State party informed the Committee that the Tribunal had issued a judgement on 19 June 2009 rejecting the complainant's claims, thus bringing domestic remedies to an end.

4.2 On 28 April 2010, the State party submitted its observations on the merits. After listing the various steps in the asylum procedures undertaken by the complainant and his children, the State party summarizes the grounds advanced for the request for reconsideration filed by the complainant on his own and his children's behalf on 18 December 2008 (that is, after the complaint had been submitted to the Committee). The complainant informed the Swiss authorities that he had learned that his wife, who had remained in the Democratic Republic of the Congo, had died on 1 October 2008. As a result, he and his children no longer had any social network there that they could count on for support. He also claimed that his children's psychological state had deteriorated since they had learned of their mother's death.

4.3 The complainant submitted a certificate from the Work for the Rehabilitation and Protection of Street Children (ORPER), medical certificates and a statement from the Tutsi community in Europe. The State party notes, however, that the complainant provides no new evidence to challenge the Federal Administrative Tribunal judgements of 24 September 2008 and 17 June 2009, which had been handed down following a thorough examination of the case. Nor does the complainant provide the Committee with any explanation for the discrepancies and contradictions discovered by the Swiss authorities.

4.4 In reference to article 3 of the Convention, the State party draws attention to the criteria established by the Committee in its general comment No. 1,² particularly paragraphs

² *Official Records of the General Assembly, Fifty-third Session, Supplement No. 44 (A/53/44).*

6 et seq., in which it states that individuals must establish that they would face a personal, present and substantial risk of torture if they were to be returned to their country of origin. While article 3, paragraph 2, of the Convention does provide that all relevant considerations — including the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights — should be taken into account, it also states that the purpose of doing so is to determine whether an individual would be at personal danger of being subjected to torture. And yet, as the Federal Administrative Tribunal establishes in its judgement of 24 September 2008, the Democratic Republic of the Congo is not currently in a situation of war or civil war and is not experiencing widespread violence throughout its territory to an extent that would justify the automatic assumption that all complainants from that State were in real danger regardless of the individual circumstances in each case.

4.5 According to the information provided by the Swiss embassy in Kinshasa in December 2008, there is currently no ethnic conflict nor are particular ethnic groups being persecuted in Kinshasa, where the complainant and his children lived prior to their departure. Furthermore, the residents of Kinshasa consider the war in the east to be a conflict between the elites of all the ethnic groups that is being waged for economic and political ends. Nor do they consider the Tutsi and Hutu, of whom there are some 100,000 living in Kinshasa, responsible for that conflict. Consequently, the State party claims that the complainants would not face a real and substantial danger because of their origins if they were to be returned to the Democratic Republic of the Congo.

4.6 The State party further notes that the petition from the Congolese Tutsi community denouncing the continued threat of genocide, dated 13 November 2007 and appended to the present complaint, was submitted only to the Committee, not to the authorities of the State party. The State party notes, however, that this petition refers to the general situation of the Tutsi in the Democratic Republic of the Congo and therefore does not concern the complainant and his children, especially since, in the course of the asylum proceedings, the Swiss authorities had called their Tutsi origins into question.

4.7 The State party adds that the credibility of the complainant and his children has also been called into question during the asylum proceedings, particularly with regard to his detention at Joseph Kabila's residence and his abduction by militiamen in Bunia. While acknowledging the difficulties the complainant experienced in 1998, the Swiss authorities do not consider them to have been serious enough to constitute a risk of future persecution. In addition, the amount of time that elapsed between the complainant's problems in 1998, which might have been linked to his ethnic origin, and his departure in 2003 precludes any possibility of a link between those problems and the asylum application.

4.8 The State party further notes that the complainant and his children have not supplied evidence of any political activity to support their asylum application.

4.9 The State party is of the view that the complainant has never established that he is a Rwandan of Tutsi ethnicity. He has simply denied the results of the Swiss embassy's investigations of the matter, without backing up his claims, and restated his position before the Committee without providing any further evidence. He informed the authorities of the State party that he had hidden in a specific location in November 1998 to escape the violence against Rwandans in Kinshasa. The results of the State party's investigation show, however, that the complainant was not known at that address. This claim therefore does not appear to be credible. What is more, the complainant has not made this argument before the Committee. The investigation also showed that the complainant had never been to Bunia, which is why his claims regarding his abduction by militiamen lack credibility.

4.10 The investigation has also shed some doubt on the credibility of the complainant's children, it having been established that they had not been subjected to insults or threats at school or in their neighbourhood. On the contrary, they lived a privileged life at the address

that they had given in Kinshasa, were well integrated and were in no danger. The authorities in charge of applications for asylum also pointed out that the children's statements concerning their departure from Kinshasa were inconsistent. The children claimed that a "white female" had taken them first to South Africa by plane and then to Switzerland by train. However, the investigation shows that the children were brought to Switzerland directly, without transiting through South Africa. Moreover, the Work for the Rehabilitation and Protection of Street Children (ORPER) in Kinshasa has stated, in a document appended to the present complaint, that the complainant's children had stayed in centres run by that organization from 6 November 2003 to 2 July 2005, the date on which they left the Democratic Republic of the Congo. Yet, during the asylum proceedings, the children said that they had stayed with their mother until their departure.

4.11 The State party questions the truth of the complainant's claims that his wife has died, which was the basis for his request for reconsideration. Indeed, only a copy of the death certificate was submitted to the Swiss authorities, and the complainants have not disclosed the exact circumstances under which they obtained that document to the authorities. In particular, the complainant has not divulged the name of the person who sent him the fax informing him of his wife's death.

4.12 Regarding the state of health of the complainant and his children, the State party asserts that this does not constitute a criterion for determining whether there are substantial grounds for believing that they would be in danger of being subjected to torture if they were deported. In this regard, the State party refers to the Committee's jurisprudence, according to which the aggravation of a person's state of physical or mental health owing to his or her deportation is generally insufficient, in the absence of additional factors, to amount to degrading treatment that would be in violation of article 16 of the Convention.³ The complainant informed the Swiss authorities that he suffered from tuberculosis. However, according to a medical report of 4 April 2005, his medical treatment for tuberculosis has been completed. Moreover, in the event of a relapse, treatment for this illness is available in Kinshasa, sometimes even free of charge.

4.13 Where the children are concerned, as the Federal Administrative Tribunal found in its judgement of 24 September 2008, their state of health cannot be considered sufficiently serious as to put them in any real danger if they were returned to their country of origin. There is nothing to indicate that they will require extensive treatment that could not be provided in the Democratic Republic of the Congo in the near future. In the event that the financial support they receive from their family in Kinshasa does not suffice to allow them to continue a proper course of treatment, the complainant may seek repatriation aid from the Federal Office for Migration, as well as assistance on an individual basis to help him cover the cost of medical care for a reasonable period of time. Although it has been established that the complainant comes from a privileged family, given that he himself has a university education, the Federal Administrative Tribunal has proposed a deadline for departure that takes into account the requirements of the course of treatment that is now under way. The Tribunal also maintains that a deterioration in the psychological health of persons whose asylum claims have been rejected is commonplace, but that this should not necessarily be viewed as a serious obstacle to the individual's deportation.

4.14 Regarding the report from the school psychological support services of the city of Zurich dated 19 November 2008, the Tribunal has some reservations about the portion of the diagnosis which indicates that the children run a greater risk of suicide and that their pre-existing symptoms have been aggravated by the news of their mother's death. The case

³ The State party cites *A.A.C. v. Sweden*, communication No. 227/2003, decision adopted on 16 November 2006, para. 7.3.

history presented in the report departs on several points from the findings of fact set forth in the final decisions handed down in the course of the regular asylum proceedings and in the related judgements on appeals. Nor does the report suggest that this case history was verified. The medical certificate from the Zurich school psychological support services, dated 30 September 2008 which the complainant submitted to the Committee contains no information that had not already been provided by the support services' earlier certificates, which were duly studied and taken into account by the Tribunal in its judgement of 17 June 2009. Lastly, if the children were to be returned to the Democratic Republic of the Congo, they would be returned with their father and would thus be neither unaccompanied nor unsupported.

4.15 The State party concludes that there is nothing to indicate that there are substantial grounds for fearing that the complainant and his children would face a real and personal risk of torture if returned to the Democratic Republic of the Congo.

Additional information provided by the complainant

5.1 On 17 May and 8 June 2010 the complainant noted that domestic remedies have been exhausted and that there is therefore no obstacle to the admissibility of the complaint.

5.2 The complainant notes that, once his asylum application had been refused, he initiated proceedings to apply for a permit based on humanitarian grounds under article 14, paragraph 2, of the Swiss Asylum Act. That request was also denied. He criticizes the asylum policy of the Canton of Zurich, which, he claims, discourages all asylum seekers from legalizing their situation. The complainant points out that he is well integrated into Zurich society, inasmuch as he has a good command of German, has received a job offer and has enrolled his children in school.

5.3 He fears that the presidential election scheduled for 28 November 2011 in the Democratic Republic of the Congo, which could result in the re-election of Joseph Kabila, who is of Rwandan origin, might once again stir up ethnic tensions, bringing with them the risk of torture and attacks on people's lives, including his and his children's.

Complainant's comments on the State party's submission

6.1 In his comments dated 18 August 2011, the complainant contests the State party's claim that the inhabitants of Kinshasa consider the war in the east to be a conflict between ethnic elites. The complainant points out that ethnic groups such as the Ndade, the Bashi or the Hema do not have elites. Moreover, massacring civilians and raping women are not the kind of acts that elites generally engage in.

6.2 With regard to his political activities, the complainant notes that he is active in the Alliance des Patriotes pour la Refondation du Congo (Alliance of Patriots for the Refoundation of the Congo) (APARECO) and that this can be confirmed by the president of that organization in Switzerland. The complainant adds that he has been interviewed several times on Radio Tshiondo, an Internet radio station, making his political activity in Switzerland common knowledge.

6.3 Regarding the conclusion reached by the Swiss embassy regarding the doubtfulness of his Tutsi origins, the complainant replies that in the region of Kinshasa, most of the inhabitants are unable to distinguish between Hutu and Tutsi and that the primary consideration is Rwandan nationality.

6.4 The complainant claims that the Swiss authorities never investigated the circumstances of his wife's death and that she did not die a natural death but was murdered. Contrary to the State party's claims, the threats he received in the Democratic Republic of

the Congo were more than mere “harassment”, because persons identified as Rwandans there risk dying a very painful death.

6.5 The complainant also once again raises the question of the State party’s doubts about his credibility. He confirms his address in Kinshasa, and refers to his knowledge of his Rwandan origins and the fact that he spent his childhood far away from Kinshasa. With regard to his detention by militiamen, he claims to have been detained in a mud hut, as the militia have no prisons.

6.6 The complainant finds that the Swiss authorities’ scepticism about his children’s statements is regrettable and criticizes their failure to make any attempt to verify their claims. He considers it not unusual for children not to remember exact dates, such as when they entered and left the centre run by ORPER. Lastly, the complainant rejects the State party’s argument that the children could receive appropriate medical treatment in the Democratic Republic of the Congo. He notes that he contracted tuberculosis during his detention, which attests to the difficulties he endured in the Democratic Republic of the Congo.

Issues and proceedings before the Committee

Consideration of admissibility

7.1 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, 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.

7.2 The Committee further notes that domestic remedies have been exhausted pursuant to article 22, paragraph 5 (b), with regard to the claims contained in the original communication before the Committee. Although the State party initially contested the admissibility of the complaint on the ground of non-exhaustion of domestic remedies, those remedies were subsequently exhausted and the State party has acknowledged the admissibility of the complaint. However, with regard to the complainant’s claim that he is active in APARECO, making his political activity in Switzerland common knowledge, the Committee notes that the complainant made this claim for the first time in his comments on the State party’s submission. The Committee therefore notes that the State party has not had a chance to comment on that claim, which, moreover, was not invoked before the domestic courts as a factor constituting a risk of torture for the complainant if he were returned to the Democratic Republic of the Congo. In the light of the above, the Committee finds that this part of the communication is inadmissible under article 22, paragraph 5 (b), of the Convention.

7.3 The Committee finds that the other claims made under article 3 of the Convention are admissible and therefore proceeds to its consideration of the merits.

Consideration of the merits

8.1 The Committee has considered the complaint in the light of all the information made available to it by the parties, as provided for under article 22, paragraph 4, of the Convention.

8.2 The issue before the Committee is whether, in deporting the complainant and his children to the Democratic Republic of the Congo, the State party would be failing to fulfil its obligation under article 3 of the Convention not to expel or to return (*refouler*) 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.

8.3 In assessing the allegations made by the complainant on his own and his children's behalf under article 3, 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 State concerned. The aim of such an assessment, however, is to determine whether the complainant would personally be in danger of being subjected to torture in the Democratic Republic of the Congo. It follows that the existence in that country of a 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 in danger of being subjected to torture if deported to that country. Additional grounds must be adduced to show that the individuals concerned would be personally at risk.⁴

8.4 The Committee recalls its general comment No. 1 (1996) on the implementation of article 3 of the Convention in the context of article 22, which states that, while the risk of torture does not have to meet the test of being highly probable, it must be personal and present. In this regard, the Committee has established in previous decisions that the risk of torture must be "foreseeable, real and personal".⁵ As to the burden of proof, the Committee recalls that it is generally incumbent upon the complainant to present an arguable case and that the risk of torture must be assessed on grounds that go beyond mere theory or suspicion.

8.5 The Committee is aware of the dire human rights situation in the Democratic Republic of the Congo.⁶ However, it also notes the doubts expressed by the State party as to the credibility of the allegations made by the complainant and his children since their first asylum applications were lodged on 2 July 2003 and 22 August 2005, respectively.

8.6 In assessing the risk of torture in the case under consideration, the Committee notes the complainant's claims that, starting in 1998, he suffered ill-treatment at the hands of students, neighbours and State agents because of his Rwandan Tutsi origins. The Committee notes that, during the asylum proceedings, the complainant explained that on or around 10 November 1998 he was taken to the home of Laurent-Désiré Kabila, whence he managed to escape after spending one week in captivity; that the complainant then fled to Bunia in the east of the country; that he was then allegedly abducted by militiamen on 5 May 2003 and held in a mud hut; that he again escaped and fled the country; and that he travelled to Kenya, then to Italy and finally to Switzerland, where he applied for asylum on 2 July 2003. The Committee notes the complainant's claims that his children were themselves persecuted in Kinshasa because of their origins, which led them to leave the

⁴ See *S.P.A. v. Canada*, communication No. 282/2005, decision adopted on 7 November 2006; *T.I. v. Canada*, communication No. 333/2007, decision adopted on 15 November 2010; and *A.M.A. v. Switzerland*, communication No. 344/2008, decision adopted on 12 November 2010.

⁵ See *A.R. v. The Netherlands*, communication No. 203/2002, decision adopted on 14 November 2003, para. 7.3; *A.A. et al. v. Switzerland*, communication No. 285/2006, decision adopted on 10 November 2008, para. 7.6; and *R.T.N. v. Switzerland*, communication No. 350/2008, decision adopted on 3 June 2011, para. 8.4.

⁶ See, inter alia, the report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo (A/HRC/16/27); report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (S/2011/20); the Committee's concluding observations on the report submitted by the Democratic Republic of the Congo under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/DRC/CO/1); the concluding observations of the Human Rights Committee on the report submitted by the State party under the International Covenant on Civil and Political Rights (CCPR/C/COD/CO/3); and "Technical assistance and capacity-building. Combined report of seven thematic special procedures on technical assistance to the Government of the Democratic Republic of the Congo and urgent examination of the situation in the east of the country" (A/HRC/10/59).

country with the help of a “white female” in July 2005; and that they applied for asylum on 22 August 2005. Lastly, the Committee notes the complainant’s claim that he faces a real risk of being persecuted because of his Rwandan origins (regardless of whether he is a Hutu or Tutsi), given that ethnic tensions persist in Kinshasa and that the upcoming presidential elections cannot but exacerbate the situation.

8.7 The Committee notes the State party’s argument that the evidence adduced by the complainant in support of his communication before the Committee provides insufficient evidence to challenge the decisions handed down by the Swiss authorities following a thorough examination of the case. The Committee further notes the State party’s argument that, according to the investigation conducted by the Swiss embassy in Kinshasa, there is no ethnic conflict nor are particular ethnic groups being persecuted in Kinshasa, the city where the complainant and his children were living prior to their departure; that the complainant and his children are of Rwandan Hutu rather than Tutsi origin; and that therefore the claims that they make on the basis of their ethnic origin are not credible.

8.8 In the light of the information provided by the parties, the Committee finds that the complainant has not substantiated a causal link between the events that ostensibly led him and his children to leave their country of origin and the risk of torture that they would face if deported to the Democratic Republic of the Congo. The complainant has in fact provided the Committee with very little information about the treatment he allegedly suffered, particularly with regard to the events in Kinshasa in 1998, and it was only by referring to the decisions issued by the national authorities that the Committee was able to piece together the allegations put forward by the complainant and his children. Lastly, the Committee is of the view that the information on possible ethnic tensions in the complainant’s country of origin is of a general nature and does not indicate the presence of any foreseeable, real and personal risk of torture.

8.9 Taking into account all the information made available to it, the Committee considers that the complainant has failed to provide sufficient evidence to demonstrate that he or either of his children would face a foreseeable, real and personal risk of being subjected to torture if deported to their country of origin.

9. The Committee against Torture, acting under article 22, paragraph 7, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, therefore concludes that the return of the complainant and his children to the Democratic Republic of the Congo would not constitute a breach of article 3 of the Convention.

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