

Complaint No. 343/2008 (*Kalonzo v. Canada*)

Complaint No. 343/2008 (*Kalonzo v. Canada*) concerned a Congolese national residing in Canada, who claimed that his return to the Democratic Republic of the Congo would constitute a violation by Canada of article 3 of the Convention against Torture. The Committee took note of the State party's observations concerning the complainant's lack of credibility, and of the State party's observations concerning the fact that the complainant was not a member of a political party and that his parents had travelled to the Democratic Republic of the Congo several times without being troubled. The Committee also took note of the moratorium declared by Canada on the removal of rejected asylum seekers to that country and of the information submitted by the complainant, according to which the moratorium was put in place owing to the widespread violence in the Democratic Republic of the Congo, and that it would not apply in his case on account of his criminal past. The Committee was of the view that this information underlined the discretionary nature of the moratorium procedure, insofar as, under article 3 of the Convention, a moratorium on the removal of persons who are at risk in their country because of widespread violence should apply to everyone without any distinction. The Committee further took note of the complainant's claims regarding: his detention and torture in the Democratic Republic of the Congo in 2002; a medical certificate issued in 2005, according to which the complainant showed signs of post-traumatic stress disorder fully consistent with his account and appeared to have a reasonable fear of what might befall him should he be returned to the Democratic Republic of the Congo; and the view of a judge in the United States of America that there were substantial grounds for believing the complainant would be in danger of being subjected to torture upon return. The Committee considered the State party's argument that the complainant could resettle in Kinshasa, and recalled that, in accordance with its jurisprudence, the notion of "local danger" does not provide for measurable criteria and is not sufficient to dissipate totally the personal danger of being tortured. The Committee concluded that that the State party's decision to return the complainant to the Democratic Republic of the Congo, if implemented, would constitute a breach of article 3 of the Convention.