

Complaint No 370/2009 (*E.L. v. Canada*)

Complaint No 370/2009 (*E.L. v. Canada*) concerned a Haitian national, residing in Canada, who claimed that his removal to Haiti would constitute a violation by the State party of article 3 of the Convention. The complainant arrived in Canada in 1990 and became a permanent resident. In 2003, 2006 and 2007 he was tried and found guilty of various offences and in 2007 his permanent residency was revoked by Citizenship and Immigration Canada after he was declared inadmissible to Canada on grounds of serious criminality. After a deportation order had been issued, the complainant applied for refugee status, but his application was dismissed because of his inadmissibility on grounds of serious criminality. The complainant has a heart condition, which required the installation of a pacemaker. Having exhausted appeals proceedings, he submitted a complaint to the Committee claiming that his personal situation and state of health meant that he should not be deported. He alleged that as a criminal deportee having lived abroad for many years, he would be at risk of being kidnapped by criminal gangs, and that returned Haitians are systematically detained in appalling conditions and are given no food, water or medical care, which he claimed in his case could prove fatal. He also alleged that he would be unable to have his pacemaker replaced or receive proper medical care in Haiti. The Committee noted that the complainant had provided no evidence of a foreseeable, real and personal risk of torture following his removal to Haiti, that all his allegations were examined by the State party's authorities during the asylum procedure and that the latter carried out the necessary checks, including with regard to the complainant's access to health facilities in Haiti, before proceeding with the complainant's removal. The Committee concluded that the deportation of the complainant to Haiti did not constitute a breach of article 3 of the Convention.