



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

Distr.: General  
20 January 2021

Original: English

## Committee against Torture

### Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 915/2019\*, \*\*

<i>Communication submitted by:</i>	Z.S. (represented by counsel, Kakhaber Tsereteli)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Georgia
<i>Date of complaint:</i>	3 January 2019 (initial submission)
<i>Date of adoption of decision:</i>	30 December 2020
<i>Subject matter:</i>	Extradition to the Russian Federation
<i>Procedural issues:</i>	Non-exhaustion of domestic remedies; abuse of the right to submit a complaint; non-substantiation of claims
<i>Substantive issue:</i>	Non-refoulement
<i>Article of the Convention:</i>	3

1.1 The complainant is Z.S., a national of the Russian Federation born in 1984, who at the time of submission was in detention awaiting extradition from Georgia to the Russian Federation. The complainant claims that his return to the Russian Federation would be in breach of Georgia's obligations under article 3 of the Convention. He is represented by counsel. The State party has made the declaration under article 22 of the Convention, effective from 30 June 2005.

1.2 On 14 January 2019, pursuant to rule 114 of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, decided not to issue a request for interim measures of protection.

#### Facts as submitted by the complainant

2.1 The complainant worked as a prosecutor at the Prosecutor's Office of Obninsk in Kaluga Province of the Russian Federation. He claims to have been unlawfully convicted and sentenced to four years' imprisonment and a fine of 12 million Russian roubles as a result of his anti-corruption activities in several high-profile investigations, in which he challenged illegal activities and interests of local officials in Kaluga. Due to their contacts and influence in the Prosecutor's Office, the officials managed to avoid corruption charges. The persons concerned were closely associated with the Governor of Kaluga Province and the Provincial Prosecutor, whose father is the Deputy Prosecutor-General of the Russian Federation. The

\* Adopted by the Committee intersessionally on 30th December 2020.

\*\* The following members of the Committee participated in the examination of the communication: Essadia Belmir, Claude Heller, Erdogan Iscan, Liu Huawen, Jens Modvig, Ilvija Puce, Diego Rodríguez-Pinzón, Sébastien Touzé and Bakhtiyar Tuzmukhamedov.



complainant's investigative activities were detrimental to the interests of the Governor and the Provincial Prosecutor. The complainant and his spouse started to receive frequent telephone calls and text messages threatening physical assault and rape of the spouse, the abduction of their children and the imprisonment and disappearance of the complainant. On several occasions, unidentified cars were parked outside his apartment and his child's school. Faced with "totally fabricated charges", threats and pressure and living in fear of their lives, the family left the Russian Federation. They arrived in Georgia in October 2016.

2.2 The Criminal Police of Georgia arrested the complainant on 30 April 2018 in Tbilisi in line with an arrest warrant issued in the Russian Federation against him channelled through the International Criminal Police Organization (INTERPOL). On 29 October 2018, Tbilisi City Court decided to grant the extradition of the complainant to the Russian Federation. The Georgian Supreme Court upheld this decision on 7 November 2018.

### **Complaint**

3.1 The complainant claims that his extradition to the Russian Federation would expose him to detention conditions amounting to a real risk of persecution, torture or ill-treatment. He would have no effective remedies in the Russian Federation to challenge the violation of his rights under the Convention.

3.2 The complainant argues that human rights treaty bodies and international organizations remain concerned about torture, ill-treatment, extremely high mortality rates and poor detention conditions in the Russian Federation. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has conducted 28 visits to the Russian Federation since 1998, but only three reports have been made public, which demonstrates the uncooperative attitude of the Government of the Russian Federation and raises serious concerns that the penitentiary system does not meet standards on combating torture. The Russian Federation has the highest mortality rate in penal institutions in Europe.<sup>1</sup>

3.3 The complainant refers to the Committee's concluding observations on the sixth periodic report of the Russian Federation, which mention acts of torture and ill-treatment and a lack of investigations and prosecutions as principal subjects of concern.<sup>2</sup> The Committee further expressed its concern at the detention conditions, including overcrowding and harsh material conditions, as well as the discrepancy between the high number of deaths and charges brought against prison staff concerning these deaths and the low number of sanctions imposed.<sup>3</sup>

3.4 The complainant further claims that corruption among the judiciary and law enforcement personnel in the Russian Federation prevails. Any anti-corruption activity, especially by law enforcement officials, is perceived as hostile conduct, contrary to the interests of high-level officials. Efforts at countering corruption usually result in exclusion and revenge, including fabricated criminal proceedings, illegal imprisonment, threats against family members, physical assault, abduction, inhuman or degrading treatment, torture or killing. The complainant believes that the charges against him are directly linked with his anti-corruption activities and constitute personal revenge by the Governor of Kaluga Province and the Provincial Prosecutor, who are powerful officials.

3.5 The complainant refers to the decision in *Kalinichenko v. Morocco*, where the Committee found that the expulsion of a businessman to the Russian Federation would put him at risk of torture, in breach of article 3 of the Convention.<sup>4</sup> The complainant submits that, in his case too, there is a risk of torture due to his anti-corruption activities, which undermined

---

<sup>1</sup> Council of Europe, "Annual Penal Statistics: SPACE I – Prison Populations Survey 2014". Available at [http://wp.unil.ch/space/files/2019/02/SPACE-I-2014-Report\\_Updated\\_190129.2-1.pdf](http://wp.unil.ch/space/files/2019/02/SPACE-I-2014-Report_Updated_190129.2-1.pdf); Council of Europe, "Annual Penal Statistics: SPACE I – Prison Populations Survey 2015". Available at [http://wp.unil.ch/space/files/2017/04/SPACE\\_I\\_2015\\_FinalReport\\_161215\\_REV170425.pdf](http://wp.unil.ch/space/files/2017/04/SPACE_I_2015_FinalReport_161215_REV170425.pdf).

<sup>2</sup> CAT/C/RUS/CO/6, para. 14.

<sup>3</sup> *Ibid.*, para. 38.

<sup>4</sup> *Kalinichenko v. Morocco* (CAT/C/47/D/428/2010).

high-level law-enforcement officers, the widespread nature of corruption at all levels, especially in the Russian law enforcement agencies, and poor detention conditions.

#### **State party's observations on admissibility**

4.1 The State party provided its observations on admissibility by note verbale of 3 May 2019. It notes that, on 8 July 2016, the Obninsk City Court of Kaluga Province found the complainant guilty of mediation in bribery committed with preliminary intent by a group of people. He was sentenced to four years' imprisonment, which the Kaluga Provincial Court of Appeal reduced to three and a half years following an amendment to the Criminal Code. On 11 July 2016, a search warrant was issued against the complainant, in accordance with a decision of the Obninsk City Court. On 27 January 2017, INTERPOL issued an international search warrant.

4.2 The complainant and his family sought asylum in Georgia on 20 July 2017. On 29 June 2018, the Ministry of Internally Displaced People from the Occupied Territories, Accommodation and Refugees of Georgia rejected their asylum application. Tbilisi City Court upheld this decision on 7 February 2019. The complainant's appeal against the decision of Tbilisi City Court remained pending at the time of submission of the observations.

4.3 Following his arrest, the complainant was sentenced by the Tbilisi City Court to three months of extradition detention on 3 May 2018. His appeal against this decision was rejected on 11 May 2018. On 8 June 2018, the Chief Prosecutor's Office of Georgia received an extradition request from the Russian Federation. The Tbilisi City Court extended the term of the extradition detention by three more months on 27 July 2018. The complainant's appeal was found inadmissible. The Tbilisi City Court again extended the period of detention for an additional three months on 25 October 2018, until 30 January 2019.

4.4 On 29 October 2018, the Tbilisi City Court authorized the complainant's extradition to the Russian Federation. The Supreme Court of Georgia upheld the decision on 7 November 2018. On 11 January 2019, the Tbilisi City Court changed the measure of restraint from extradition detention to bail and released the complainant.

4.5 The State party submits that the complaint is inadmissible because of the complainant's failure to exhaust domestic remedies as required under article 22 (5) (b) of the Convention, as his asylum case remains pending before the Tbilisi Court of Appeal. The State party submits that the complainant attempted to hide this fact in his complaint. Extradition proceedings are independent from those concerning refugee status determination; the latter do not preclude judicial review of extradition proceedings but suspend the execution of the extradition until the final decision on refugee status is rendered. The Tbilisi City Court rejected the complainant's appeal in the asylum proceedings, but that Court is not the final instance. Under article 21 (2) of the Code of Administrative Procedure, such decisions may be challenged before the Tbilisi Court of Appeal. The State party underlines that this remedy is effective with reference to article 56 (a) of the Georgian Law on International Protection, which prohibits extradition or refoulement "until the Ministry makes a decision or a court judgment enters into force with regard to granting international protection". Moreover, with reference to the Committee's decisions in *R. v. France* and *P.S.S. v. Canada*, the complainant has not argued why domestic proceedings would be ineffective.<sup>5</sup>

4.6 The State party further submits that the complaint is inadmissible as it constitutes an abuse of the right of submission within the meaning of article 22 (2) of the Convention and rule 113 (b) of the Committee's rules of procedure. The complainant submitted the complaint prematurely, because his case remains pending before the Tbilisi Court of Appeal. He does not mention the asylum application nor the fact that the matter remains pending. According to the jurisprudence of the European Court of Human Rights, applicants are under a continuous obligation to keep the Court informed of all important circumstances in pending

<sup>5</sup> *R. v. France* (CAT/C/19/D/52/1996), para. 7.2; *P.S.S. v. Canada* (CAT/C/21/D/66/1997), para. 6.2.

proceedings.<sup>6</sup> Failure to do so prevents the Court from ruling on the case in full knowledge of the facts and may lead to a rejection of the application as abusive.<sup>7</sup>

4.7 Moreover, the State party submits that the complaint is inadmissible as manifestly unfounded under article 22 (2) of the Convention and rule 113 (b) of the rules of procedure. The State party recalls the Committee's jurisprudence, according to which a complaint is manifestly unfounded when it lacks sufficient evidence to substantiate the claim.<sup>8</sup> With respect to the application of article 3 of the Convention, the burden of proof lies on the complainant, who must present an arguable case, by submitting substantiated arguments showing that the danger of being subjected to torture is foreseeable, present, personal and real.<sup>9</sup> The State party recalls the complainant's claims that the charges brought against him have a direct link with his anti-corruption activities and were motivated by revenge sought by the Governor of the Kaluga Province and the Kaluga Provincial Prosecutor, that the complainant and his family were threatened, that individuals in cars were waiting outside his apartment and his child's school and that his extradition to the Russian Federation would expose him to a real risk of persecution, torture or ill-treatment. The State party submits that these claims are not supported by any documentation or evidence and that the complaint does not go beyond speculation, far-fetched assumptions and vast, meritless generalizations, even though it is unlikely that the complainant, as a former prosecutor, would be unable to present evidence of the telephone calls and texts.

4.8 The State party claims that the complainant refers only to general conditions of detention and patterns of human rights violations in the Russian penitentiary system. It notes, however, that, according to the Committee and the European Court of Human Rights, the existence of a pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute sufficient reason 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.<sup>10</sup> Further, the mere possibility of ill-treatment on account of an unsettled situation in the receiving country does not in itself give rise to a breach of the prohibition of torture; an applicant's allegations require corroboration by other evidence than sources describing a general situation.<sup>11</sup> The State party submits that the present complaint contains no such additional grounds.

<sup>6</sup> European Court of Human Rights, *Bekauri v. Georgia*, Application No. 14102/02, Judgment, 10 April 2012, para. 21; *Popov v. Moldova*, Application No. 74153/01, Judgment, 18 January 2005, para. 49; *Akdivar and others v. Turkey*, Application No. 21893/93, Judgment, 16 September 1996, paras. 53–54.

<sup>7</sup> European Court of Human Rights, *Mihailovs v. Latvia*, Application No. 35939/10, Judgment, 22 January 2013, para. 97.

<sup>8</sup> *R.S. v. Denmark* (CAT/C/32/D/225/2003), para. 6.2; *H.S.V. v. Sweden* (CAT/C/32/D/229/2003), para. 8.3; *R.T. v. Switzerland* (CAT/C/35/D/242/2003), paras. 6.2–7; *S.A. v. Sweden* (CAT/C/32/D/243/2004), paras. 4.2–4.3; *S.P.A. v. Canada* (CAT/C/37/D/282/2005), para. 6.2; *X. v. Switzerland* (communication No. 17/1994), para. 4.2.; *I.M. and V.Z. v. Denmark* (CAT/C/57/D/593/2014), para. 6.3.

<sup>9</sup> *Sivagnanaratnam v. Denmark* (CAT/C/51/D/429/2010), paras. 10.5–10.6; *A.R. v. Netherlands* (CAT/C/31/D/203/2002), para. 7.3; *Arthur Kasombola Kalonzo v. Canada* (CAT/C/48/D/343/2008), para. 9.3; *X. v. Denmark* (CAT/C/53/D/458/2011), para. 9.3.

<sup>10</sup> See, inter alia, *Kalinichenko v. Morocco*; European Court of Human Rights, *Mamatkulov and Askarov v. Turkey*, Applications Nos. 46827/99 and 46951/99, Judgment, 4 February 2005, paras. 71–73; *Oshlakov v. Russia*, Application No. 56662/09, Judgment, 3 April 2014, para. 83.

<sup>11</sup> European Court of Human Rights, *Vilvarajah and others v. United Kingdom of Great Britain and Northern Ireland*, Applications Nos. 13163/87, 13164/87, 13165/87, 13447/87 and 13448/87, Judgment, 30 October 1991, para. 111; *Fatgan Katani and others v. Germany*, Application No. 67679/01, Decision, 31 May 2001; *Chahal v. United Kingdom of Great Britain and Northern Ireland*, Application No. 22414/93, Judgment, 15 November 1996, paras. 99–100; *Muslim v. Turkey*, Application No. 53566/99, Judgment, 26 April 2005, para. 67; *Said v. Netherlands*, Application No. 2345/02, Judgment, 5 July 2005, para. 54; *Al-Moayad v. Germany*, Application No. 35865/03, Decision, 20 February 2007, paras. 65–66; *Saadi v. Italy* Application No. 37201/06, Judgment, 28 February 2008, paras. 143–146; *Puzan v. Ukraine* Application No. 51243/08, Judgment, 18 February 2010, para. 34.

4.9 The State party emphasizes that the asylum issues division of the Ministry of Internally Displaced Persons carefully examined the complainant's personal circumstances and the general human rights situation in the Russian Federation but concluded that his asylum application lacked substance concerning the claimed risk of persecution or ill-treatment. The Ministry concluded that the complainant's account was inconsistent and incoherent, including with respect to the questions of whether he had committed any crime in the Russian Federation and what his anti-corruption activities entailed. He was unable to name the individuals who threatened his families or to describe their motives, the incidents or the content of the threats. The complainant's spouse showed a picture of a damaged restaurant, but neither the complainant nor his spouse proved that the restaurant was in their possession or that it was damaged because of his activities. No measures of restraint were used in the criminal proceedings and he was given a lower than maximum sentence, which the Court of Appeal later reduced. The complainant could not substantiate his claim of ethnic and religious discrimination with reference to any incident. The Tbilisi City Court and the Supreme Court of Georgia reaffirmed the conclusion of a lack of evidence in the extradition proceedings.

4.10 The State party refers to a number of removal or extradition complaints which the Committee has declared manifestly unfounded, which are, in its view, similar to the present complaint.<sup>12</sup>

#### **State party's observations on the merits**

5.1 The State party presented its observations on the merits of the case by note verbale of 4 September 2019. It notes that the complainant has not been extradited, as his appeal in the asylum proceedings remains pending before the Tbilisi Court of Appeal. The State party submits that the complainant's extradition to the Russian Federation would not constitute a violation of article 3 of the Convention.

5.2 First, the complainant did not present any evidence to substantiate his claim of a risk of ill-treatment in the Russian Federation. In this regard, the State party reiterates that the complaint is manifestly unfounded (see paras. 4.7–4.9 above). It adds that the Russian court that sentenced the complainant to four years' imprisonment considered his health, the pregnancy of his wife, his work experience, his support in the identification of other criminals and his active cooperation with the investigation as mitigating factors. The Court of Appeal thereafter reduced the sentence to three years and six months with a fine of 8 million roubles. The State party concludes that the complainant was not persecuted in the Russian Federation and that there is no real risk of torture or inhuman or degrading treatment upon his extradition.

5.3 Second, the State party reiterates that the reference to the human rights situation in the Russian Federation is insufficient to show that the complainant would be exposed to a real risk of torture, inhuman or degrading treatment or punishment upon his extradition (see para. 4.8 above). The State party adds that it cannot be argued that any extradition to the Russian Federation and subsequent detention would automatically entail a violation of article 3 of the Convention. It notes that in *Chankayev v. Azerbaijan* and *Tershiyev v. Azerbaijan*, the European Court of Human Rights examined detention conditions in relation to extradition to the Russian Federation and concluded, in the former case, that "no serious structural problems have yet been identified in respect of conditions of detention in post-conviction facilities such as correctional colonies or prisons".<sup>13</sup> Problems are reported in remand prisons, but these only accommodate remand prisoners, and the complainant would serve his sentence in a post-conviction correctional facility.

5.4 Third, the General Prosecutor's Office of the Russian Federation has provided the Prosecutor's Office of Georgia with assurances to the effect that the complainant will not be subjected to torture or inhuman or degrading treatment or punishment during his detention, and that the competent authorities will take all necessary measures to ensure his security. His defence rights will be guaranteed and the authorities will provide him with medical treatment

<sup>12</sup> See *S.S. v. Canada* (CAT/C/62/D/715/2015), para. 6.5; *R.T. v. Switzerland*, para. 6.2; *H.I.A. v. Sweden* (CAT/C/30/D/216/2002), para. 6.2; *H.S.V. v. Sweden*, para. 8.3; *R.S. v. Denmark*, para. 6.2.

<sup>13</sup> European Court of Human Rights, *Chankayev v. Azerbaijan*, Application No. 56688/12, Judgment, 14 February 2014, para. 73; *Tershiyev v. Azerbaijan*, Application No. 10226/13, Judgment, 31 July 2014.

and aid, if necessary. The State party argues that the European Court of Human Rights has considered that it will only be in rare cases that the general situation in a country is such that no weight can be attached at all to such assurances.<sup>14</sup> In the present case, the assurances provided must be considered reliable, given that they were issued by the central Russian authorities and are accessible to human rights monitoring bodies. They are moreover specific, and concern treatment illegal in the Russian Federation. Further, the assurances were issued by a State that is a State party to the Convention, to the European Convention on Human Rights and to other international mechanisms for combating ill-treatment. There is no proof that the complainant has ever been ill-treated in the Russian Federation. The State party's authorities and courts thoroughly reviewed his situation and the assurances provided and concluded that there was no evidence showing substantial grounds to believe that the complainant would face torture or ill-treatment if extradited to the Russian Federation.

### Complainant's comments on the State party's observations

6.1 In his comments dated 7 and 13 November 2019, the complainant recalls that the Supreme Court upheld the decision to extradite him and that he is currently held in pre-extradition detention. It is thus uncontested that he has exhausted all available and effective domestic remedies.

6.2 The complainant contests that he abused his right of submission, arguing that applying for asylum with the Ministry is not an effective remedy and is thus "not a key fact" in the complaint. The asylum proceedings have not halted judicial review of the extradition process. Furthermore, he argues that he had no possibility for review of any kind of the expulsion decision due to national security concerns. Therefore, in the absence of an independent administrative review of the extradition decision, the State party has not met its procedural obligation to provide for effective, independent and impartial review required by article 3 of the Convention.<sup>15</sup>

6.3 The complainant argues that the State party expects him to have recourse to another remedy in addition to the extradition proceedings. In his view, this is contrary to the jurisprudence of the European Court of Human Rights establishing that, if more than one potentially effective remedy is available, the applicant is only required to have used one of them<sup>16</sup> and that, when one remedy has been attempted, use of another remedy with essentially the same purpose is not required.<sup>17</sup> Following the jurisprudence of the Court, it is for the applicant to select the remedy that is most appropriate.<sup>18</sup> Therefore, the State party's observation that the complaint should be rejected on the ground of non-exhaustion of domestic remedies and as an abuse of the right of submission should be dismissed.

6.4 The complainant contests the State party's submission that the complaint is manifestly unfounded, as well as the State party's observations on the merits. The State party

<sup>14</sup> European Court of Human Rights, *Gaforov v. Russian Federation*, Application No. 25404/09, Judgment, 21 October 2010, para. 138; *Sultanov v. Russia* Application No. 15303/09, Judgment, 4 November 2010, para. 73.

<sup>15</sup> The complainant notes that the Convention against Torture does not contain a provision on effective remedies comparable to article 13 of the European Convention on Human Rights, but that, in its jurisprudence, the Committee has derived procedural guarantees from the prohibition of refoulement in article 3 of the Convention; *Agiza v. Sweden* (CAT/C/34/D/233/2003), paras. 13.6–13.7.

<sup>16</sup> European Court of Human Rights, *Moreira Barbosa v. Portugal*, Application No. 65681/01, Decision, 29 April 2004; *Jeličić v. Bosnia and Herzegovina*, Application No. 41183/02, Decision, 15 November 2005; *Karakó v. Hungary*, Application No. 39311/05, Judgment, 28 April 2009, para. 14; *Aquilina v. Malta*, Application No. 25642/94, Judgment, 29 April 1999, para. 39.

<sup>17</sup> European Court of Human Rights, *Riad and Idiab v. Belgium*, Applications Nos. 29787/03 and 29810/03, Judgment, 24 January 2008, para. 84; *Kozacıoğlu v. Turkey*, Application No. 2334/03, Judgment, 19 February 2009, paras. 40 ff.; *Micallef v. Malta*, Application No. 17056/06, Judgment, 15 October 2009, para. 58; *Lagutin and others v. Russian Federation*, Applications Nos. 6228/09, 19123/09, 19678/07, 52340/08 and 7451/09, Judgment, 24 April 2014, para. 75; *Nicolae Virgiliu Tănase v. Romania*, Application No. 41720/13, Judgment, 25 June 2019, para. 177; *Jasinskis v. Latvia*, Application No. 45744/08, Judgment, 21 December 2010, paras. 50 and 53–54.

<sup>18</sup> European Court of Human Rights, *O'Keefe v. Ireland* Application No. 35810/09, Judgment, 28 January 2014, paras. 110–111; *Tănase v. Romania*, para. 176.

underscores irrelevant facts and minimizes the gravity of the human rights situation in the Russian Federation. The complainant finds it outrageous that, even though the State party's population has been exposed to persecution in the Russian Federation, including the death and subjection to inhuman and degrading treatment of thousands of Georgian nationals in 2006, followed by the killings of hundreds of civilians and the burning of their dwellings in 2008, the State party praises the Russian authorities and the human rights situation in the Russian Federation.

6.5 The complainant asserts that, in assessing whether there are substantial grounds for believing that a person would face a real risk of a violation of article 3 of the Convention upon extradition, the Committee must take into account the human rights situation in the receiving State as a whole.<sup>19</sup> Where sources describe a general situation, the specific allegations in a particular case require corroboration by other evidence.<sup>20</sup> The complainant reiterates that his extradition would result in such a risk, given the general human rights situation in the Russian Federation and the extremely poor detention conditions there. He submits that the Georgian authorities have failed to assess this risk.

6.6 The complainant refers to reports according to which the human rights situation in the Russian Federation is deteriorating, the Government of the Russian Federation has tightened control over free expression and assembly and local security and police officers have subjected prisoners to harsh and life-threatening detention conditions, enforced disappearances, abuse and torture, including during the transport of prisoners, with the tacit blessing of the central Government.<sup>21</sup> In July 2018, a video was published of penitentiary staff in Yaroslavl viciously beating a prisoner.<sup>22</sup> In August 2018, data were published on more than 50 other torture cases, whose alleged perpetrators included police, investigators, security agents and penitentiary officials.<sup>23</sup> The role and effectiveness of the public oversight commissions, which are independent mechanisms for monitoring places of detention, was eroded through underfunding, reductions in membership and arbitrary denials of access to penitentiary facilities.<sup>24</sup> Thus, given the alarming structural deficiencies in the Russian penitentiary system, including torture and ill-treatment, there are sufficient grounds to believe that the complainant would be at risk of torture upon extradition.

6.7 Regarding the assurances given by the Russian authorities, domestic laws and accession to human rights treaties are not enough to ensure adequate protection against a risk of ill-treatment, given reliable reports of practices in prisons resorted to or tolerated by the Russian authorities that contravene the Convention. Moreover, the assurance that the complainant will not be subjected to torture is not specific, as it does not state in which prison he would be accommodated.

6.8 The complainant reiterates the facts as presented by him (see para. 2.1) and his claims (see paras. 3.4–3.5) and adds a written statement dated 17 August 2017 from the Chairperson of the Public Observance Committee of Moscow on the activities and conviction of the complainant in the Russian Federation. He submits that, according to the statement, the Prosecutor of Obninsk had declared that there were no concerns or questions about the complainant, but that he had to assist the Federal Security Service in disclosing the bribe-taking by the Deputy Prosecutor of Obninsk. Likewise, the complainant had testified in court that Federal Security Service officers had confirmed that there were no allegations against him.

<sup>19</sup> General comment No. 4 (2017), para. 46; *Uttam Mondal v. Sweden* (CAT/C/46/D/338/2008), para. 7.4.

<sup>20</sup> European Court of Human Rights, *Mamatkulov and Askarov v. Turkey*, para. 73.

<sup>21</sup> Human Rights Watch, "Russia"; Human Rights Watch, "Russia: bleak year for human rights", 17 January 2019; Amnesty International, "Russian Federation"; Amnesty International, "Russian Federation 2017/2018"; United States of America Department of State, "Russia 2018 human rights report".

<sup>22</sup> Human Rights Watch, "Russia: events of 2018". Available at [www.hrw.org/world-report/2019/country-chapters/russia](http://www.hrw.org/world-report/2019/country-chapters/russia).

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

6.9 The complainant adds that his spouse received Instagram messages on 23 February 2019 threatening “consequences” if the complainant were to fail to return to the Russian Federation. The threats, including physical assault and disappearance of the complainant, continued thereafter. On 11 October 2019, the Georgian National Bureau of Enforcement recorded a statement by the spouse regarding the threats received.

6.10 The complainant requested that the Georgian authorities conduct an investigation into the threats and, on 13 March 2017, that the Russian authorities do the same. The Russian authorities rejected his request as unsubstantiated without having carried out any investigations on 17 March 2019. The Georgian authorities initiated an investigation, but the complainant does not believe that they carried it out seriously, despite jurisprudence establishing that a claim of a risk of torture requires an independent and rigorous scrutiny. Likewise, the examination of his asylum claim has not been rigorous. His claim was wrongly rejected as based on “mere suppositions” even though the documents produced duly substantiate the risk. The Georgian courts turned a blind eye to the human rights situation in the Russian Federation and did not carefully study the documents produced. In the extradition case, the Supreme Court limited its analysis to the assurances provided by the Russian authorities. Furthermore, it would be impossible and disproportionate to require undisputable evidence of a future event.

6.11 On 26 February 2020, the complainant reported that the Tbilisi Court of Appeal had rendered a final decision rejecting his appeal in the asylum proceedings that same day, enabling his immediate removal.

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

7.1 Before considering any claim contained in a complaint, the Committee must decide whether 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.

7.2 The Committee notes that the Tbilisi Supreme Court rendered a final decision rejecting the complainant’s appeal in the asylum proceedings on 26 February 2020. It is therefore satisfied that the complainant has exhausted all available domestic remedies, for the purposes of article 22 (4) (b) of the Convention.

7.3 The Committee notes that the State party argues that the complaint is inadmissible as manifestly unfounded under article 22 (2) of the Convention and rule 113 (b) of the rules of procedure. The State party claims that the complaint does not go beyond speculation, far-fetched assumptions and meritless generalizations. It also claims that its authorities carefully examined the complainant’s personal circumstances and the general human rights situation in the Russian Federation, that they found his account to be inconsistent and incoherent on material points and that they concluded that his claim of a risk of persecution or ill-treatment lacked substance. The Committee observes that the complainant only submitted copies of alleged evidence after the State party had observed that the claims were not supported by any documentation or evidence even though the complainant was a former prosecutor. The Committee notes, in this regard, that the complainant has not refuted his inability during the asylum hearing to name the authors of the threats or to describe their motives or the contents of the threats. Despite the complainant’s assertion that the State party’s authorities failed to assess the alleged risk of treatment contrary to article 3 of the Convention owing to prison conditions in the Russian Federation, the Committee notes that the authorities considered these circumstances in both the asylum and the extradition proceedings and found no ground to grant asylum or to deny the extradition request. Further, the complainant’s arguments on the State party’s observations concerning the assurances provided by the Russian authorities contain no indication of a personal risk of treatment contrary to article 3 of the Convention. The Committee moreover finds that the complainant’s assertions that the examination of his case was not serious or that he had no possibility for review of the expulsion decision lack substantiation.

7.4 The Committee recalls that it is for the courts of the States parties to the Convention, and not for the Committee, to evaluate the facts and evidence in a particular case, unless it can be ascertained that the manner in which such facts and evidence were evaluated was clearly arbitrary or amounted to a denial of justice.<sup>25</sup> In light of the foregoing, and in the absence of any further information or explanations of relevance on file, the Committee finds that the complainant has not shown that the decisions taken by the State party's authorities suffered from any such defects.

7.5 The Committee recalls that, for a claim to be admissible under article 22 of the Convention and rule 113 (b) of its rules of procedure, it must not be manifestly unfounded. In light of the above, and in the absence of any further relevant information, the Committee concludes that the complainant has failed to sufficiently substantiate his claims for the purpose of admissibility. In light of this conclusion, the Committee decides not to examine any other inadmissibility ground as invoked by the State party.

8. The Committee therefore decides:

(a) That the complaint is inadmissible under article 22 (2) of the Convention and rule 113 (b) of its rules of procedure;

(b) That the present decision shall be communicated to the complainant and to the State party.

---

---

<sup>25</sup> *G.K. v. Switzerland* (CAT/C/30/D/219/2002), para. 6.12.