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

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Committee against Torture
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Decision

Communication No. 331/2007

Submitted by:	Mr. Michel Minani (represented by Mr. Carlos Hoyos-Tello LL.M.)
Alleged victim:	The complainant
State party:	Canada
Date of the complaint:	16 September 2007 (initial submission)
Date of present decision:	5 November 2009
Subject matter:	Risk of complainant's deportation to Burundi
Substantive issue:	Risk of torture upon return
Procedural issue:	None
Article of the Convention:	3

[Annex]

* Made public by decision of the Committee against Torture.

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-third session)

concerning

Communication No. 331/2007

Submitted by:	Mr. Michel Minani (represented by Mr. Carlos Hoyos-Tello LL.M.)
Alleged victim:	The complainant
State party:	Canada
Date of the complaint:	16 September 2007

The Committee against Torture, established under article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Meeting on 5 November 2009,

Having concluded its consideration of communication No. 331/2007, submitted on behalf of Mr. Michel Minani 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

1.1 The complainant, Mr. Michel Minani, submitted his complaint to the Committee on 16 September 2007. He is a Burundian national residing in Canada and is the subject of an order for deportation to his country of origin. He is married to Eliane Ndimurkundo, a Canadian citizen; the couple have a 2-year-old son, Yann, who has Canadian nationality. He claims that his forcible return to Burundi would constitute a violation by Canada of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. He is represented by Mr. Carlos Hoyos-Tello.

1.2 In accordance with article 22, paragraph 3, of the Convention, the Committee brought the complaint to the State party's attention in a note verbale dated 18 October 2007, but did not include a request for interim measures.

The facts as presented by the complainant

2.1 The complainant is a member of the Burundian organization Puissance Autodéfense (Self-Defence Force) (PA)-Amasekanya, which has since 1994 denounced the impunity enjoyed by those responsible for the Tutsi genocide. According to the author, the members of PA-Amasekanya, an organization involved in efforts to prevent genocide and protect

minorities in Burundi, run the risk of being subjected to torture or ill-treatment whenever they voice their opinions or attempt to hold public demonstrations.

2.2 A letter dated 10 January 2007 from the President of the Ligue burundaise des droits de l'homme (Burundian Human Rights League) mentions the complainant, noting that "all those who criticize the authorities' actions, like Michel Minani and others, run the same risk of imprisonment". Successive Governments in Burundi have reacted by ordering the mass detention of PA-Amasekanya members. The head of the organization has been detained on numerous occasions and his book and other writings have been banned from publication. The complainant maintains that, in Burundi, political prisoners such as PA-Amasekanya members are detained alongside ordinary prisoners. Conditions of detention are allegedly cruel and detainees are often beaten and tortured.

2.3 Between February and May 2004, at least 75 members of PA-Amasekanya were arrested in the course of a number of peaceful demonstrations, including Mr. Minani's brother, Jean Paul Minani. Mr. Michel Minani attended a PA-Amasekanya demonstration in March 2004, at which several demonstrators were arrested. On 15 May 2004, following a further PA-Amasekanya demonstration, the complainant spoke on behalf of PA-Amasekanya on Radio Publique Africaine. Following this radio broadcast, he was informed by a friend in the national security forces that he was wanted by the authorities. The complainant hid in another town until he left for Canada on 28 July 2004.[1]

2.4 The complainant claimed refugee status upon arrival in Canada on 12 August 2004. The Immigration and Refugee Board of Canada considered his claim on 8 August 2005 and rejected it on 7 September 2005 on the grounds that he was neither a refugee according to the Convention relating to the Status of Refugees, nor a person in need of protection under its articles 1F (a) and (c).[2] The reason that the Board gave for its decision was that PA-Amasekanya, of which the complainant is a member, is an organization with limited and violent objectives, which has reportedly "committed human or international rights violations".[3] On 23 September 2005, the complainant applied for leave and for judicial review of the Board's decision dated 7 September 2005. In his application, the complainant argued that he did not hold a position of authority within PA-Amasekanya and could not therefore be held responsible for its actions. The Federal Court rejected his application for leave and for judicial review on 3 December 2005.

2.5 In May 2006, while he was preparing his application for a pre-removal risk assessment (PRRA), the complainant found out about a footnote in a Human Rights Watch report written in English, which had been used in the Board's decision of 7 September 2005. According to the complainant, this footnote mentioned an organization composed of armed forces apparently referred to by certain communities as "Amasekanya", which should not be confused with the Tutsi organization of the same name in Bujumbura. The former has reportedly committed abuses against civilians, while the latter, of which the complainant is a member, is said to be a peaceful organization. The complainant believes that the authorities confused the two organizations with the same name, which resulted in the complainant being denied the protection of refugee status. Since the footnote was in

[1] The complainant left Bujumbura for Paris on 28 July 2004 on a false passport. On 29 July 2004, he went by car from Paris to Zurich. He flew from Zurich to Montreal on a false passport, arriving on 14 August 2004. The complainant explains that he did not seek asylum in France or Switzerland because the "success of [his] journey and flight depended on [his] traffickers, who told him what to do" (see motion record, p. 63).

[2] Convention relating to the Status of Refugees, 28 July 1951.

[3] Notice of intervention and statement of the facts and the law, 5 May 2005 hearing by the Canada Border Services Agency.

English and had not been translated for the complainant, no objection had been raised during the hearing or in the months thereafter. On these grounds, in May 2006 the complainant applied to the Board to review its previous decision. On 8 June 2006, the Board rejected the complainant's application on the grounds that it had "very limited jurisdiction to reopen hearings". It is able to do so only in cases where the "principles of natural justice" have been breached, which according to the Board did not apply in the present case. The Federal Court rejected the application for leave and for judicial review without a hearing and without giving a reason.

2.6 On 5 May 2006, the complainant submitted the application for a pre-removal risk assessment (PRRA) with a covering letter requesting a hearing under article 113 (b) of the Immigration and Refugee Protection Act.[4] He was not called to appear and his PRRA application was rejected on 28 October 2006 on the grounds that he had not established that he risked "torture or cruel or untoward treatment or punishment or a threat to [his] life upon deportation to [his] country of nationality or habitual residence" and that no "new items of evidence had been submitted to support [his] application".

2.7 The applicant was summoned to Citizenship and Immigration Canada[5] Hull to receive the PRRA decision. As the summons arrived on 14 December 2006, after the proposed date of the meeting on 7 December, the complainant was summoned to appear immediately before CIC. On 15 December 2006, the complainant reported to CIC, where he was notified of the PRRA decision and immediately arrested. His wife posted bail of 5,000 Canadian dollars for his release. On 18 December 2006, the complainant applied for leave and for judicial review of the PRRA decision.

2.8 Being due to be deported from Canada to Burundi on 19 January 2007, the complainant submitted a motion to stay the deportation to the Ministry of Justice of Canada on 15 January 2007, which was received by the Federal Court the following day. On 17 January 2007, the Federal Court refused to hear his request. The applicant did not report for deportation, but continued to seek remedy before the Federal Court.

2.9 On 29 March 2007, the Federal Court rejected the complainant's application for leave and for judicial review of the PRRA decision, which had been submitted on 18 December 2006. The immigration authorities have issued a warrant for the complainant's arrest and ordered his deportation.

The complaint

3. The complainant asserts that if he is deported to Burundi he will be subjected to torture, in violation of article 3 of the Convention, on account of his membership of and work for PA-Amasekanya.

State party's observations on admissibility and the merits

4.1 On 23 April 2008, the State party submitted its observations on the admissibility and, subsidiarily, on the merits of the complaint. It argues that the complainant's communication is inadmissible because it does not meet the minimum requirements to make it compatible with article 22. It also expresses the view that the complaint is based on mere theory and does not show that the author personally risks being subjected to torture if deported to Burundi. In particular, it maintains that there is no proof that the Burundian authorities have tortured any member of the organization to which the complainant belongs.

[4] IRPA.
[5] CIC.

4.2 The State party describes the various remedies sought by the complainant in order to show that the procedure was legal and that the Committee does not need to re-examine the facts of the case. The State party believes that, in the absence of proof of an obvious error, abuse of process, bad faith, obvious bias or serious irregularities in the procedure, the Committee should not substitute its own findings of fact for those of the Canadian authorities.

4.3 The State party begins by questioning why the complainant did not seek asylum in France or Switzerland before arriving in Canada, despite having transited through those two countries. The State party quotes the complainant's explanation that he was in the hands of traffickers who told him what to do. With regard to the refusal to grant refugee status, on 5 May 2005, the Department of Citizenship and Immigration Canada asked the Immigration and Refugee Board to have Mr. Minani excluded from the refugee protection system on the grounds that the organization to which he belonged had committed human rights violations of which he was aware. Having heard oral testimony from Mr. Minani and his counsel, the Board decided to exclude Mr. Minani from the refugee protection system on 7 September 2005. The State party submits that the Board questioned Mr. Minani at length about PA-Amasekanya's activities. The complainant responded to the Board's questions by saying that he had no knowledge of the crimes attributed to the organization. The Board concluded that "the mere fact that he was a member thereof is sufficient reason to exclude him" from the protection system. The State party considers that this issue does not fall within the jurisdiction of the Committee, as the Board's initial decision relates solely to the complainant's exclusion from the protection system and not to the alleged risk of torture.

4.4 On 23 September 2005, the complainant applied for leave and for judicial review of the Board's decision. He stated in his application that he had not personally committed or encouraged the crimes in question, and that he did not hold a position of authority within PA-Amasekanya. He alleged that he was a "mere member" of the organization.[6] The State party argues that the complainant did not contest the Board's affirmation that the organization was a movement "that incited and perpetrated violence".[7] On 3 December 2005, the Federal Court of Canada rejected the complainant's application for leave and for judicial review without giving a reason. The State party asserts that in order to obtain leave to apply for judicial review, the complainant needed to show that he had an arguable case, which required a lesser burden of proof than that required for judicial review on the merits.[8] The Court can grant an application if it is established that an administrative body has committed an error of jurisdiction, natural justice, law or any other apparent error, or error made in a perverse or capricious manner. The State party recalls that the Court did not find that any of these circumstances applied in the present case.

4.5 On 9 May 2006, the complainant applied to the Immigration and Refugee Board to reopen the procedure on the grounds that it had committed an error in its decision of 7 September 2005: it had taken into account a Human Rights Watch report of which he had not been given a translation and to which he could not respond.[9] This report described a massacre perpetrated by an organization referred to as "Amasekanya" by certain communities. The complainant argued that the organization of which he was a member had been confused with the organization mentioned by Human Rights Watch, and that that confusion was central to his exclusion from the refugee protection system. On 23 May 2006, the Canada Border Services Agency (CBSA) lodged an objection to Mr. Minani's application to reopen the procedure on the grounds that the document in question had been

[6] In quotation marks in the submission.
[7] Ibid. The State party adds other expressions taken from the text.
[8] In paragraph 14 of its submission, the State party refers to Canadian case law in the matter.
[9] This report was referred to in a footnote.

sent to the complainant's counsel three months prior to his hearing and that his counsel had not objected to the evidence submitted in English. The Agency also argued that the document in question was only one of many items of evidence supporting its decision. On 8 June 2006, after hearing the complainant, the Board rejected the application to reopen the procedure. On 25 September 2006, the Federal Court rejected the complainant's application for leave and for judicial review of the Board's decision without giving a reason.

4.6 On 4 May 2006, the complainant applied for a PRRA.[10] According to the State party, the complainant did not substantiate his application or provide any supporting evidence. When questioned about the description of the events that had led him to seek protection and about supporting evidence, the complainant indicated that relevant material would be provided in due course. Although reference was made to a letter attached to the application, the State party notes that no letter was attached thereto. On 28 October 2006, in the absence of this documentary evidence, the PRRA officer took a decision on the basis of the complainant's initial case file and more recent documentary sources[11] reporting that significant political changes had occurred in Burundi after the complainant had left. The PRRA officer rejected the complainant's application on the grounds that he had not provided evidence that he was in danger of being subjected to torture or other prohibited treatment upon his return to Burundi. The State party adds that the PRRA officer acted in accordance with Canadian legislation, which does not require a hearing to be held if the officer concerned does not doubt the credibility of an applicant. On 18 December 2006, the complainant applied for leave and for judicial review of the PRRA officer's decision. On 27 March 2007, the Federal Court dismissed this application.

4.7 On 15 January 2007, the complainant applied for a stay of the deportation order that was due to be executed on 17 January 2007. The Court rejected this application on the grounds that the complainant had not given good reason for having missed the application deadline. On 18 January 2007, a warrant for the complainant's arrest was issued when he failed to appear at the office of the Canada Border Services Agency as agreed. On 19 January 2007, the author failed to report at Montreal Airport to be deported to Burundi. Mr. Minani has not contacted the Canadian authorities since that date and is currently in hiding.

4.8 The State party maintains that Mr. Minani's application does not meet the minimum requirements to make it compatible with article 22 of the Convention. Article 3 requires "substantial grounds for believing that the author would be in danger of being subjected to torture". "The risk of torture must be assessed on grounds that go beyond mere theory or suspicion." The State party considers that the conditions established under rule 127 of the rules of procedure have not been met.

4.9 The State party argues that the complaint is without merit given the lack of evidence of a personal risk of torture, whether as an individual or as a member of PA-Amasekanya. There is no evidence to indicate that any member of that organization has been tortured and the complainant refers solely to the risk of being arrested. He adds that detainees "are often beaten and tortured" in Burundian prisons. The State party considers that none of the elements in the case file provides evidence that torture is systemic or endemic in Burundian prisons. PA-Amasekanya is not among the groups whose members are particularly at risk in Burundian prisons.

4.10 The State party also points to the lack of evidence showing that the complainant risks imprisonment and, consequently, exposure to ill-treatment upon his return to Burundi. The complainant refers to a letter written by the President of the Ligue burundaise des

[10] The complainant gives the date as 5 May 2006 and not 4 May 2006.

[11] The submission refers to the PRRA decision which mentions reports by non-governmental organizations, the State Department of the United States and the Canadian authorities.

droits de l'homme, which mentions that Mr. Minani is particularly exposed to such risks. The State party questions whether the person meant in that letter is really Mr. Minani, as he himself had declared during the Federal Court hearing of 23 September 2005 that he was a mere member of PA-Amasekanya and had shown that he had only taken part in a radio broadcast.

4.11 The "numerous, sometimes mass, detentions" mentioned by the complainant occurred in February and May 2004. All of the organization's members arrested during those events have since been released. Thus, there is not, at present, any risk of being imprisoned on account of belonging to PA-Amasekanya. The State party recalls that article 3 of the Convention cites the danger of being subjected to torture — not detention — as the basis for the principle of non-refoulement. The State party argues that the scope of article 3 does not extend to the risk of treatment prohibited under article 16 of the Convention, as it mentions only torture as defined by article 1. The State party considers that the complainant has not demonstrated that the conditions of detention in Burundi are inhuman, cruel or degrading.

4.12 As a subsidiary argument to its observations on admissibility, the State party maintains that the complaint should be found inadmissible on the merits for the above-mentioned reasons.

Complainant's comments on the State party's observations on the admissibility and the merits

5.1 With regard to the complaint being inadmissible on the grounds that the allegations put forward by the complainant lacked foundation, counsel considers that there have been obvious errors and serious irregularities in the due process. Counsel maintains that the Committee should therefore rule on these issues. He refers to the obvious error in the decision of 7 September 2005 excluding the complainant from the refugee protection system. Despite the obligation under Canadian law to translate evidence used against a person appearing in court into his or her language, no one had translated the footnote contained in the Human Rights Watch report used during the Immigration and Refugee Board hearing. The State party cannot evade its obligation to translate this evidence on the pretext that the complainant was allowed enough time to obtain a translation of the document. The complainant adds that the Board's decision did not even mention this footnote, which should have precluded it from constituting evidence which could be used to exclude the complainant. The latter believes that this document was central to the decision to exclude him. With regard to the other documents used by the authorities, the complainant considers them to be irrelevant, as they simply repeat the "clever comments" of government spokespersons, without mentioning any specific crimes attributable to Amasekanya.

5.2 According to the complainant, the irregularity of the procedure rests on the fact that he was denied the protection associated with refugee status. The complainant notes that the organization to which he belongs is a peaceful one. In support of his argument, he quotes an affidavit from the President of PA-Amasekanya, which refers to acts of persecution, such as the police breaking up one of the organization's meetings on 13 October 2007. The affidavit mentions the arrest on 21 October 2007 of 10 of the organization's members, who were reportedly tortured and beaten during their detention and to whom their families were not permitted to bring food. The President of PA-Amasekanya adds that the members of the organization risk being imprisoned, tortured or beaten every time they hold a demonstration. Some members of the organization have been killed by genocidal groups in Burundi. The complainant believes that his membership of PA-Amasekanya exposes him to the same risk of torture as those other members who have already been arrested and tortured. The complainant also mentions the arrest of his brother, Jean-Paul Minani, and subsequent disappearance since 2004.

5.3 The complainant reaffirms that he is indeed the person mentioned in the letter of 10 January 2007 from the President of the Ligue burundaise des droits de l'homme, which confirms the personal risk to which he is exposed. The complainant accordingly rejects the State party's argument that he does not personally risk torture.

5.4 As for the argument that torture is not systemic in Burundian prisons, the complainant mentions a report by the independent expert on the situation of human rights in Burundi, which refers to the growing number of cases of torture, including at the time of arrest. This report contradicts Canada's allegations that torture is not a systemic practice in Burundian prisons.

5.5 Lastly, the complainant maintains that he applied for a stay of his deportation to Burundi within the statutory time limit and that the legal precedent that prompted the Federal Court to reject the complainant's application pertains to applications made just hours before deportation, not several days before as in the complainant's case.

5.6 The complainant believes the fact that he was unjustly "labelled" as a member of a criminal organization from the start of the procedure distorted the authorities' judgement and led to him being denied refugee status protection. The "flagrant" injustice of the Board's decision affected all subsequent decisions.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering an allegation in a communication, the Committee against Torture must decide whether or not the communication is admissible under article 22 of the Convention. It has ascertained, as it is required to in accordance with 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.

6.2 The Committee notes that the State party has raised an objection to admissibility based on the fact that the complaint is manifestly without foundation because of a lack of evidence, and that the alleged risk to the complainant does not meet the definition contained in article 1 of the Convention. The complaint would therefore supposedly be incompatible with article 22 of the Convention. The Committee considers, however, that the arguments before it appear to raise issues that need to be considered on the merits, rather than simply for the point of view of admissibility. As the Committee finds no further obstacles to admissibility, it declares the communication admissible and proceeds with consideration of the merits.

Consideration of the merits

7.1 The Committee must decide whether the complainant's deportation to Burundi would violate the State party's obligation under article 3 of the Convention not to expel or 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.

7.2 In reaching this decision, the Committee must take into account all relevant considerations, pursuant to article 3, paragraph 2, of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights. The aim of the determination, however, is to establish whether the individual concerned would be personally at risk of being subjected to torture in the country to which he or she would return. 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 a sufficient ground for determining that a particular person would be in danger of being subjected to torture upon his return to that country; additional grounds must exist to show that the individual

concerned would be personally at risk. Similarly, the absence of a consistent pattern of gross violations of human rights does not mean that a person cannot be considered to be in danger of being subjected to torture in his or her specific circumstances.

7.3 The Committee recalls its general comment No. 1 on implementation of article 3 in the context of article 22, which states that the Committee is to assess whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if deported to the country concerned. The risk need not be highly probable, but it must be personal and present. In this regard, in previous decisions, the Committee has determined that the risk of torture must be "foreseeable, real and personal".[12]

7.4 With regard to the burden of proof, the Committee also recalls its general comment and its previous decisions, according to which the burden is generally on the complainant to present an arguable case and the risk of torture must be assessed on grounds that go beyond mere theory or suspicion.

7.5 In assessing the risk of torture in the present case, the Committee has noted that the complainant states that he is a member of the Burundian organization PA-Amasekanya, which has since 1994 denounced the impunity enjoyed by those responsible for the Tutsi genocide. It has also noted the allegation that, as a member of this organization, the complainant runs the risk of being arrested and then tortured during detention, an allegation largely based on a letter dated 10 January 2007 written by the President of the Ligue burundaise des droits de l'homme, which mentions the complainant as running a substantial risk of imprisonment. The Committee has noted the allegation that the complainant made a radio broadcast in 2004 which, in his view, resulted in a wanted notice being issued for him. The Committee has noted the complainant's argument that PA-Amasekanya members are tortured during detention. It notes that the complainant has provided a letter written by the PA-Amasekanya President which testifies that torture was practised on members of the organization, who have since been released. Lastly, the Committee notes that the complainant's brother is reported to have been arrested in 2004 and to have subsequently disappeared.

7.6 The State party contests the merits of the complainant's allegations given the lack of evidence of a personal risk of torture, whether as an individual or as a member of PA-Amasekanya. It points to the lack of evidence proving that the complainant risks imprisonment and exposure to ill-treatment on his return to Burundi. The State party has also highlighted the significant political changes in Burundi since the complainant left.

7.7 The Committee notes that the complainant has not provided evidence that he was wanted by the Burundian authorities.[13] The complainant has based his allegation that he risks torture if deported to Burundi purely on his affiliation to PA-Amasekanya. Having previously argued before the Canadian authorities that he was an active and committed member of the organization, he changed his approach, admitting that he was a "mere member" when the Canadian authorities made it clear that involvement with the organization would constitute grounds for denying him the protection of refugee status. The complainant submits that, since PA-Amasekanya members are particularly at risk of arrest and torture, he would be exposed to the same risk if deported to Burundi. Only a letter signed by the PA-Amasekanya President testifies that the organization's members have been tortured, and the letter is not supported by the testimony of a victim or other relevant documents that would lead the Committee to conclude that the complainant was at real risk

[12] Communication No. 203/2002, *A.R. v. The Netherlands*, Views adopted on 21 November 2003, para. 7.3.

[13] No evidence of a warrant for the complainant's arrest.

on account of his PA-Amasekanya membership. Lastly, the Committee notes that the risk of the complainant being arrested on his return to Burundi is substantiated only by a letter from the President of the Ligue burundaise des droits de l'homme dated 10 January 2007, which mentions only a risk of imprisonment and not a substantial, real and personal risk of torture. The complainant refers to the disappearance of his brother but provides no evidence thereof.[14] In the light of the above, the Committee considers that the complainant has not been able to provide objective evidence of a personal, real and present risk of torture upon return to Burundi.

7.8 The Committee notes that the complainant submitted his arguments and supporting evidence to the various State party authorities. It also notes the State party's observation that, in the absence of procedural irregularities, the Committee should not substitute its own findings of fact for those of the Canadian authorities. The Committee nevertheless observes that, while it gives considerable weight to findings of fact made by the organs of the State party, it has the power of free assessment of the facts arising in the circumstances of each case.[15] In the present case, the Committee notes that the complainant believes that obvious errors and serious irregularities did occur in the procedure concerning refugee status and that, because of those irregularities, the risk of torture in the event of deportation was not assessed. However, the Committee notes that the risk in question was in fact assessed in the PRRA officer's decision dated 28 October 2006, in the light of all the elements of the case file made available to him. Moreover, the fact that the complainant was not called to a hearing is not of itself a procedural irregularity insofar as his arguments were considered by the Canadian authorities. Accordingly, the evidence received by the Committee does not show that the State party's examination of the complainant's allegations was flawed.

7.9 Lastly, the Committee must reiterate that, for the purposes of article 3 of the Convention, the individual concerned must face a foreseeable, real and personal risk of being tortured. On the basis of the above, the Committee considers that the complainant has not substantiated his claim that he faces a real and imminent risk of being subjected to torture upon his return to Burundi.

7.10 The Committee against Torture, acting under article 22, paragraph 7, of the Convention, considers that the complainant has not substantiated his claim that he would be tortured upon return to Burundi and therefore concludes that the complainant's removal to that country 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.]

[14] No copy of a missing person notice, for example.

[15] Communication No. 258/2004, *Dadar v. Canada*, Views adopted on 23 November 2005, para. 8.8.