



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

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Committee against Torture

Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 896/2018*, **

<i>Communication submitted by:</i>	T.S. (currently represented by Leijen & Nandoe Advocaten; previous counsel, Anton Hol)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Netherlands
<i>Date of complaint:</i>	2 November 2018 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 115 of the Committee's rules of procedure, transmitted to the State party on 13 November 2018 (not issued in document form)
<i>Date of present decision:</i>	19 July 2021
<i>Subject matter:</i>	Deportation to Sri Lanka
<i>Procedural issue:</i>	None
<i>Substantive issue:</i>	Risk of torture or cruel, inhuman or degrading treatment or punishment, if deported to country of origin (non-refoulement)
<i>Article of the Convention:</i>	3

1.1 The complainant is T.S., a national of Sri Lanka born in 1987. His requests for asylum in the Netherlands were rejected, and he risks forcible removal to Sri Lanka. The complainant asserts that, if the Netherlands were to proceed with his deportation, it would violate its obligations under article 3 of the Convention. The State party has made the declaration pursuant to article 22 (1) of the Convention, effective from 20 January 1989. The complainant is represented by counsel.

1.2 On 13 November 2018, pursuant to rule 114 (1) of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, asked that the State party not deport the complainant to Sri Lanka while the communication was being considered by the Committee.

Facts as submitted by the complainant

2.1 The complainant, a national of Sri Lanka of Tamil ethnicity, was born in the district of Jaffna, Northern Province, Sri Lanka. In 1995, the complainant fled to Kilinochchi, a town

* Adopted by the Committee at its seventy-first session (12–30 July 2021).

** The following members of the Committee participated in the examination of the communication: Essadia Belmir, Claude Heller, Erdoğan İşcan, Liu Huawen, Ilvija Pūce, Ana Racu, Diego Rodríguez-Pinzón, Sébastien Touzé, Bakhtiyar Tuzmukhamedov and Peter Vedel Kessing.



controlled by the Liberation Tigers of Tamil Eelam at that time.¹ From 2005 to 2008, the complainant worked as a welder in a workshop owned by members of the Liberation Tigers of Tamil Eelam.

2.2 In January 2008, the complainant, along with his brother and sister, was required to take part in a physical training programme with the Liberation Tigers of Tamil Eelam. For two to three months, the complainant was forced to dig bunkers and crawl on his knees for several hours a day. As a result of the latter, he now walks with a limp.

2.3 When the fighting between the Sri Lankan authorities and the Liberation Tigers of Tamil Eelam intensified, the complainant, his siblings and his parents sought shelter wherever it could be found. In 2008, the complainant witnessed the death of his brother in an air strike carried out by the Sri Lanka Army.² In May 2009, the complainant was again approached by the Liberation Tigers of Tamil Eelam and forced to dig bunkers. He also helped them to transport wounded persons.

2.4 On 14 May 2009, the complainant and his sister left Mullivaikkal³ and handed themselves over to the Sri Lanka Army. They were placed in detention in a provisional army camp in Omanthai, where they were interrogated about their potential affiliation with the Liberation Tigers of Tamil Eelam. On 15 May 2009, the complainant and his sister were taken to the Vavuniya refugee camp. They were both interrogated on multiple occasions and ill-treated by the officers. The complainant indicates that he was subjected to sexual assault, but that he was not raped. In September 2009, the complainant was transferred to the Joseph detention camp. During his confinement, the complainant was interrogated on a regular basis and asked about his involvement with the Liberation Tigers of Tamil Eelam and whether he knew people who were members of the organization. On several occasions during the interrogations, he was tortured.⁴ The complainant consistently denied having any affiliation with the Liberation Tigers of Tamil Eelam.

2.5 In February 2011, the complainant escaped from the Joseph detention camp, with the help of his uncle, who had paid a bribe to the authorities. He went to Colombo, where he remained for a few days waiting for a trafficker to arrange for his flight from Sri Lanka using falsified travel documents. He arrived in the Netherlands on 7 March 2011.

2.6 The complainant submitted his first asylum request on 30 March 2011, which was rejected by the Immigration and Naturalization Service on 7 April 2011. The Service found that the complainant's account lacked credibility, in particular regarding his training and other activities with the Liberation Tigers of Tamil Eelam, his detention by the Sri Lanka Army and the circumstances of his escape from detention. On 7 April 2011, the complainant lodged an application for judicial review of that decision with the District Court of The Hague. On 28 April 2011, the complainant's application was dismissed. The Court established that, on the basis of the general country information before it and the individual circumstances of the complainant's case, it could not be inferred that the complainant had such a risk profile as would allow the Court to conclude that he faced a real and foreseeable risk of torture or ill-treatment upon his return to Sri Lanka. On 5 May 2011, the complainant filed for appeal to the Administrative Jurisdiction Division of the Council of State, which was rejected as manifestly unfounded in a decision dated 19 May 2011.

¹ See Council of Europe Decision (CFSP) 2020/20 of 13 January 2020 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2019/1341. Available at <https://eur-lex.europa.eu/eli/dec/2020/20/oj>. See also <http://data.europa.eu/eli/dec/2021/1192/oj>.

² On an unspecified date during the bombardments, the complainant and his sister also lost contact with their parents.

³ It is unknown from the complaint and the supporting documents when they arrived in Mullivaikkal, but it appears that they left Mullivaikkal immediately before it was captured by the Sri Lanka Army, during the final phase of civil war between the Liberation Tigers of Tamil Eelam and the armed forces, in May 2009.

⁴ The complainant does not provide any details about the circumstances of torture and sexual assault to which he was subjected. It is only stated that he has many scars all over his body and that his teeth have been injured as a consequence of the ill-treatment.

2.7 In December 2011 or January 2012, the complainant wrote a letter to his mother to inquire about the situation in Sri Lanka. The complainant's uncle answered the letter and informed the complainant that the Sri Lankan authorities were still looking for him. His uncle sent him three documents, transmitted on behalf of the complainant's mother, namely, a letter from the police station in Kilinochchi dated 21 February 2011, a summons enumerating the accusations against the complainant dated 3 November 2011 and a warrant for the complainant's arrest dated 8 December 2011.

2.8 On 14 June 2012, the complainant submitted a new application for a temporary asylum residence permit on the basis of the new evidence received from his uncle. His asylum application was denied by the Immigration and Naturalization Service on 22 June 2012. The decision of the authority of first instance was based on the opinion of the Royal Military and Border Police, in which the latter had concluded that the submitted documents had not been drawn up and issued by the competent authorities, due to the irregularities detected in their format. The complainant's appeal was rejected by the District Court of The Hague on 19 August 2014. No appeal was sought against that judgment.

2.9 On 15 April 2015, the complainant submitted his third application for asylum. He based the application on the fact that, in early December 2014, he had had the emblem of the Liberation Tigers of Tamil Eelam tattooed on his upper right arm. The application was dismissed on 20 November 2015 on the grounds that the tattoo did not indicate that the complainant was to be regarded as a high-profile individual playing a significant role in Tamil separatism or any activities against the Government of Sri Lanka.⁵ The complainant's appeals were rejected on 18 December 2015 by the District Court of The Hague and on 5 February 2016 by the Administrative Jurisdiction Division of the Council of State.

2.10 On 2 June 2017, the complainant submitted a new asylum request on the basis of a medical report issued by the Institute for Human Rights and Medical Assessment. On 7 June 2017, his application was denied by the Immigration and Naturalization Service. On 28 June 2017, the District Court of The Hague declared the complainant's request for judicial review well founded. That decision was challenged by the Minister for Migration and, by judgment of 7 November 2017, the Administrative Jurisdiction Division of the Council of State declared the complainant's request for judicial review unfounded.

2.11 With reference to those proceedings, the complainant claims that he has exhausted all available domestic remedies.

2.12 It is further submitted that the complainant has been actively engaged in various events organized by Tamils in the Netherlands, such as the annual commemorations of Heroes Day. On 20 March 2013, the complainant became a member of the Tamil Youth Organization in the Netherlands. Apart from participating in demonstrations against the Government of Sri Lanka, he provides assistance in organizing the events. On 20 May 2015, he also gained membership in the Dutch Tamil Forum, a group whose aim is promoting an independent Tamil state.

Complaint

3.1 The complainant claims that his deportation to Sri Lanka would constitute a violation of his rights under article 3 of the Convention. He claims that there are substantial grounds for believing that he would be subjected to torture or cruel, inhuman or degrading treatment or punishment at the hands of the authorities of Sri Lanka.

3.2 In particular, the complainant alleges that he has been subjected to ill-treatment in the past by the Sri Lanka Army. He underlines that the forensic medical report attests to his

⁵ It appears from the court documents that the complainant submitted an attestation as well, dated 25 December 2014, drawn up by the village officer (*grama niladhari*) on the basis of his mother's statement claiming that eight unidentified men, some in uniforms and some in plain clothing, went to the house of the complainant's parents to inquire about his whereabouts. The complainant's mother reported the incident to the police; the extract of the police report was also attached to the court file. The court, however, found that those documents did not have probative value, given that they were prepared at the request of the complainant's mother.

account about the cause of his injuries.⁶ It is also evident from the documents he provides, such as the warrant for his arrest, that he remains a person of interest to the Sri Lankan authorities. He underlines that the summons dated 3 November 2011, issued by the magistrate's court in Colombo at the request of the Counter-Terrorism Investigation Division, indicates that there have been allegations made against him of aiding terrorists. The documents were verified as genuine by the Ministry of Foreign Affairs of Sri Lanka on 10 February 2012.

3.3 The complainant claims that, ever since his arrival in the Netherlands, he has been an active member of the Tamil diaspora. He has closely cooperated with two leaders of the Liberation Tigers of Tamil Eelam in the organization of Tamil events by the Tamil Youth Organization in the Netherlands. Those persons are listed in the *Gazette of Sri Lanka* as terrorists. The complainant asserts that he remains politically active in the Netherlands up to the present day.

State party's observations on the merits

4.1 On 13 May 2019, the State party submitted its observation on the merits of the communication. After explaining the legislation and procedures applicable to the complainant's case, as well as the country situation in Sri Lanka, the State party submits that the complainant has not established satisfactorily that he would be at risk of treatment contrary to article 3 of the Convention if returned to Sri Lanka. The State party indicates that the complainant was interviewed several times during his asylum application procedures, with the assistance of an interpreter. The complainant also had the opportunity to submit corrections and additions to the reports of the interviews, and to respond to the notifications of intent to deny his asylum applications. He had legal representation throughout the proceedings. The asylum procedure, with the necessary safeguards, therefore offered the complainant sufficient opportunities to satisfactorily establish the veracity of his account. The District Court of The Hague and the Administrative Jurisdiction Division of the Council of State carefully assessed his claims in four sets of proceedings. Nevertheless, most of the complainant's narrative was found not to be credible, and other risk factors cited by him, considered individually and cumulatively, have not demonstrated that he has been of interest to the Sri Lankan authorities to the present day.

4.2 Citing the judgment of the European Court of Human Rights in *N.A. v. the United Kingdom*⁷ and the decision of the Upper Tribunal (Immigration and Asylum Chamber) of the United Kingdom of Great Britain and Northern Ireland in *G.J. and others v. Secretary of State for the Home Department*,⁸ and on the basis of his claims, the State party assesses that, unlike in the cited cases, in the present case, there is no real risk that the complainant would be perceived to have a significant role in diaspora activities designed to destabilize the unitary State of Sri Lanka and revive the internal armed conflict.

4.3 The State party considers that the complainant has not established satisfactorily that the Sri Lankan authorities were aware of his participation in training and other activities affiliated with the Liberation Tigers of Tamil Eelam. In that regard, the State party underlines

⁶ The report contains findings indicating that the scars on the complainant's face and the condition of his teeth are consistent with the complainant's statement that they were caused as a result of ill-treatment with a rifle butt. The scars on his knees are consistent with his statement that they had been caused by continuous crawling. The scars on his upper back are consistent with his statement that they were caused by being hanged with hooks sunk in his muscles. The scars on his elbow are consistent with his statement that they were caused by being hit with a wooden stick. The scars on his lower arm are consistent with his statement that they were caused by cigarette burns. The psychological problems, including post-traumatic stress disorder, fear, paranoid and depressive feelings and memory and concentration problems, are typical of patients who have been subjected to torture and other forms of ill-treatment.

⁷ European Court of Human Rights, *N.A. v. the United Kingdom* (application No. 25904/07), judgment of 17 July 2008.

⁸ United Kingdom of Great Britain and Northern Ireland, Upper Tribunal (Immigration and Asylum Chamber), *G.J. and others v. Secretary of State for the Home Department*, decision adopted on 5 July 2013.

that the complainant's narrative has not been found credible by the domestic authorities for the following reasons: (a) on several points relating to the the circumstances of his trainings with the Liberation Tigers of Tamil Eelam, he has provided cursory and contradictory statements;⁹ (b) it is implausible that, despite his assertions to the contrary, he was not required to use weapons during the training, given the tense conflict between the Liberation Tigers of Tamil Eelam and the Sri Lankan authorities at the time; (c) it is implausible in the light of the general country situation that, despite his assertions to the contrary, neither the complainant nor his family members were recruited by the Liberation Tigers of Tamil Eelam earlier than 2008; (d) it is implausible that the complainant, despite his assertions to the contrary, had never participated in the armed conflict between the Liberation Tigers of Tamil Eelam and the Sri Lankan authorities, and his explanation that he managed to hide from the authorities seemed weak; (e) his account lacked details about the circumstances of his detention, in spite of its lengthy period (17 months); and (f) his statements about the circumstances of his escape from detention were found to be implausible.¹⁰

4.4 The State party submits that, in addition, the domestic courts could not accept any of the documents submitted by the complainant as evidence because they were found by the Royal Military and Border Police not to have been issued by the competent authorities, due to irregularities detected in their format. Even though the complainant was given the opportunity by the District Court of The Hague to obtain another expert opinion within three months in order to prove that the documents were genuine, he failed to do so.

4.5 With regard to the forensic medical report submitted in the context of the fourth set of asylum proceedings, the State party notes that, on 14 March 2011, the complainant was examined and found to be medically fit to be interviewed. During his interviews, he explicitly stated that there were no medical reasons that would preclude his being interviewed. It was only in the fourth set of proceedings that the complainant indicated that his medical condition, namely, the progression of chronic post-traumatic stress disorder, may have interfered with his ability to provide a complete and coherent account of his case. The State party submits in that regard that the complainant lacked credibility not only due to the inconsistencies detected in his narrative, but also because some of his allegations seemed to be in conflict with the general country information. In the light of those circumstances, the domestic courts did not deem it necessary to request further medical examination or to give the complainant the benefit of the doubt. Regarding the causes of the complainant's injuries, the State party underlines that the medical report took the complainant's statements for granted and failed to consider other circumstances that could have led to his injuries or his having developed post-traumatic stress disorder. Accordingly, the State party concludes that it had no obligation to further investigate the complainant's risk of being subjected to treatment contrary to article 3 of the Convention if returned to Sri Lanka.

4.6 The State party submits that, contrary to what the complainant argues, it cannot be assumed that he left Sri Lanka illegally. He has not submitted any documents to establish his nationality, identity or travel route, or to demonstrate the veracity of his account. He did not provide detailed, coherent and verifiable statements regarding his journey. For example, he did not specify the airline on whose flight he took from Sri Lanka. He has also been unable to recall the name indicated in his fake passport or the language in which the passport was issued. It is reasonable to expect him to be able to provide such basic information.

4.7 The State party observes that, in addition, the complainant has not shown that the Sri Lankan authorities are aware of his involvement with the Tamil Youth Organization in the Netherlands and his participation in several demonstrations against the Sri Lankan authorities. In any event, those activities are too marginal for the complainant to be seen as an activist

⁹ The State party submits that the complainant was unable to provide the names of the trainers and other leaders of the Liberation Tigers of Tamil Eelam from his region. He was not consistent in his claims as to whether he had to dig bunkers or trenches.

¹⁰ The State party argues that, at the beginning of the asylum proceedings, the complainant submitted that it was a Sri Lankan soldier who had helped him escape from detention. It is implausible, however, according to the State party, that a Sri Lankan soldier, who was completely unknown to the complainant and spoke very little Tamil, would take the risk to facilitate the escape of a Tamil detainee.

who is of interest to the Government of Sri Lanka. The complainant's additional statements in that regard, namely, that he has worked with persons identified as terrorists by the Government of Sri Lanka do not change the assessment that no evidence has been submitted to corroborate the complainant's assertions in that regard.

4.8 The State party submits that, based on the domestic courts' finding that the complainant lacked credibility and that he did not take part in the armed conflict in Sri Lanka, but instead performed marginal activities outside of his country of origin, it concludes that getting a tattoo in itself does not render him at risk of being perceived as a high-profile individual who would be of interest to the Sri Lankan authorities. With regard to the scars on the body of the complainant, the State party reiterates that the medical report does not discount possible causes other than his own story for the complainant's injuries. In any event, given that there is no indication that the complainant has attracted the adverse attention of the Sri Lankan authorities, there is no reason to conclude that he would attract such attention merely because of his scars.

4.9 The State party submits that the fact that the complainant would be returned to Sri Lanka from the Netherlands without an identity card is not in itself sufficient reason to believe that he would be subjected to ill-treatment upon his return. It is argued by the State party that the Sri Lankan authorities are aware that many people emigrate for economic reasons and that every year the number of Tamil asylum seekers forcibly returned to Sri Lanka varies from a few to more than a thousand. While acknowledging that some returnees have become victims of treatment contrary to the Convention, that does not necessarily lead to the conclusion that every returnee faces such a risk.

4.10 In the light of the above information, the State party concludes that the complainant has not satisfactorily established that he would be subjected to treatment contrary to article 3 of the Convention upon his return to Sri Lanka. Therefore, his removal to Sri Lanka would not constitute a breach thereof.

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

5. On 18 July 2019, the complainant submitted comments on the State party's observations on the merits of the communication. He objects primarily to the State party's position that his account was found non-credible by the domestic authorities because of inconsistencies in his statements. He underlines that, in the first set of proceedings, he was represented by a counsel who had failed to explain before the State party's authorities that the complainant had bribed his way out of detention, and therefore the State party's arguments are not valid in that regard. He explains that he informed the State party that he had worked as a welder in a garage and repaired Liberation Tigers of Tamil Eelam vehicles that were used to transport weapons, food, medication, fuel and wounded militants, which is probably the reason why he had not been approached by the Liberation Tigers of Tamil Eelam earlier than 2008. He submits that he cannot recall any of the names of the leaders in the training camp, because their names were not revealed to the detainees, who were obliged to address the leaders as "elder brother" in the Tamil language. Regarding the State party's argument about the complainant's contradictory statements as to whether he had been digging trenches or bunkers, he submits that the misunderstanding is the result of a translation error. He notes that, contrary to the State party's assertion, he gave a detailed account of the conditions of his detention. In that regard, the complainant refers to the minutes of his second interview. In addition, he contends that the State party draws unreasonable conclusions from the medical report issued by the Institute for Human Rights and Medical Assessment.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any complaint submitted in a communication, the Committee must decide whether the communication 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.

6.2 The Committee recalls that, in accordance with article 22 (5) (b) of the Convention, it shall not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. The Committee notes that the complainant appealed the negative decision concerning his asylum application to the District Court of The Hague on 7 April 2011 and that he sought leave to appeal to the Administrative Jurisdiction Division of the Council of State, which was rejected on 19 May 2011. The complainant's appeal against the negative decision concerning his second asylum application was rejected by the District Court on 19 August 2014. The negative decision concerning his third asylum application was appealed to the District Court and he sought leave to appeal to the Administrative Jurisdiction Division, but those applications was rejected on 18 December 2015 and 5 February 2016, respectively. The complainant's fourth asylum application was rejected on 7 June 2017, however, the District Court declared the complainant's request for judicial review well founded. That decision was challenged by the Minister for Migration and, by judgment of 7 November 2017, the Administrative Jurisdiction Division declared the complainant's request for judicial review unfounded. The Committee notes that, in the present case, the State party has not challenged the admissibility of the complaint on those grounds. Accordingly, the Committee considers that it is not precluded by article 22 (5) (b) from examining the present communication.

6.3 The Committee considers that the complainant has sufficiently substantiated his allegations of a risk of torture or other ill-treatment by the Sri Lankan authorities for his perceived affiliation with the Liberation Tigers of Tamil Eelam for the purposes of admissibility. The Committee notes that the State party has not challenged the admissibility of the communication on any grounds. Given that the Committee finds no obstacles to admissibility, it declares the complainant's claims under article 3 of the Convention admissible and proceeds with its consideration of the merits.

Consideration of the merits

7.1 In accordance with article 22 (4) of the Convention, the Committee has considered the communication in the light of all the information made available to it by the parties.

7.2 In the present case, the issue before the Committee is whether the return of the complainant to Sri Lanka would constitute a violation of the State party's 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.

7.3 The Committee must evaluate whether there are substantial grounds for believing that the complainant would be personally at risk of being subjected to torture upon return to Sri Lanka. In assessing that risk, the Committee must take into account all relevant considerations, pursuant to article 3 (2) of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights. However, the Committee recalls that the aim of the determination is to establish whether the individual concerned would be personally at a foreseeable and real risk of being subjected to torture in the country to which the individual would be returned. It follows that 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. Conversely, the absence of a consistent pattern of flagrant violations of human rights does not mean that a person might not be subjected to torture in his or her specific circumstances.¹¹

7.4 The Committee recalls its general comment No. 4 (2017) on the implementation of article 3 in the context of article 22, according to which the Committee will assess "substantial grounds" and consider the risk of torture as foreseeable, personal, present and real when the existence of credible facts relating to the risk by itself, at the time of its decision, would affect the rights of the complainant under the Convention in case of his or her

¹¹ See, e.g. *E.T. v. the Netherlands* (CAT/C/65/D/801/2017), para. 7.3; and *Y.G. v. Switzerland* (CAT/C/65/D/822/2017), para. 7.3.

deportation. Indications of personal risk may include, but are not limited to: (a) the complainant's ethnic background; (b) political affiliation or political activities of the complainant or his or her family members; (c) arrest or detention without guarantee of a fair treatment and trial; (d) sentence in absentia; and (e) previous torture (para. 45). With respect to the merits of a communication submitted under article 22 of the Convention, the burden of proof is upon the author of the communication, who must present an arguable case, that is, submit substantiated arguments showing that the danger of being subjected to torture is foreseeable, present, personal and real (para. 38). The Committee also recalls that it gives considerable weight to findings of fact made by organs of the State party concerned, however it is not bound by such findings, as it can make a free assessment of the information available to it in accordance with article 22 (4) of the Convention, taking into account all the circumstances relevant to each case (para. 50).

7.5 In assessing the risk of torture in the present case, the Committee takes note of the complainant's claim that he would face a risk of treatment contrary to article 3 of the Convention by the Sri Lanka Army if he were returned to Sri Lanka, because of his Tamil ethnicity and presumed affiliation with the Liberation Tigers of Tamil Eelam. In that regard, the Committee also takes note of the complainant's assertion that he worked as a welder in a garage owned by members of the Liberation Tigers of Tamil Eelam and that, for several months, he was forced to attend a military training in a camp operated by the Liberation Tigers of Tamil Eelam. The Committee further takes note of his contention that he was confined in detention camps by the Sri Lanka Army, where he was interrogated multiple times about his possible involvement with the Liberation Tigers of Tamil Eelam, and that he was tortured on several occasions during the interrogations. The Committee takes note of his contention that he escaped from the camp and managed to leave Sri Lanka, after his uncle arranged for his release by paying a bribe. The Committee is mindful of the documents brought before it, including a warrant for the complainant's arrest and a medical report issued by the Institute for Human Rights and Medical Assessment. The Committee takes note of the complainant's statement that he had the emblem of the Liberation Tigers of Tamil Eelam tattooed on his right upper arm. The Committee notes that he is a member of the Tamil Youth Organization in the Netherlands and the Dutch Tamil Forum and that he was part of various events organized by Tamil groups in the Netherlands, including in cooperation with persons listed as terrorists in the *Gazette of Sri Lanka*.

7.6 The Committee observes that the State party authorities considered that the complainant's narrative was not credible, because he had provided inconsistent and vague statements concerning essential elements of his account. The Committee takes note of the State party's observation that, during asylum proceedings, the complainant, who was represented by legal counsel, was examined and found to be medically fit to be interviewed. It was only in the context of the fourth set of proceedings that the complainant indicated that his medical condition, namely, the progression of chronic post-traumatic stress disorder, might have interfered with his ability to provide complete and coherent accounts of his case. The Committee takes note of the State party's position that the report issued by the Institute for Human Rights and Medical Assessment does not prove that the complainant was subjected to torture, because the scars it describes could have had other causes. The Committee also takes note of the State party's statement that the arrest warrant and additional documents adduced by the complainant were found not to have been issued by the competent authorities, due to irregularities detected in their format, and that the complainant failed to challenge that assessment, even though he had the opportunity to do so. The Committee observes the State party's position that there is no indication that the complainant has been sought by, or attracted the adverse attention of, the Sri Lankan authorities and that his current activities are too marginal to be of interest to the authorities.

7.7 The Committee notes the current human rights situation in Sri Lanka and refers to its concluding observations on the fifth periodic report of Sri Lanka, in which it expressed concern, *inter alia*, about reports on the persistence of abductions, torture and ill-treatment perpetrated by State security forces in Sri Lanka, including the military and the police,¹²

¹² CAT/C/LKA/CO/5, paras. 9–12. See also Human Rights Council resolution 46/1, on promoting reconciliation, accountability and human rights in Sri Lanka.

which had continued in many parts of the country after the conflict with the Liberation Tigers of Tamil Eelam ended in May 2009. It also refers to credible reports by non-governmental organizations¹³ concerning the treatment by the Sri Lankan authorities of individuals returned to Sri Lanka. However, the Committee recalls that the occurrence of human rights violations in one's country of origin is not sufficient in itself to conclude that a complainant runs a real and personal risk of torture.¹⁴

7.8 In the present communication, the Committee observes that the complainant had the opportunity to provide additional details and supporting evidence of his claims to the domestic authorities in four sets of proceedings and that the authorities considered the complainant's oral statements in the absence of documentation establishing his nationality, identity or travel route. The Committee notes the inconsistencies and gaps in the complainant's oral statements, which led the domestic authorities to conclude that he had not demonstrated that he would face a foreseeable, real and personal risk of torture if returned to Sri Lanka. In that respect, the Committee considers that the domestic authorities were relying heavily on the complainant's negative credibility assessment, even though some inconsistencies in the complainant's statements could be considered minor, others may have originated in translation errors or have been reasonably explained. Furthermore, as indicated in the minutes of the complainant's hearing, the complainant provided additional information with respect to the circumstances of his detention. The Committee observes the State party's allegation that several of the complainant's assertions, namely, that he had never trained with a weapon in the training camp, that he had never participated in the armed conflict and that he had not been approached by the Liberation Tigers of Tamil Eelam earlier than 2008, are not consistent with the general country information on Sri Lanka. The Committee notes, however, that the mere fact that the general country information may undermine some assertions made by the complainant should not necessarily call into question the veracity of the complainant's account in its entirety. The Committee recalls that complete accuracy is seldom to be expected from victims of torture¹⁵ and observes that the complainant has provided documentation indicating that he was suffering from post-traumatic stress disorder and depression at the time of his interviews.

7.9 The Committee recalls that ill-treatment suffered in the past is only one element to be taken into account, the relevant question before the Committee being whether the complainant currently runs a risk of torture if returned to Sri Lanka.¹⁶ The Committee considers that, even if it were to disregard the alleged inconsistencies in the complainant's account of his past experiences in Sri Lanka and accept his statements as true, the complainant has not provided any information credibly indicating that he would currently be of interest to the authorities of Sri Lanka. In that regard, the Committee observes that, even though Sri Lankans of Tamil ethnicity with a prior personal or familial connection to the Liberation Tigers of Tamil Eelam facing forcible return to Sri Lanka may be at risk of torture, in the present case,¹⁷ according to the complainant's own narrative, he never participated in the armed conflict, and while in detention, he consistently denied his involvement with the Liberation Tigers of Tamil Eelam. The Committee also observes that the documents submitted to prove the authorities' interest in the complainant date back to 2011, and they were not found to have been issued by the competent authorities. Despite the opportunity to challenge that expert opinion, the complainant did not take steps to prove otherwise. Furthermore, taking into account the report issued by the Institute for Human Rights and Medical Assessment, which indicated that the complainant's scars were consistent with his account, it is to be noted that the findings do not discount other possible causes for the complainant's injuries. In addition, the fact that the complainant was able to leave Sri Lanka without any incident also shows the lack of interest of the State authorities in his whereabouts, especially because he could not establish that he had left the country illegally. In fact, the

¹³ See Freedom from Torture, "Tainted peace: torture in Sri Lanka since May 2009", August 2015.

¹⁴ See, for example, *Thirugnanasampanthar v. Australia* (CAT/C/61/D/614/2014), para. 8.7.

¹⁵ See the Committee's general comment No. 4 (2017), para. 42. See also *Alan v. Switzerland* (CAT/C/16/D/21/1995), para. 11.3; and *G.E. v. Australia* (CAT/C/61/D/725/2016), para. 7.6.

¹⁶ See, for example, *S.S.B. v. Denmark* (CAT/C/60/D/602/2014), para. 8.7; and *Thirugnanasampanthar v. Australia*, para. 8.7.

¹⁷ *J.N. v. Denmark* (CAT/C/57/D/628/2014), para. 7.9.

complainant's allegation that he managed to flee the country with a fake passport has not been found plausible by the Dutch authorities, because he failed to provide any identity or travel documents and was unable to provide any details about his travel route. The Committee takes note of the documents attesting to the complainant's claim that eight unidentified men went to his parents' house to inquire about his whereabouts in December 2014. The documents were not given probative value by the domestic authorities, however, because they were drawn up at the request of the complainant's mother. As for the complainant's participation in the activities organized by Tamil groups in the Netherlands, the Committee notes that, even if the Sri Lankan authorities would be able to identify him from pictures in social media, those events do not in and of themselves make the complainant a significant supporter of the Liberation Tigers of Tamil Eelam. The complainant's assertions that he had worked with persons identified as terrorists by the Government of Sri Lanka, do not change that assessment, given that nothing has been submitted to corroborate them. The information made available to the Committee does not indicate that, 10 years after the alleged events occurred, the complainant would be at risk of being subjected to torture if returned to his country of origin. The Committee therefore considers that the complainant has failed to adduce sufficient evidence and to adequately substantiate his contention that the alleged past events would be of interest to the authorities of Sri Lanka. Having also considered the general situation of human rights in Sri Lanka, the Committee is of the view that the complainant has failed to substantiate his claims that his deportation to Sri Lanka would expose him to treatment contrary to article 3 of the Convention.¹⁸

8. The Committee therefore concludes that the complainant has not adduced sufficient grounds to enable it to believe that he would run a real, foreseeable, personal and present risk of being subjected to torture upon his return to Sri Lanka.

9. The Committee, acting under article 22 (7) of the Convention, concludes that the complainant's removal to Sri Lanka by the State party would not constitute a violation of article 3 of the Convention.

¹⁸ See, for example, *V.M. v. Australia* (CAT/C/67/D/723/2015), para. 7.8; *Ranawaka v. Australia* (CAT/C/68/D/855/2017), paras. 9.7–9.8; *S.P. v. Australia* (CAT/C/68/D/718/2015), para. 7.7; and; *I.P.W.F. v. Australia* (CAT/C/63/D/618/2014), para. 8.7.