

UNCAT Implementation Tool 4/2018

NON-REFOULEMENT PROCEDURES AND SAFEGUARDS

The absolute prohibition against *refoulement* set out in Article 3(1) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention, or UNCAT) – namely the prohibition against the transfer of any person to a place where they would face a real risk of torture or other cruel, inhuman or degrading treatment or punishment (hereafter “torture or other ill-treatment”) – is a fundamental feature of the global torture prevention architecture. This tool includes some examples of the range of legal and practical procedures and safeguards that States have developed to give it effect.

CONSTITUTIONAL PROVISIONS



The prohibition against *refoulement* is widely recognised in constitutional texts and/or [legislation](#). Some States’ constitutions enshrine the prohibition against *refoulement* explicitly; in others, constitutional provisions, stipulating that binding international treaties (e.g., UNCAT) prevail over contrary domestic law, have given effect to the prohibition against *refoulement*. The courts of some States have also confirmed the latter.

Article 3, UNCAT

1. No State Party shall expel, return (“refouler”) or extradite 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.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

“ *It is insufficient merely to intervene after the infliction of torture, when the physical or moral integrity of human beings has already been irremediably harmed. States are bound to put in place all those measures that may pre-empt the perpetration of torture.*”

Prosecutor v. Anto Furundzija, No. IT-95-17/1-T, Judgment of the International Criminal Tribunal for former Yugoslavia, 10 December 1998, para. 148





Bolivia: constitutional protection against *refoulement*

Article 29 of the Constitution of Bolivia provides protection against *refoulement* for people granted asylum or refuge in the country by prohibiting their expulsion or deportation to a country where their “life, bodily integrity, security or liberty is endangered”.



South Africa: protection against *refoulement* reflects constitutional values

In its judgment of 15 February 2011 in the case of *Arwah Abdi v. Minister of Home Affairs* [2011] ZASCA 2, the Supreme Court of Appeal of South Africa held that, “[...] deportation to another state that would result in the imposition of a cruel, unusual or degrading punishment is in conflict with the fundamental values of the Constitution.”

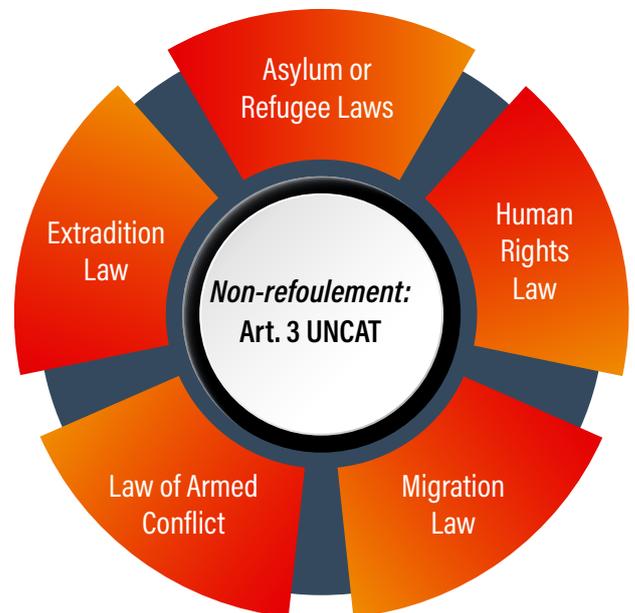


Switzerland: constitutional protection against *refoulement*

Article 25 of the Federal Constitution of the Swiss Confederation of 1999 provides protection against *refoulement* in cases of expulsion, extradition and deportation, stating, among other things, that, “[...] no person may be deported to a state in which they face the threat of torture or any other form of cruel or inhumane treatment or punishment”.

LEGISLATION

Many States have adopted or amended national legislation dealing with specific areas to include the prohibition against *refoulement*, including human rights laws, laws relating to asylum and refugees or migration, and [extradition](#). In other States, their own national anti-torture legislation may contain an explicit prohibition against *refoulement* and set out basic safeguards. These laws detail the powers that can be exercised by State authorities to remove a person and the constraints on those powers, as well as the relevant administrative and judicial procedures to be followed. National legislation has also detailed the rights of persons within those procedures.



For further examples of legislative provisions, see:

➔ APT and CTI, [Guide on anti-torture legislation](#)

The Guide is available in [Arabic](#), [English](#), [French](#), [Portuguese](#) and [Spanish](#).



Kenya: including protection against *refoulement* in anti-torture legislation

Article 21(2) of Kenya's Prevention of Torture Act 2017 provides protection against *refoulement* stating that "[a] person shall not be expelled, returned or extradited to another country where there is reason to believe that the person is in danger of being subjected to torture or cruel, inhuman or degrading treatment or punishment." Article 21(3) of this Act further provides that when determining whether such a risk exists "the Court shall take into account all factors including the existence of a consistent pattern of gross, flagrant or mass violations of human rights in the State seeking extradition of the person."

NATIONAL PROCEDURES



In order to give effect to national constitutional or legislative provisions enshrining protection against *refoulement*, States have put in place procedures to assess objections to being transferred or removed. States can decide on the most appropriate domestic body, whether administrative or judicial in nature, to be responsible for assessing – in the first instance – cases raising *refoulement* concerns under UNCAT.

Key questions for decision-makers

To determine whether the *refoulement* prohibition applies to a particular case, decision-makers need to take into account all relevant and up-to-date information and consider *inter alia*:

- Is the danger of being tortured personal and present?
- What are the personal circumstances of the individual concerned? (Article 3(2), UNCAT)
- Is s/he a member of an at-risk group?
- Has s/he suffered torture in the past?
- Do the conditions in the country of removal include "a consistent pattern of gross, flagrant or mass violations of human rights"? (Article 3(2), UNCAT)

Procedures checklist

The following features have been found to be helpful in ensuring that procedures tasked with determining *non-refoulement* claims are accessible, efficient and effective:

- ✓ established in national law, including establishing procedural rights;
- ✓ provide interpretation and information in a language or manner the individual understands, and accommodate their particular circumstances, including disability, health, age, gender and any other elements indicative of vulnerability;
- ✓ examine each case individually and not collectively, through a personal, confidential interview by a qualified, competent and trained official;
- ✓ afford individuals an opportunity to submit evidence and arguments against their transfer and allow sufficient time for the decision-maker to hear, review and assess the case;
- ✓ operate on a non-discriminatory basis;
- ✓ suspend transfers until a final decision has been issued (see Appeals Procedures);
- ✓ deliver a reasoned decision in writing, containing also information on how any negative decision can be appealed.

Documenting past torture

Good State practices provide an opportunity for individuals who allege they have been tortured in the past, and where that past torture has a bearing on their current claim, to undertake a medical examination in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the [Istanbul Protocol](#).



United Kingdom: using the Istanbul Protocol to provide evidence in court

In the United Kingdom, the courts have commended the medical reporting guidance featured in the Istanbul Protocol concerning evidence of torture.

A unified procedure with refugee status determination

In many countries, national refugee status determination procedures are the most common way in which the prohibition against *refoulement* with respect to torture or other ill-treatment is given practical effect, as persons at risk of torture are often refugees. However, recognising that not all victims of torture will qualify for refugee status, States have increasingly complemented refugee status determination procedures with assessments relating specifically to the risk of torture or other ill-treatment.

Some States have found it useful and practical to streamline procedures into a single, unified procedure (that is, “a one-stop shop”), which empowers the decision-making authority to evaluate all possible (human rights and refugee) grounds for opposing a transfer or removal, including protection against *refoulement* under UNCAT.



A refugee is defined by the UN 1951 Convention relating to the Status of Refugees, as amended by its 1967 Protocol, as someone, who, among other things, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” The UNHCR Statute of 1950 provides a similar definition, GA resolution 428(V), 14 December 1950.



Austria: independent administrative body assesses all requests

In Austria, an independent administrative body was set up on 1 January 2014 to deal with all issues relating to migrants, including both asylum-seekers and persons in an “irregular” situation. Its decisions take into account the principle of *non-refoulement*, and can be challenged before the courts. Persons involved in proceedings before this body are assigned free legal counsel.



Canada: single streamlined procedure

Canada operates a single streamlined examination procedure to determine who is a refugee or “a person in need of protection”, which is defined, among other things, as a person whose return to their home country or the country where they normally live would subject them personally to: a danger of torture within the meaning of Article 1 UNCAT; or a risk of cruel and unusual treatment or punishment. Protection is provided if the Immigration and Refugee Board (IRB) determines that, a permanent resident of Canada, a refugee, or a foreign national with a permanent resident visa – whose deportation from Canada has been ordered – is a “Convention refugee” or “a person in need of protection.” The IRB is an independent administrative tribunal that makes decisions on immigration and refugee matters.

Appeals Procedures

An appeals procedure provides an opportunity for an independent, impartial and effective review before a court or tribunal of the decision to remove the person, and is an important check against *refoulement*. Many States that experience a high volume of cases have opted to include appeals procedures of an administrative or quasi-judicial character in order to more speedily handle cases, while affording the necessary safeguards. Many of them also continue to allow a final judicial determination of the case. For countries with a constitutional guarantee against *refoulement*, there are also generally opportunities to bring constitutional challenges before the courts.

“ Any type of return, whether voluntary or otherwise, must be consistent with our obligations under international human rights law and in compliance with the principle of non-refoulement.”

[New York Declaration on Refugees and Migrants](#), UN Doc. A/RES/71/1, 2016, para. 58

Features of an effective appeals procedure include:

- accessibility;
- conducted by decision-makers or judges who are competent, independent and impartial;
- timelines for lodging appeals are to be reasonable so as not to render the submission of an appeal impossible or excessively difficult;
- cases are to be considered and decisions delivered in a timely manner;
- procedural rights are to be guaranteed, with a preference for an oral hearing;
- consider the merits of each appeal;
- have automatic suspensive effect, that is, the individuals concerned should be allowed to remain on the State's territory pending the outcome of their appeal; and
- the decision is to be shared with the individual concerned and, if it is negative, it should include the reasons.



Angola: Constitution guarantees a judicial ruling prior to expulsion

Among other things, Article 70 of the Constitution of Angola of 2010 provides that the expulsion of “foreign citizens or stateless persons with authorisation to reside in the country or those who have requested asylum shall only be determined by a judicial ruling”.



Lebanon: judge can prevent removal

In Lebanon, pursuant to Article 579 of the Code of Civil Procedure, a judge has competence to prevent the enforcement of an administrative decision concerning a person's removal from the country where there is a danger that they would be subjected to torture in their own country, in accordance with Article 3 of UNCAT and other provisions of international treaties ratified by Lebanon.



Uganda: torture-specific law specifies factors to consider in assessing cases

In Uganda, the Prevention and Prohibition of Torture Act, 2012 states that in determining whether there are substantial grounds for believing that a person is likely to be tortured or in danger of being subjected to torture the courts “shall take into account all factors including the existence of a consistent pattern of gross, flagrant or mass violations of human rights in the state seeking extradition or deportation of the person.”

PROCEDURAL RIGHTS



As key safeguards against *refoulement*, States have adopted a range of measures to recognise and give effect to the following rights:

Access to information

Access to interpretation

Access to legal advice and representation

Consular access, or access to UNHCR and other organizations

Access to information

Providing accurate and relevant information to persons facing transfer or removal from the country in an accessible format and in a language they understand helps individuals navigate the system and their contacts with the authorities, and avoids complaints and delays. The following information is useful to provide:

- how someone can lodge a claim not to be removed or transferred on *non-refoulement* grounds, that is, the basic elements of the process and the relevant procedures;
- the possible consequences of not complying with decisions related to their case;
- the rights and options people have during and after the procedure, and deadlines for appeals;
- the contact details of lawyers, non-governmental or international organisations where help and advice may be sought.

It is a good idea to display such information at border posts, including airports, and in detention or removal facilities.



Finland: multi-language forms explain rights

In Finland, non-nationals who are detained with a view to their involuntary transfer from the country are given forms featuring information about their rights, including protection against *refoulement* under UNCAT. These forms are available in a variety of languages, including English, Finnish and Russian.



Mexico: child appropriate communication through videos

Child Protection Officers from the National Migration Institute in Mexico use a video produced by the UN Refugee Agency (UNHCR) to inform children of their right to seek asylum in the country. The video uses animation and child-appropriate language to inform children of their right to seek asylum in Mexico. After viewing the video, the child is asked to explain in his/her own words the video's content so as to ensure they have understood the procedure. This video is available at: <https://youtu.be/93OgdoQBMnE>.

Access to interpretation

Accurate oral interpretation and translation of critical documents are crucial to enable individuals to participate fully and effectively in the preparation of their case and during the proceedings, and for the authorities to be able to understand documents or testimony presented in another language.

Argentina: legislative provision for free access to interpreters

The Migration Act (Law 25.871) provides that non-nationals within the country who lack sufficient financial resources have the right to free access to interpreters. Regulations adopted to explain Law 25.871 require the Immigration Department to include provision of information in immigrants' native languages and linguistic interpreters, as necessary.

Indonesia: Granting access to interpretation for foreigners

Under Law No. 8 Year 1981 on Criminal Procedure and National Police Regulation No. 12 Year 2012, foreigners with no or little knowledge of the Indonesian language will be provided with an interpreter when subject to criminal proceedings that may result in their deportation or extradition from the country.

New Zealand: telephone-based interpretation and sign language services

“Language Line” is a free telephone-based interpreting service used by New Zealand government agencies, some doctors and city councils. This service enables officials to obtain free, confidential interpretation assistance to enable them to communicate with individuals who do not speak or understand English. Language Line also enables the client to choose the gender of their interpreter. In addition the Ministry of Justice has a procedure in place to enable individuals to request interpretation or sign language services to be available during court or tribunal hearings.

Access to legal advice and representation

Providing access to competent legal advice and representation for those facing involuntary transfer is an important safeguard against *refoulement*; it enhances the quality of decision-making, while simultaneously reducing the scope for complaints and delays, thereby working as a cost-effective measure. A number of States provide legal counsel free of charge to those who cannot afford to pay; others offer a list of available, qualified lawyers. Some States have found it useful to cooperate with organisations representing the legal profession at the domestic level, such as bar associations, or *pro bono* legal services provided by non-governmental organisations or through university clinics, in order to bolster capacity in States with limited resources.

European Union: setting common procedures for legal assistance

European Union [Directive 2013/32/EU](#) on common procedures for granting and withdrawing international protection (recast) guarantees free legal assistance and representation in appeals procedures before a court or tribunal. The arrangements identifying those permitted to provide such assistance are left to national law. Many countries, including Austria, Croatia, Cyprus, Germany and Ireland, make provision for such legal advice in national law.



Ghana: civil society organisations providing legal assistance

To assist with the provision of legal advice to foreign nationals, civil society organisations, such as the Human Rights Advocacy Centre and the Legal Resources Centre, provide assistance in the form of legal aid for refugees and asylum-seekers in certain circumstances.



Hong Kong SAR (China): free of charge legal representation and Duty Roster Service

In Hong Kong, Special Administrative Region, China, publicly funded legal assistance is available to all individuals claiming protection against *refoulement*, including on the grounds of a risk of torture or other ill-treatment. Those wishing to receive free legal assistance have to declare that they are without means to pay for legal representation. The service is completely free of charge. Through the Duty Lawyer Service, lawyers who have received training on handling torture claims are on a roster to provide legal assistance to claimants throughout the entire process, including in completing the claim form; attending the interview; and, where the lawyer assisting the claimant is of the view that an appeal is meritorious, in lodging an appeal and attending the appeal hearing, if any.

Consular access, or access to UNHCR and other organisations

For non-nationals or dual nationals held in detention facing extradition or other forms of involuntary transfer, enabling contact with their embassy or consular post is a fundamental right (Article 6(3), UNCAT). For asylum-seekers, refugees and stateless persons who are not able nor wish to seek consular assistance from their own country, it has been found useful to include specific provisions within national legislation or regulations granting officials of the Office of the UNHCR – tasked with an international protection mandate for asylum-seekers, refugees and stateless persons – access to persons in detention at risk.



Jordan: Memorandum of Understanding allows UNHCR access to asylum-seekers

Under the terms of its Memorandum of Understanding with Jordan, UNHCR is given access to asylum-seekers in detention.



Slovenia: brochure informing detainees of their rights

In Slovenia, all detained persons are provided with a copy of a brochure informing them of their legal right to access a doctor, a lawyer, a family member and consular assistance in cases of foreign nationals. The brochure, published in 22 languages, is also available electronically.

“ [...] it is obvious that notification of one's right to contact the consular agent of one's country will considerably enhance one's chances of defending oneself and the proceedings conducted in the respective cases, including the police investigations, are more likely to be carried out in accord with the law and with respect for the dignity of the human person.”

Inter-American Court of Human Rights, Advisory Opinion OC-16/99 of 1 October 1999, requested by the United Mexican States, para. 121.

Specific safeguards in special cases

Some persons – such as unaccompanied or separated children; persons with mental or physical disabilities; as well as others who may face specific risks or be in circumstances of greater vulnerability, such as asylum-seekers, survivors of torture, human trafficking and/or victims of sexual- or gender-based violence – may need additional or specific safeguards and support to ensure they are able to raise objections to any removal or transfer.



Liechtenstein: all-women teams to respond to gender-specific issues

Staff members of the Immigration and Passport Office work in all-women teams who are trained and sensitised to deal with cases raising gender-specific grounds for asylum, including in spotting signs of gender-specific violence. Female asylum-seekers have the opportunity to indicate any such grounds for seeking asylum already during their first questioning upon entering the country.



Zambia: Guidelines to help identify vulnerable migrants

The “Guidelines for Protection Assistance to Vulnerable Migrants in Zambia” are an informational tool for first line officials – such as immigration officials, police officers, social welfare, health and prison officers and civil society personnel – involved in the protection of “at-risk migrants” in the country. The Guidelines outline procedures for effective identification, referral and service provision to such migrants. The Guidelines recommend using a “migrant profiling form” during the initial interview to help identify whether the individual falls within one of a number of vulnerable categories: asylum-seeker, victim of trafficking, unaccompanied or separated child, stranded migrant, stateless person or other at-risk migrant.

TRAINING



The provision of effective training (Article 10(1), UNCAT) to every State official responsible for dealing with *refoulement* cases – as well as to medical personnel using the Istanbul Protocol in cases where there are allegations of past torture – is an additional effective and practical safeguard to implement the *refoulement* prohibition.



Greece: specific training for coast guards

Educational and training initiatives to prevent violations of the prohibition against *refoulement*, such as the incorporation of the European Frontex Training Programme in the Training Regulations of the Coast Guards Academy, have been undertaken.



Ecuador: extensive training for relevant professionals

Ecuador has provided education and training to independent experts in the fields of medicine, law and psychiatry in connection with a project to implement the Istanbul Protocol. The aim of the project was to train independent staff charged with effectively investigating and documenting cases of torture, who may intervene in cases of torture in their capacity as qualified experts, including in proceedings before the courts.

REFOULEMENT PROTECTION IN THE EXTRADITION CONTEXT



As extradition requests may raise *refoulement* considerations under UNCAT, many States have expressly legislated to prohibit extradition in such circumstances, or have incorporated clauses in bilateral or multilateral extradition treaties and agreements to comply with their obligations under Article 3 UNCAT. Where there is a conflict between extradition obligations and protection against *refoulement* under UNCAT, the principle of *non-refoulement* prevails as an absolute prohibition.

Constitutional or legislative provisions



Mozambique: constitutional protection

Article 67(3) of the Constitution of Mozambique expressly bars extradition “when there are grounds to believe that the extradited person may be subjected to torture or inhumane, degrading or cruel treatment.”



Namibia: extradition legislation prohibits *refoulement*

The Extradition Act of 1996 prohibits the return of a person to a State where that individual would be at risk of being subjected to the death penalty, torture or inhuman or degrading treatment. The Act likewise specifically prohibits *refoulement* if it would be in conflict with Namibia’s obligations under any international instrument.



Poland: penal procedure code protects against *refoulement* in the extradition context

The Code of Penal Procedure 1997 bars extradition when there is a reasonable suspicion that the State seeking extradition could impose capital punishment or subject the extradited person to torture.



Tunisia: anti-terrorism law provides *refoulement* protection in the extradition context

Article 88 of the Law No. 26 of 2015 provides, “extradition shall not be granted if there are real grounds to believe that the person who is the subject of the extradition request risks being tortured or that the extradition request is intended to prosecute or punish a person because of the person’s race, colour, origin, religion, sex, nationality or political ideas.”

Judicial procedures

The enforceability of the *refoulement* prohibition in the context of extradition varies among countries, depending on domestic procedures. Under UNCAT, however, domestic procedures must ensure that individuals subject to an extradition request are able to challenge their extradition on *refoulement* grounds. In turn, this means that individuals subject to extradition requests must ultimately have access to an independent, impartial, competent and effective judicial authority to challenge their extradition on *refoulement* grounds.



Madagascar: judicial review of extradition decisions

Article 19 of the National Law against Torture (Loi N°2008-008 du 25 juin 2008 contre la torture et autres peines ou traitements cruels, inhumains ou dégradants) stipulates that no person shall be extradited by the Malagasy authorities to a State where he or she is at risk of being subjected to torture. Any extradition decision taken by the Minister of Justice is preceded by a judicial review conducted by the Court of Appeal, which includes consideration of the compliance of any prospective extradition with Madagascar’s obligations under international instruments.

VISA AND STAY ARRANGEMENTS



States have adopted a range of visa and other arrangements to allow individuals, who have established their need for protection against *refoulement*, to remain on their territory, whether temporarily or permanently. For those who qualify as refugees, refugee status is ordinarily granted, whereas for others, States have put in place a diverse range of visa and stay arrangements.



European Union: “subsidiary protection”

Under the EU Qualification [Directive 2011/95/EU](#) (recast), victims of torture and other ill-treatment who do not qualify for refugee status are granted a form of international protection, which is nearly equivalent to refugee status in terms of rights albeit with some important distinctions. Efforts have been made to align refugee status and subsidiary protection over time.



Republic of Korea: “humanitarian status”

In the Republic of Korea, the Refugee Act, Law No. 11298 of 2012, provides for permission to stay to be granted to people, via a “humanitarian status”, on the basis that their life or personal liberty may be egregiously violated by torture or other ill-treatment even if they do not qualify as refugees.



Romania: “tolerated status”

In Romania, under the Government Emergency Ordinance No. 194/2002 on the regime of aliens in Romania, 2002, as amended, persons who cannot leave Romanian territory, including on the grounds that they would be exposed to torture or other ill-treatment upon removal, but who would not otherwise have a legal basis to remain, may be granted “tolerated status”. Granted for an initial six-month period, “tolerated status” is renewable for a further six months until the reasons for it cease to exist. The beneficiaries have the right to work; however, they are required to report regularly to a territorial unit of the General Inspectorate, must reside in a particular geographical area, are required to notify the authorities if their residential address changes, and must obtain approval to travel outside this area.



United States of America: visas for victims of human trafficking

In the United States of America, the T Non-Immigrant Status (the “T Visa”) is available to foreign nationals who are survivors of “severe forms” of human trafficking, allowing them to remain in the country, to assist in an investigation or prosecution of human trafficking. The T Visa is a temporary four-year visa, allowing holders the right to work and some access to family reunification to protect family members at risk of reprisals by traffickers. T Visa applicants must demonstrate that they would “suffer extreme hardship involving severe and unusual harm” if removed from the US.

PUTTING IN PLACE PROCEDURES AND SAFEGUARDS: THINGS TO CONSIDER



Domestic provisions prohibiting *refoulement*

- Does the Constitution and/or existing legislative framework expressly prohibit *refoulement* consistent with UNCAT, or are amendments needed?
- If there is a stand-alone anti-torture law, does it need to be amended to incorporate the prohibition against *refoulement*? Are any existing provisions on *non-refoulement* sufficiently detailed such that the procedures and other aspects are outlined?
- Are there other laws that may need adjustment to reflect the *refoulement* prohibition, such as laws or treaties concerning refugees, extradition, etc.?

Procedures to assess *refoulement* claims

- What procedures, if any, are in place to give effect to the prohibition against *refoulement* consistent with UNCAT?
- Where certain procedures are already in place, e.g. asylum-determination procedures, is it possible and feasible to charge them with the task of assessing *refoulement* claims under UNCAT as well (e.g. a single, unified procedure, “a one-stop shop”)?
- Where procedures need to be put in place, is it more effective to create a judicial or an administrative domestic body responsible for assessing cases raising *refoulement* under UNCAT?
- Are there procedures in place to ensure that individuals alleging that they have been tortured in the past have access to a medical examination in line with the Istanbul Protocol in all cases where evidence of past torture would have a bearing on their *refoulement* claim under UNCAT?

Appeals procedure

- Does the existing legislative, regulatory and procedural framework provide for an independent, impartial and effective review before a court or tribunal? If not, could the jurisdiction of courts or tribunals that are charged for example with determining appeals against asylum decisions be expanded to empower them to hear appeals on *refoulement* grounds under UNCAT?
- Where appeals procedures exist, are the timelines for lodging appeals reasonable; are decisions delivered in a timely manner; and does the appeal process have automatic suspensive effect?

Procedural rights

- Are procedural rights, such as information about the removal process, access to a lawyer, medical services, interpretation, and consular assistance, guaranteed to anyone wishing to challenge their transfer or removal on *refoulement* grounds under UNCAT? If not, what amendments to existing legislation, rules, regulations, procedures and practices may be required to do so? Are new legislation, rules, regulations, procedures and practices needed?
- Do existing legal, regulatory and procedural frameworks provide for additional specific safeguards in special cases? What would be the most effective way to enhance the capacity of the existing framework to ensure that individuals whose circumstances require specific safeguards (so-called special cases) are able to exercise their rights?
- Is the principle of *non-refoulement* incorporated into specific training of all relevant States officials, including immigration and border officials, police and law enforcement, detention staff and medical personnel?

Extradition procedures

- Are any modifications required to the existing domestic legislative, regulatory and procedural frameworks governing extradition requests to ensure that in case of a conflict arising between the prohibition against *refoulement* under UNCAT and States parties' obligations pursuant to a multilateral or bilateral extradition treaty or agreements, the former will prevail?

Additional resources

[UN Committee against Torture, General Comment No. 4 \(2017\)](#) on the implementation of article 3 of the Convention in the context of article 22, 9 February 2018

[International Organization for Migration, Information Note on the Principle of Non-Refoulement](#), April 2014

[UNHCR Guidance Note on safeguards against unlawful or irregular removal of refugees and asylum-seekers](#), January 2014

[International Commission of Jurists, Principles on the Role of Judges and Lawyers in Relation to Refugees and Migrants](#), May 2017

[OMCT, Non-refoulement: Achievements and Challenges](#), briefing paper, 2017



CONVENTION AGAINST TORTURE INITIATIVE
CTI2024.ORG

CTI
Centre Jean-Jacques Gautier
PO Box 137 - 1211 Geneva 19 - Switzerland

+41 (0)22 919 2167
info@cti2024.org
http://www.cti2024.org



Prepared for the CTI by the **International Commission of Jurists**.

The CTI is also grateful for the support of the Human Rights Implementation Centre of the University of Bristol for their coordination and contributions to the CTI/UNCAT Implementation and Training Tools.

© 2018, Convention against Torture Initiative (CTI). All rights reserved. Materials contained in this publication may be freely quoted or reprinted, provided credit is given to the source. Requests for permission to reproduce or translate the publication should be addressed to the CTI. The examples used in this tool are based on publicly available information. The CTI would welcome any corrections or updates as applicable.

Layout & design: BakOS DESIGN