Copenhagen, 4 April 2016

CAT Communication No. 580/2014
F.K. v. Denmark
Follow-up observations of the Government of Denmark

1. Introduction

By letter of 22 December 2015, the Committee against Torture (hereinafter 'the Committee') transmitted its decision adopted on 23 November 2015 in the above case to the Government of Denmark (hereinafter 'the Government').

In para. 9 of the Committee's decision, the Government was invited to inform the Committee, within 90 days, of the steps taken in response to the Committee's observations.

2. The Government's follow-up observations

2.1 Article 3 of CAT

The Government observes that it follows from para. 7.6 of the Committee's decision that the Committee considers that, **by rejecting the complainant's asylum application without ordering a medical examination, the State party failed to sufficiently investigate whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if returned to Turkey.** As such, the Committee considers that, **in these circumstances, the deportation of the complainant to Turkey would constitute a violation of Article 3** of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter 'CAT').

The Government would like to inform the Committee that on 9 January 2015 the complainant requested the Refugee Appeals Board (*Flygtningenævnet*) to reopen his asylum case, referring to the medical examination made by Amnesty International on 25 September 2014 (Annex 3). It should be noted that the medical examination was referred to as an examination for signs of torture in the decision made by the Refugee Appeals Board on 18 September 2015.

On 18 September 2015, the Refugee Appeals Board refused to reopen the complainant's asylum case. The following appears, *inter alia*, from the decision of the Refugee Appeals Board:

> 'The Refugee Appeals Board observes that the Board will not initiate an examination for signs of torture in cases in which the Board has been unable to consider as facts the

applicant's grounds for asylum. Likewise, the Board will normally not initiate an examination if the Board considers it a fact or a possibility that the applicant has previously been subjected to torture, but finds, upon a specific assessment of the applicant's situation, that the applicant will not be at a real risk of torture if returned today.

The Refugee Appeals Board finds that no new factual information of such significance to the case has been provided in the request for reopening as to justify a certain probability that the decision rendered would have been different, had the information been available when the Board made its original decision on the application.

As regards the report made on the examination of [the complainant] for signs of torture conducted by the Amnesty International Danish Medical Group, the Refugee Appeals Board observes that it appears from the conclusion of the report, *inter alia*, that:

"[The complainant] stated that he suffered from headache and dizziness as well as pain in his back/neck and his left forearm. Symptoms that can be compatible with the blows that he had received and his untreated broken left arm. [The complainant] reported sensory disturbances under his feet and in his lower legs and pain under his feet. This is fully compatible with the possible consequences of beating on the soles of the feet (falanga). As regards his mental state, [the complainant] stated that he suffers from insomnia, nightmares, concentration difficulties, depression, flashbacks of the trauma, excitability, general anxiety and nervousness. The Harvard Trauma Questionnaire was completed, and [the complainant] scored 2.75 (scores above 2.5 are consistent with post-traumatic stress disorder, also referred to as PTSD). At the physical examination, [the complainant] was found to have reduced tactile sensitivity and pain on the application of pressure to both soles of his feet. This is a consequence compatible with beating on the soles of the feet (falanga). Mentally, [the complainant] was found to be alert and oriented, and there was good contact. He was assessed not to be psychotic. Symptoms of depression and tearfulness were detected. [The complainant] appeared nervous and tense during the physical examination, which is compatible with a consequence of the alleged torture. Accordingly, the torture described is consistent with the symptoms and objective findings detected in the examination today."

The Refugee Appeals Board finds that the examination for signs of torture performed by the Amnesty International Danish Medical Group cannot lead to a different assessment of the credibility of [the complainant's] statements concerning his activities for the PKK.

The Refugee Appeals Board observes that the majority of the members of the Board found that they could not dismiss [the complainant's] statement that he had been a member of several lawful Kurdish parties from 2006 to 2010 and that he had been detained several times during that period after having participated in demonstrations and celebrations of Kurdish festivals.

However, the majority of the members of the Refugee Appeals Board found that [the complainant] had failed to render probable his grounds for asylum relating to his membership of the PKK and his participation in combat training. Accordingly, the majority of the Board members found that [the complainant] had also failed to render it probable that he would be at an actual risk of being subjected to torture if returned to Turkey.

> The Refugee Appeals Board observes that, in the Board's decision of 30 August 2013, the majority of the Board members emphasised that [the complainant] had provided inconsistent information as to when he became a member of the PKK, that the Board found that [the complainant's] statement on his reaction to being caught in crossfire in the mountains together with a group of militant PKK members seemed non-credible considering his statement on his reasons for joining the PKK, and that [the complainant's] statement to the Board that, in 2009 when he was a wanted person, he had been detained by the authorities several times for other reasons without the authorities realising that he was wanted appeared elaborative and inconsistent with his previous statements during the asylum proceedings. Reference is also made to the account of the assessment of evidence performed by the Board given on pages 28f of the Government's observations of 2 July 2014 to the UN Committee against Torture.
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> The majority of the members of the Refugee Appeals Board have considered whether those circumstances could have been caused by the torture which [the complainant] has claimed to have suffered, but the majority find that this is not the case, and the Board finds that the report on the examination for signs of torture produced does not give rise to a different assessment of this matter.
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> Based on an overall assessment of the information available in the case file, including the report made by the Amnesty International Danish Medical Group, the Refugee Appeals Board still finds that [the complainant] has failed to render probable the grounds for asylum relied upon by him, and the Board also finds that he will not be at a real and actual risk of torture if returned today.'

The Government had not yet forwarded the Refugee Appeals Board's decision of 15 September 2015 to the Committee before the Committee adopted its decision on the communication on 23 November 2015. The decision is appended in its entirety as Exhibit 1.

In consequence of the decision adopted by the Committee on 23 November 2015, the Refugee Appeals Board reopened the complainant's asylum case for review at an oral hearing before a new panel on 14 March 2016. It is observed that an oral hearing before a new panel means that the matter is reconsidered by five Board members, including a judge, in a contradictory procedure in which the applicant is represented by counsel.

The following appears from the Refugee Appeals Board's decision of 17 March 2016:

> 'The applicant is an ethnic Kurd of the Muslim faith from the Konya province of Turkey. The applicant has stated that he has been a member of the DTP, the BDP, the KCK and the PKK from 2006 to 2010.
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> As his grounds for seeking asylum, the applicant has stated that, in case of his return to Turkey, he feared being given a long prison sentence because he had been a member of the Kurdistan Workers' Party (the PKK) and the Kurdish Communities Union (the KCK). The applicant also feared that, as a conscientious objector, he would be given a long prison sentence and would be ordered to perform his compulsory military service, in which connection he would be killed by the authorities because he was an ethnic

Kurd. The applicant finally feared that persons from the PKK would kill him because he had fled during a training stay with the PKK in the summer of 2010.

In support of this, the applicant has stated that he had been a member of the DTP and the BDP from 2006 until his departure, and that the authorities had consequently subjected him to repeated physical and mental abuse from 2006 to 2008. The applicant had furthermore been a member of the PKK. In the summer of 2010, the applicant had gone with other PKK members to a place in the mountains where a confrontation had taken place between government forces and the guerrilla unit of the PKK. The applicant had fled from the confrontation and had subsequently hidden in Alanya for some weeks until the applicant's grandfather had organised the applicant's departure.

The Refugee Appeals Board finds that the applicant has failed to render probable his grounds for asylum.

Accordingly, the applicant's statements that he was a member of the DTP and the BDP from 2006 until his departure and that the authorities consequently subjected him to repeated physical and mental abuse from 2006 to 2008 cannot be considered as facts. In this respect, it has been emphasised that the applicant has failed to offer, with the degree of certainty and accuracy that should be expected, an account of when and how he was active within the parties and of the circumstances related to his detentions and the abuse against him.

The applicant's statements that he joined the PKK and that he escaped in the summer of 2010 after an armed confrontation between government forces and the guerrilla unit of the PKK on the way to a training camp in the mountains cannot be considered as facts either. The Board has emphasised in this respect that, in the asylum proceedings, the applicant has given inconsistent statements as to how he joined the PKK. Moreover, the applicant's statement that he wanted weapons training is found to be non-credible based on the fact that he stated at the interview conducted by the Danish Immigration Service on 21 March 2013 that he had not at any time contemplated participating in armed combat of any kind. His statement that he started wondering after the confrontation whether he was prepared to fight other Kurds, who constituted some of the government forces, is also found to be non-credible. Accordingly, he stated at the interview conducted by the Danish Immigration Service on 21 March 2013 that he knew already before deciding to receive weapons training that ethnic Kurds serve in the Turkish army. The applicant's statement to the Refugee Appeals Board on 30 August 2013 that, during a period when he was allegedly wanted, he was detained by the authorities several times in 2009 for other reasons without the authorities realising that he was wanted is also an elaboration which does not accord with his previous statements in the proceedings.

Moreover, the applicant's statement that the Turkish authorities did not realise during his alleged detentions that he was wanted seems non-credible based on the background information available on the nature and the intensity of the efforts of the Turkish police and intelligence service to arrest Kurdish opponents of the Turkish regime and charge them under the Turkish anti-terrorism legislation. Reference is made, *inter alia*, to *Tyrkia: Situasjonen for politisk aktive kurdere* (Turkey: The situation for politically active Kurds), published by the Norwegian Country of Origin Information Centre (Landinfo) on 21 August 2015.

The Refugee Appeals Board observes in respect of the medical examination of the applicant conducted by the Amnesty International Danish Medical Group that, on several points, the findings mentioned in the report of 25 September 2014 do not accord with the information on physical abuse against the applicant stated by him in the asylum proceedings. Accordingly, he stated as follows in his asylum application form of 20 December 2012 to clarify how he had been subjected to torture or other physical abuse:

> "As a result of torture, my left arm is broken; in the middle of my eyebrow, in the middle of my forehead, under my chin and on my head there are still permanent signs of manipulation.
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> [...]
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> There is a fracture and a twist of the left arm in two places as a consequence of torture."

The torture described by the applicant is seen to be inconsistent with the information given in the report of 25 September 2014, including as concerns "Arms and legs", in respect of which the report simply stated "Normal strength, sensitivity and motility. Nothing abnormal detected." By contrast, the report further mentions multiple times beating on the soles of the feet (falanga), which form of torture, however, the applicant is not seen to have mentioned in his asylum application form, at the interviews conducted by the Danish Immigration Service or at the hearing before the Refugee Appeals Board on 30 August 2013.

The Refugee Appeals Board further contends that the applicant's grounds for asylum, except for his fear of punishment for evasion of compulsory military service, relate to the applicant's termination of his membership of the PKK and the KCK and his escape from the training camp in the summer of 2010 and that, in any circumstance, the conclusion on the medical examination is not seen to be directly linked to the assessment of the credibility of the applicant's statements on the events included in this part of his grounds for asylum, which chronologically emerged after the time when the torture allegedly took place. Moreover, the Board finds no basis for considering the applicant's statements on and recollection of the events included in this part of his grounds for asylum to have been affected in a crucial way by any physical abuse to which he has allegedly been subjected.

The Board further finds that the conclusion on the Amnesty International report does not independently add to the credibility of the applicant's grounds for asylum, including that he has allegedly been subjected to the torture described by him in the circumstances described by him.

In its assessment of credibility, the Refugee Appeals Board has further emphasised that the applicant, who entered Denmark illegally in November 2010 according to the information available and who stayed in Denmark illegally for the following two years, found no reason to apply for asylum until he was arrested by the police on 4 February 2012 for possession of controlled substances and for surrendering incorrect information about his identity to the police, for which offences he was given a suspended prison sentence of 40 days, cf. section 27(1), cf. section 2, cf. Schedule 1, List A, No. 1, of the Act on Controlled Substances (*lov om euforiserende stoffer*) and section 164(1), cf.

section 174, of the Criminal Code (*straffeloven*), and was expelled from Denmark and banned from re-entry for six years.

According to the information available, the circumstance that the applicant has not performed compulsory military service will not entail any disproportionate sanction, and it is found that it cannot justify a residence permit.

Based on the above, the Refugee Appeals Board finds that the conditions for residence under section 7(1) or 7(2) of the Aliens Act are not satisfied.

Against that background, the Refugee Appeals Board does not allow the applicant's alternative claim for adjournment of the case pending an examination for signs of torture or his more alternative claim for remission of the case to the Danish Immigration Service for re-examination.

It is observed in this respect that, in cases in which the applicant has claimed to have been subjected to torture as a result of circumstances that still apply and in which there is therefore a risk that the applicant will be subjected to torture again in case of return, the Refugee Appeals Board will normally not make arrangements for an examination for signs of torture if the relevant applicant has appeared non-credible throughout the proceedings as in the case at hand, and the Board therefore fully rejects the relevant applicant's statement on the alleged torture or the circumstances that gave rise to the torture. If the statement on why the applicant was subjected to torture is rejected as being non-credible and the conditions giving rise to the risk of torture in case of his return continue to prevail according to the applicant, it can naturally not be considered a fact either that, on that basis, the applicant risks being subjected to torture in case of return to his country of origin.

Against that background, the Refugee Appeals Board maintains that returning the applicant to Turkey will not be contrary to Article 3 of the Convention against Torture, and the Board still finds that the applicant does not satisfy the conditions for residence under section 7 of the Aliens Act.'

The full wording of the Refugee Appeals Board's decision of 17 March 2016 is appended as Exhibit 2. It is observed that the exhibits of the decision are not appended, as Exhibit I has previously been submitted to the Committee, and Exhibit II to the decision is appended to these follow-up observations as Exhibit 1.

It appears from the above decision of the Refugee Appeals Board that, in light of the Committee's decision, the Board has allowed the complainant a full reconsideration of his asylum case, taking into account Denmark's obligations under CAT and the Committee's present decision.

As appears from the decision of the Refugee Appeals Board of 17 March 2016, the Refugee Appeals Board found that the complainant has failed to render probable his grounds for asylum.

As regards the report on the medical examination made by Amnesty International on 25 September 2014, which has been produced by the complainant, the Refugee Appeals Board observed, *inter alia*, that, on several points, the findings mentioned in the report were found not to accord with the applicant's own statement on the abuse against him and that the conclusion of the medical examination was seen, in any circumstances, not to be directly linked to the assessment of the credibility of the applicant's statements on his grounds for asylum, which chronologically emerged after the time when the torture allegedly took place.

Moreover, the Refugee Appeals Board found no basis for considering the complainant's statements on and recollection of the events included in his grounds for asylum to have been affected in a crucial way by any physical abuse to which he had allegedly been subjected, nor did the Board find that the conclusion on the medical examination independently added to the credibility of the complainant's grounds for asylum, including that he had allegedly been subjected to the torture described by him in the circumstances described by him.

2.2 Article 12, read in conjunction with Article 16, of CAT

The Government observes that it follows from para. 6.2 of the Committee's decision concerning this part of the communication that the Committee considers that **it is not precluded, by the requirements of Article 22, paragraph 5 (b), of the convention, from examining the present case**.

Having thoroughly analysed the Committee's decision, the Government respectfully suggests that the decision of the Committee regarding Article 12, read in conjunction with Article 16, of CAT seems to be based on misunderstandings regarding the facts of the case and the relevant provisions of Danish law.

The Government believes that those misunderstandings have been decisive for the Committee's finding that there has been a violation of Article 12, read in conjunction with Article 16, of CAT. The Government would therefore like to clarify this matter.

2.2.1 The complainant's information on the exhaustion of all available domestic remedies

In his communication of 19 December 2013 to the Committee, the complainant did not mention at all whether domestic remedies had been exhausted as far as his claim for violation of Article 12 of CAT is concerned.

In his additional comments to the Committee of 7 October 2014, the complainant stated the following on page 5 about the exhaustion of domestic remedies:

> ‘As of 8 january 2014 the prison rejected any wrongdoings and consequently an appeal was forwarded to the Danish Ministry of Justice as of February 26, 2014. On 22 May 2014 the Ministry of Justice also rejected any violations of CAT and informed counsel that as far as the police request of handing over the complainant in order to drive him to the Embassy is an issue for the Courts.
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> With regard to the issue of exhausting all national remediums please be informed, that this question was indeed handled by the City Court on December 12, 2013, the High Court on December 20, 2013. Furthermore counsel asked for permission to have the case considered by the Supreme court but this was rejected as of on February 20, 2014 and thus all national remedies were exhausted […].’

As regards the use of force in prison and the fact that he was handed over to the Danish police by the prison staff on 18 December 2013, the complainant stated as follows on page 10:

> ‘On the contrary the Danish authorities has denied everything and the decision of the High Court was not allowed appeal to the Danish Supreme court […].’

2.2.2 The Government’s observations on the exhaustion of all domestic remedies

Initially, the Government wants to mention that the complainant refers to four different issues as one and the same issue in his additional comments to the Committee of 7 October 2014.

However, they relate to four different issues, which must be considered and appealed separately under Danish law – and which the Committee therefore also ought to consider separately. Domestic remedies have been exhausted only for *one* of these issues.

The four issues are reviewed in detail below.

1) Detention under section 36 of the Aliens Act:

   The complainant was detained from 6 November 2013 until 6 January 2014. The detention orders were issued by the District Court of Hillerød.

   Pursuant to the Danish Administration of Justice Act (*retsplejeloven*), an appeal of a detention order issued under section 36 of the Danish Aliens Act (*udlændingeloven*), lies to the High Court.

   The complainant did not appeal the orders of the District Court of Hillerød to the High Court at any time. It is observed in this respect that the complainant was represented by assigned counsel.

   As regards the *very issue of detention* under section 36 of the Aliens Act, the complainant has therefore not exhausted domestic remedies.

Thus, the Committee should not consider this part of the communication, see Article 22 (5) (b) of CAT.

2) Order for the presentation of the complainant at the Turkish Embassy in Copenhagen:

By order of 12 December 2013 issued by the District Court of Hillerød, the District Court decided to permit employees of the Danish National Police (*Rigspolitiet*) to present the complainant at the Turkish Embassy in Copenhagen to have travel documents issued for him and to order the Danish Prison and Probation Service (*Kriminalforsorgen*) to remove him from his cell and commit him to the care of the police.

This order was appealed to the High Court of Eastern Denmark, and on 20 December 2013 the High Court upheld the order of 12 December 2013 issued by the District Court.

On 19 February 2014, the Appeals Permission Board (*Procesbevillingsnævnet*) decided not to permit an appeal of the High Court order to the Supreme Court.

The Government wants to emphasise that these orders relate exclusively to the *very issue of the presentation of the complainant at the Turkish Embassy in Copenhagen*. Accordingly, the orders do not relate to the prison officers' treatment of the complainant when he was handed over to the police on 18 December 2013 and the way that he was treated by the police in that connection.

As regards the orders issued by the Danish courts for the presentation of the complainant at the Turkish Embassy in Copenhagen, domestic remedies have been exhausted.

Therefore, these orders can be considered by the Committee, see Article 22 (5) (b) of CAT.

However, the complainant did not state in his communication of 19 December 2013 or in his additional comments of 7 October 2014 that those orders were allegedly contrary to CAT.

3) The prison officers' use of force on 18 December 2013:

On 18 December 2013, the complainant was to be presented at the Turkish Embassy in Copenhagen to have travel documents issued for him. The complainant refused to

come along voluntarily to the Turkish Embassy, and therefore the Danish Prison and Probation Service had to remove him from the cell and commit him to the care of the police. When prison officers fetched the complainant from his cell, he had cuts on his left forearm and stomach. Shortly after, it was established that the cuts were no longer bleeding and that the cuts were merely superficial. The complainant had inflicted these superficial cuts on himself. A sweater was then put on the complainant, and he was committed to the care of the police. The complainant was also handcuffed to prevent any additional self-harm. The use of force by the prison staff the same day was reported in the complainant's personal file (Annex 4).

In the opinion of the complainant, the treatment of him by the prison officers was contrary to Article 12, read in conjunction with Article 16, of CAT.

Complaints of the use of force by prison staff could be lodged with the relevant institution, with the right to appeal the decision to the Department of Prisons and Probation (*Direktoratet for Kriminalforsorgen*).[1] On 30 December 2013, the complainant lodged a complaint with the Ellebæk Institution for Detained Asylum-Seekers of the force used.

On 8 January 2014, the Ellebæk Institution decided that the use of force was justified. The Ellebæk Institution thus investigated the use of force on 18 December 2013. The decision has been appended as Exhibit 3. The complainant appealed the decision to the Department of Prisons and Probation the same day.

On 22 May 2014, the Department of Prisons and Probation made the decision that the use of force on 18 December 2013 had been justified. To this end, the Department of Prisons and Probation made an investigation of the justification of the use of force. The decision has been appended as Exhibit 4.

The Government observes in this connection that the complainant has transmitted neither the decision made by the Ellebæk Institution on 8 January 2014 nor the decision made by the Department of Prisons and Probation on 22 May 2014 to the Committee even though both decisions were available when the complainant transmitted his additional comments to the Committee on 7 October 2014.

Pursuant to section 63 of the Danish Constitution (*grundloven*), the decision made by the Department of Prisons and Probation on 22 May 2014 can be brought before the Danish courts.

[1] The complaint rules were revised as of 6 May 2015 with the effect that appeals can now be lodged directly with the Department of Prisons and Probation.

However, the complainant, who was represented by counsel, did not bring the decision before the Danish courts.

The complainant has therefore not exhausted domestic remedies as regards his complaint of the *use of force by the prison staff* on 18 December 2013.

Thus, the Committee should not consider this part of the communication, see Article 22 (5) (b) of CAT.

As regards the observations of the Committee in para. 7.7 that *'despite the appearance of the complainant clearly showed that he had been injured and despite his subsequent complaints, no investigation appears to have been initiated into the events'*, the Government points out as a matter of form that both the Ellebæk Institution and the Department of Prisons and Probation investigated the justification of the use of force against the complainant on 18 December 2013.

Finally, the Government observes that, in case he had considered it a criminal offence, the complainant could have reported the matter to the police. However, the complainant, who was represented by counsel, did not file any report.

4) Handling of the complainant by the police on 18 December 2013:

On 18 December 2013, the complainant was handed over to the police, who were to present him at the Turkish Embassy in Copenhagen to have travel documents issued for him. According to the police report of 18 December 2013, the police officers had been informed by the prison staff on their arrival at the Ellebæk Institution that the complainant himself had inflicted superficial wounds on his left forearm and his stomach. The police could very soon establish that the bleeding from the wounds had ceased. A sweater was then put on the complainant, and a jacket was brought along in the police car. Afterwards, the complainant was calm and quiet during the drive to Copenhagen.

The complainant did not state in his communication of 19 December 2013 to the Committee that the way that he had been handled by the police on 18 December 2013 was allegedly contrary to CAT. Nor does the complainant appear to have made any claim in his additional comments of 7 October 2014 alleging that the way that he was handled by the police was contrary to CAT.

If the complainant had wanted to complain of police misconduct, such complaint could have been directed to the Independent Police Complaints Authority (*Den Uafhængige Politiklagemyndighed*). The complainant, who was represented by

counsel, never lodged any complaint with the Independent Police Complaints Authority of police misconduct.

If the complainant had wanted to complain of the practice, policy or procedure of the police in connection with his detention (e.g. proper means of force used by the police and police use of force), such complaint could be lodged with the Danish National Police, with the right to appeal the decision to the Ministry of Justice (*Justitsministeriet*). The complainant, who was represented by counsel, never lodged any complaint of police practice, policy or procedure in connection with his detention.

Hence, the complainant has not exhausted domestic remedies. (knudret sætning som ikke ses at være nødvendig)

Thus, the Committee should not consider this part of the communication, see Article 22 (5) (b) of CAT.

As regards the following observations of the Committee in para. 7.7: *'despite the appearance of the complainant clearly showed that he had been injured and despite his subsequent complaints, no investigation appears to have been initiated into the events. On the contrary, the police accepted at face value the explanation that the complainant had hurt himself, no medical examination was conducted and the police officers proceeded with his forcible delivery to the Turkish Embassy'*, the Government observes as a matter of form that the police could very soon establish by inspecting the complainant that the bleeding from his superficial wounds had ceased and that the complainant did not mention at any time when he was handed over to the police or in his communication to the Committee that the cuts had not been self-inflicted. Accordingly, the complainant did not have any injuries other than self-inflicted wounds. Finally, it is observed that an investigation has been made of the force used by prison staff to restrain the complainant. For further details see part 3 below.

Against this background, the Government finds that the decision adopted by the Committee on 23 November 2015 as regards Article 12, read in conjunction with Article 16, of CAT is based on misunderstandings of facts and law on essential points, and that those misunderstandings have been decisive for the Committee's conclusion that CAT has been violated.

3. General measures taken to give effect to the decision of the Committee

The Government observes that, when exercising their powers under the Aliens Act, the Danish Immigration Service and the Refugee Appeals Board are legally obliged to take

Denmark's international obligations into account, including the jurisprudence of the Committee.

The decision adopted by the Committee in the case at hand will therefore be taken into account by the Danish Immigration Service and the Refugee Appeals Board in their assessment of Denmark's international obligations.

It is observed that, at its meetings, the Coordination Committee of the Refugee Appeals Board is always informed of any new decisions or views adopted by the Committee against Denmark in which a violation is found to have occurred in cases involving asylum-seekers. The Coordination Committee meets every two months. All members of the Refugee Appeals Board receive a copy of the minutes of Coordination Committee meetings.

In addition, decisions adopted by the Committee will be reported in the annual report of the Refugee Appeals Board. The annual report of the Refugee Appeals Board is distributed to all members of the Board for use in their work on the Board and is publicly available on the website of the Board. The annual report of the Refugee Appeals Board includes a chapter on cases brought before international bodies. This chapter comprises a general paragraph on the relevant conventions and a review of the decisions and views transmitted to Denmark during the reporting year.

The Government further observes that, when exercising their powers under Danish law, police and prison officers are also legally obliged to take Denmark's international obligations into account, including the jurisprudence of the Committee. The decision adopted by the Committee in the present case has also been forwarded to the Prison and Probation Service and the Danish National Police.

Moreover, the Government observes that the Ministry of Foreign Affairs (*Udenrigs-ministeriet*) has made the Committee's decision publicly available on its website (www.um.dk).

4. Conclusion

4.1 Article 3 of CAT

As appears from part 2.1, the complainant's asylum case was reopened on the basis of the decision adopted by the Committee on 23 November 2015, and subsequently, on 14 March 2016, the case was reconsidered by the Refugee Appeals Board at an oral hearing before a new panel, *inter alia*, in light of the report made by Amnesty International on the medical examination produced by the complainant and the Committee's decision on the present case.

In its decision of 17 March 2016, the Refugee Appeals Board found that the complainant has failed to render probable his grounds for asylum, and for this reason the Board refused the complainant's application for residence under section 7 of the Aliens Act.

4.2 Article 12, read in conjunction with Article 16, of CAT

As mentioned in part 2.2.2 above, the Government is of the opinion that the decision adopted by the Committee on 23 November 2015 is based on misunderstandings of facts and law on essential points, and that those misunderstandings have been decisive for the Committee's conclusion that CAT has been violated.

Against this background, the Government kindly asks the Committee to reconsider this part of the communication, taking into account the issues raised in part 2.2.2.

The Government remains at the disposal of the Committee should any further information or observations be required.

A copy of these follow-up observations has been forwarded to Mr Niels-Erik Hansen, counsel for the complainant.