

COMMITTEE AGAINST TORTURE

A. E. v. Switzerland

Communication No. 24/1995

2 May 1995

ADMISSIBILITY

Submitted by: A. E. [name deleted] [represented by counsel]

Alleged victim: The author

State party: Switzerland

Date of communication: 20 February 1995

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

Meeting on 2 May 1995,

Adopts the following:

Decision on admissibility

1. The author of the communication is a Nigerian citizen, born in 1972, who entered Switzerland from Italy in 1994, and who has been ordered to leave the country following the dismissal of his application for refugee status. The author claims that his return to Nigeria would make him a victim of a violation of article 3 of the Convention against Torture by Switzerland.
2. Before considering any claims contained in a communication, the Committee against Torture must decide whether or not it is admissible under article 22 of the Convention.
3. The author's request for recognition as a refugee was refused on 20 May 1994. His appeal against this decision was dismissed on 5 October 1994. On 8 December 1994, the author requested review of the decision on the basis of new documentary evidence, but declined to pursue the remedy because he found the costs too high and doubted that he would be successful.

4. Article 22, paragraph 5 (b), of the Convention precludes the Committee from considering any communication from an individual, unless it has ascertained that the individual has exhausted all available domestic remedies; this rule does not apply if it is established that the application of domestic remedies has been or would be unreasonably prolonged or would be unlikely to bring effective relief. In the circumstances of this case, the Committee finds that the State party should have an opportunity to evaluate the new evidence before the communication is submitted for examination under article 22 of the Convention. Moreover, on the basis of the information available, the Committee cannot conclude that the fee required prevented the author from exhausting the remedy or that the review would be **a priori** ineffective.

5. The Committee therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the author and, for information, to the State party.

[Done in English, French, Russian and Spanish, the English text being the original version.]