

COMMITTEE AGAINST TORTURE

N. D. v. France

Communication No 32/1995

20 November 1995

CAT/C/15/D/32/1995

ADMISSIBILITY

Submitted by: N. D. (name deleted) [represented by counsel]

Alleged victim: The author

State party: France

Date of communication: 24 April 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 20 November 1995,

Adopts the following:

Decision on admissibility

1. The author of the communication is a Zairian citizen, currently residing in France. She claims that her return to Zaire following the dismissal of her application for refugee status would violate article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. She is represented by AFIDRA.

2. On 12 September 1993, the author filed a request to be recognized as a refugee in France, which was rejected by the Office français de protection des réfugiés et apatrides (French Office for the Protection of Refugees and Stateless People) on 16 February 1994. Her appeal was rejected by the Commission des recours des réfugiés (Commission of Appeal in Refugee Matters) on 20 June 1994. A new application was rejected on 22 September 1994 by the Office français de protection des réfugiés et apatrides and on 8 March 1995 by the Commission des recours des réfugiés. It appears that the dismissal of the application by the

Commission des recours des réfugiés is at present subject of an appeal in cassation before the Conseil d'Etat, which has not yet rendered its judgement.

3. An expulsion order (arrêté de reconduite en frontière) issued against the author is at present on appeal before the Conseil d'Etat, which has not yet decided on the case. A second expulsion order against the author was quashed by the Tribunal administratif of Paris.

4. Before considering any claim in a communication, the Committee against Torture must decide whether or not it is admissible under article 22 of the Convention.

5. Article 22, paragraph 5 (b), of the Convention precludes the Committee from considering any communication, unless it has ascertained that all available domestic remedies have been exhausted; 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 instant case, the expulsion order against the author is subject of an appeal before the Conseil d'Etat. The author has not invoked any circumstances to show that this remedy would be unlikely to bring effective relief. Moreover, it appears from the information submitted by the author that a subsequent expulsion order against her was quashed by the Tribunal administratif. In the circumstances, the Committee is at present precluded from considering the author's communication.

6. The Committee therefore decides:

(a) That the communication, as submitted, is inadmissible;

(b) That this decision may be reviewed under rule 109 of the Committee's rules of procedure upon receipt of a request by or on behalf of the author containing information to the effect that the reasons for inadmissibility no longer apply;

(c) 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.]