

## COMMITTEE AGAINST TORTURE

### X v. Switzerland

Communication No. 17/1994

17 November 1994

### ADMISSIBILITY

*Submitted by:* X [name deleted]

*Alleged victim:* The author

*State party:* Switzerland

*Date of communication:* 22 August 1994

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

Meeting on 17 November 1994,

Adopts the following:

#### **Decision on admissibility**

1. The author of the communication is X, a Zairian citizen, currently residing in Switzerland. He claims to be a victim of a violation by the Swiss authorities of article 3 of the Convention against Torture. He submits the communication on his own behalf and on that of his companion.

The facts as submitted by the author:

2.1 The author, who was born in 1964, states that he has been a member of the **Union pour la démocratie et le progrès social** (UDPS) since 1986. Since a close relative was in charge of the UDPS in his hometown, the author was entrusted the task of distributing invitations for illegal meetings, which were usually held at the house of a family member. Because of his age, the author himself almost never attended these meetings.

2.2 In January 1988, the author attended a public gathering organized by the UDPS. When

military police arrived to disperse the meeting, the author fled to his parents' house. There he learned that his relative had been arrested. The next morning, at 5.30 a.m., police arrived at the author's house and detained him. The author claims that the police took him to a room to be tortured, in order to make him disclose the names of those who attended the meetings in his relative's house. When the author refused to comply, he was accused of conspiracy against the Republic. In the evening of the fifth day of detention, the author was released, thanks to the intervention of a friend of his brother.

2.3 After having stayed with a friend for a brief period of time, his brother drove him to another town, where he stayed with another brother. About a year later, the author, through his brother, obtained a false passport and boarded an Air Zaire plane for Rome. After his arrival in Rome, the author sought help to go across the border with Switzerland.

2.4 Upon arrival in Switzerland, the author, in February 1989, requested recognition as a refugee. He was heard by the **Office cantonal des demandeurs d'asile** in Geneva, in May 1989. In July 1992, the **Office fédéral des réfugiés** rejected his request. The author's appeal was rejected by the **Commission suisse de recours en matière d'asile et de renvoi** in May 1994. The author and his companion were ordered to leave Switzerland before or on 30 August 1994, failing which he would be returned to Zaire. In August 1994, his permit was extended until 30 September 1994.

2.5 The author further states that he was joined by his girlfriend in November 1991, that they are well integrated in society, and that they have found employment.

#### The complaint:

3.1 The author argues that he owes his life to having fled Zaire. He claims that he cannot go back to Zaire without endangering his security. He argues that, since he does not possess proper identification papers, he will be immediately arrested on arrival and, since he is known as a member of the UDPS, he will be kept in detention and probably subjected to torture. He states that in Zaire a consistent pattern of gross, flagrant or mass violations of human rights exists, and that for this reason alone the Swiss authorities should refrain from returning him. He further submits that the simple fact of applying for asylum is considered in Zaire as a subversive act.

3.2 Pending the Committee's decision on the merits of his communication, the author requests the Committee to request Switzerland, under rule 108, paragraph 9, of the Committee's rules of procedure, not to implement the expulsion order against him and his companion.

#### Issues and proceedings before the Committee:

4.1 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.

4.2 The Committee has examined the claims submitted by the author and observes that his

account lacks the minimum substantiation that would render the communication compatible with article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

5. The Committee against Torture 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.]