



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Communication No. 709/2015*

Decision adopted by the Committee at its fifty-seventh session (18 April-13 May 2016)

<i>Submitted by:</i>	C.N. (represented by counsel, Tage Goettsche)
<i>Alleged victim:</i>	Denmark
<i>Date of communication:</i>	28 October 2015 (initial submission)
<i>Date of decision:</i>	29 April 2016
<i>Subject matter:</i>	Deportation to Nigeria
<i>Procedural issue:</i>	Substantiation of the complaint
<i>Substantive issue:</i>	Risk of torture and ill-treatment
<i>Article of the Convention:</i>	Article 3

* The following members of the Committee participated in the consideration of the present communication: Essadia Belmir, Alessio Bruni, Satyabhoosun Gupt Domah, Felice Gaer, Abdoulaye Gaye, Claudio Grossman, Jens Modvig, Sapana Pradhan-Malla, George Tugushi and Kening Zhang.

Decision on admissibility

1.1 The author of the communication is Mr. C.N., a Nigerian citizen born in 1977. He claims that his deportation to Nigeria would constitute a violation, by Denmark, of his rights under article 3 of the Convention. The author is represented by counsel.

1.2 On 28 October 2015, the Committee, acting through its Rapporteur on new complaints and interim measures, decided not to issue a request for interim measures under rule 114 of the Committee's rules of procedure, and determined that no observations from the State party were needed to ascertain the admissibility of the present communication.

The facts as presented by the author

2.1 The complainant applied for asylum in Denmark in June 2014, claiming that he was persecuted in Nigeria by the Department of Security (DSSS) and by a suspected terrorist, one A.U., who thought that the complainant has reported him to the authorities. On 3 April 2014, the complainant was arrested by the DSSS as his telephone number was found in the telephone contacts of a terrorist who escaped from prison on 30 March 2014. The complainant explained that a stranger approached him twice at the bus terminal in Abuja where he worked, and offered money to keep two bags until another person picked them up. After two days at the DSSS Headquarters in Asokor, the complainant was released. On 14 April 2014, after an explosion at the bus terminal, he saw A.U. on the TV news and recognized him as the stranger who approached him. Soon after, A.U. contacted the complainant by phone alleging that he gave him out. The DSSS also contacted the complainant asking him to come for another questioning. However, he was warned by one of the DSSS officers that he would be arrested if he came. On 19 May 2014, the complainant left Nigeria.

2.2 The complainant arrived in Denmark in June 2014, without passport or any valid travel documents. On 1 September 2015, the Danish Immigration Service rejected his asylum application. On 14 October 2015, the Refugee Appeals Board rejected his appeal and maintained the decision of the Immigration Service, having found his story incredulous. According to the Board's decision, the complainant was arrested on 18 August 2014, and there were two documents found on him – a handwritten route from Nigeria to the Danish asylum centre "Sandholmlejren" and a computer-typed story for asylum with blank spots to be filled out by him. These documents, as well as some controversial statements in his story, contributed to the majority finding of the Board.

The complaint

3. The complainant submits that the decision of the Refugee Appeals Board was arbitrary because it doubted every detail of his story, without taking into account his stress and psychological condition, and that it has not made an investigation to clarify the extent of danger for him if returned to Nigeria. He claims that if deported, he would be in real danger of being killed by the DSSS or Boko Haram.

Issues and proceedings before the Committee

4.1 Before considering any complaint submitted in a communication, the Committee against Torture must decide whether or not it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22, paragraph 5 (a) of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

4.2 The Committee notes that for the facts of the case the complainant referred to a short translated abstract of the 14 October 2014 Refugee Board decision, without providing any additional details about his alleged persecution by the DSSS or by A.U. in Nigeria. The Committee also notes that the complainant has not adduced sufficient arguments of why, in

his opinion, the decisions of the domestic authorities were arbitrary, except the argument that his story was inconsistent due to the stress caused by the numerous interviews during the asylum process. The Committee observes, however, that the negative asylum decision of the domestic authorities was not based exclusively on the inconsistencies in the complainant's story, but was as well motivated by other considerations, and in particular by the two documents found on him at the moment of his arrest in August 2014 (see para 2.2 supra). The Committee notes that the complainant has not addressed this fact in his submission.

4.3 The Committee considers that in the particular circumstances of the present case, the limited information presented by the complainant is not sufficient to permit either establishing of the risk of torture for him in Nigeria by the DSSS or by A.U., or verifying the arbitrariness in the decisions of the domestic immigration and other authorities in his asylum case. In these circumstances, the Committee concludes that the complainant has failed to sufficiently substantiate his claims, for the purposes of admissibility.

5. The Committee therefore decides:

- (a) That the communication is inadmissible under article 22, paragraph 2 of the Convention;
- (b) That this decision shall be transmitted to the State party and to the complainant.
