

**A.G. (name withheld) v. Sweden, Communication
No. 140/1999,
U.N. Doc. CAT/C/24/D/140/1999 (2000).**

Communication No. 140/1999

Submitted by: A.G. (name withheld)

Alleged victim: The author

State party: Sweden

Date of communication: 14 April 1999

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 2000,

Adopts the following:

Decision on admissibility

1. The author of the communication is Mr. A.G., born on 21 March 1967, an asylum-seeker of Moldovan origin, currently residing in Sweden. The author claims that he would risk torture if he is returned to the Republic of Moldova and that his forced return to that country therefore would constitute a violation by Sweden of article 3 of the Convention. The author is not represented by counsel.

The facts as presented by the author

2.1 The author states that in December 1991, following the fall of the Soviet Union and the independence of Moldova, he became active in the Union of Moldovans of Transnistria. The author joined the Transnistrian independence army in May 1992 and received training first in Tiraspol and then in Bender, where he took part for several months in fighting against the Moldovan army. The author was allegedly arrested on 20 June 1992 by the Moldovan police, presumably for armed resistance. The author claims that

he managed to escape after a few days, when the police station was attacked by the Transnistrian independence army.

2.2 In August 1992 the author and many others deserted from the Bender guards, since in the author's view the unit had become too independent in its attempts to provoke continued fighting with the Moldovan army despite ongoing peace negotiations with the Transnistrian independence army. The author claims that he stayed with a friend in Tiraspol, in order to hide from both the Moldovan and local Transnistrian police, who cooperated in their search for members of the Bender guards.

2.3 The author claims that he was again arrested in November 1992 and eventually brought to the Osjtj 29-11 prison in Balti, in the north of Moldova. The author was unofficially told that he was arrested because of his service in the Bender guards. He was allegedly held for almost three years without trial. The author submits that while in prison he was repeatedly subjected to abusive and degrading ill-treatment. He was allegedly beaten by other prisoners between 40 and 50 times, which resulted in loss of consciousness on several occasions. The prison guards not only ignored his treatment by the other prisoners, but instigated and contributed to it, and occasionally put him in a solitary confinement cell. The author further submits that the prison guards also mistreated him by beating and kicking him, mainly on the head.

2.4 In August 1993, the author was sentenced to 13 years in prison, presumably for treason, illegal possession of weapons and resisting arrest. Two years later, in August 1995, the author was again brought to court as a witness in another trial and managed to escape from the three prison guards escorting him. The author arrived in Sweden, via Ukraine, Russia and Finland, on 15 December 1995 and applied for asylum the following day.

2.5 On 21 October 1996 the Swedish Board of Immigration rejected the author's request. The author appealed the decision to the Aliens Appeal Board and following an additional oral hearing with the author on 5 February 1999 the appeal was rejected on 18 March 1999.

Complaint

3. With reference to the facts presented, the author fears that he will be subjected to renewed torture if he is returned to Moldova and that his forced return would therefore constitute a breach by Sweden of article 3 of the Convention.

State party's observations on admissibility

4.1 On 22 June 1999 the Committee transmitted the communication to the State party for comment. In its submission of 16 August 1999, the State party contested the admissibility of the author's communication with reference to article 22, paragraph 5 (a), of the Convention.

4.2 The State party informed the Committee that on 21 March 1999 the author had submitted a complaint relating to his expulsion to the European Court of Human Rights, which was registered as a case pending before the Court on 3 May 1999. The State party submits that the Committee should declare the communications inadmissible in accordance with the above mentioned article, which states that the Committee shall not consider any communication if the same matter is being, or has been examined under another procedure of international investigation or settlement.

Author's comments on admissibility

5. On 6 September 1999, the Committee transmitted the State party's observations regarding the question of admissibility to the author for his comments. The author has not submitted any additional information disputing or confirming the observations of the State party.

Issues and proceedings before the Committee

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

6.2 In the light of the State party's observations and the absence of response on the part of the author thereto, the Committee has verified and assured itself that a complaint from the author was in fact registered by the European Court on 3 May 1999. The Committee notes that the author's communication before it was registered on 22 June 1999, while already pending examination under another procedure of international investigation or settlement.

7. Accordingly, the Committee decides:

(a) That the communication is inadmissible in accordance with article 22, paragraph 5 (a) of the Convention;

(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 State party and the author.

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