



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

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Committee against Torture

Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 1055/2021* **

<i>Communication submitted by:</i>	L.E.M. (represented by counsel, Alfred Ngoyi Wa Mwanza)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Switzerland
<i>Date of complaint:</i>	29 January 2021 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rules 114 and 115 of the Committee's rules of procedure, transmitted to the State party on 15 February 2021 (not issued in document form)
<i>Date of adoption of decision:</i>	9 May 2024
<i>Subject matter:</i>	Deportation to Cameroon
<i>Procedural issues:</i>	None
<i>Substantive issue:</i>	Risk of torture or other cruel, inhuman or degrading treatment if deported to country of origin
<i>Article of the Convention:</i>	3 (1)

1.1 The claimant is L.E.M., a national of Cameroon born in 1984. He is facing deportation to Cameroon and is of the view that being deported would constitute a violation by the State party of article 3 (1) of the Convention. The State party has made the declaration pursuant to article 22 (1) of the Convention, effective from 2 December 1986. The complainant is represented by counsel.

1.2 On 15 February 2021, pursuant to rule 114 of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, decided to grant the complainant's request for interim measures.

1.3 On 25 February 2021, the State party informed the Committee that, in accordance with its established procedure, the State Secretariat for Migration had requested the competent authority to refrain from taking any steps to deport the complainant, who would therefore be able to remain in Switzerland pending the consideration of his complaint by the Committee or a decision to put an end to the suspensive effect.

* Adopted by the Committee at its seventy-ninth session (15 April–10 May 2024).

** The following members of the Committee participated in the examination of the communication: Todd Buchwald, Jorge Contesse, Claude Heller, Erdogan Iscan, Peter Vedel Kessing, Liu Huawen, Maeda Naoko, Ana Racu, Abderrazak Rouwane and Bakhtiyar Tuzmukhamedov.



Facts as submitted by the complainant

2.1 The complainant is a carpenter and cabinetmaker by profession, who moved to Yaoundé in 2007. In 2010, he joined the ruling party, Rassemblement démocratique du peuple camerounais. During the presidential election of 2011, the complainant campaigned for the party in Yaoundé, where he was elected president of the party's youth organization. Since the aforementioned party failed to adhere to its commitment to support him financially in his plans to start a business, the complainant joined the opposition party Mouvement pour la renaissance du Cameroun. Elected head of the party's local unit in a district of Yaoundé, the complainant campaigned for the party during the presidential election in 2018, which he claimed was marred by fraud. After losing the election, Mouvement pour la renaissance du Cameroun organized demonstrations in Cameroon and abroad to claim victory. The complainant helped to organize a demonstration by his party, which took place in Yaoundé on 26 January 2019 while he was traveling in Equatorial Guinea. During this demonstration, several of the party's activists, including its president, Maurice Kamto, were arrested.

2.2 In February 2019, the complainant received a summons from the police through his wife. On 9 April 2019, he took part in another demonstration organized by his party that took place in front of the military court on the occasion of the hearing of the president of Mouvement pour la renaissance du Cameroun. On that day, several members of the party were arrested. As the complainant had left the scene earlier, he received a summons from the police, dated 12 April 2019, with which he did not comply. Another summons, to which he responded, was sent to him on 15 April 2019. The criminal investigation police then decided to place him in detention. The police officers remonstrated with him for having left Rassemblement démocratique du peuple camerounais. The complainant was ill-treated¹ and forced to sign a document in front of the criminal investigation police, in which he promised to leave Mouvement pour la renaissance du Cameroun.

2.3 On 29 or 30 April 2019, the complainant regained his freedom thanks to the intervention of a senior officer of the gendarmerie. On 1 June 2019, the complainant was arrested again during a demonstration for the release of the president of Mouvement pour la renaissance du Cameroun and other high-ranking members of the party. He was detained in Yaoundé Central Prison, where the conditions were harsh owing to the tasks that he had to perform inside the facility. On the night of 24 and 25 November 2019, when he had left the prison on board a truck to carry out work outside the prison, one of the guards accompanying him facilitated his escape in exchange for payment from his family and some of his clients.

2.4 Following his escape, the complainant asked his wife to go to her family in her native village and he travelled overland to Nigeria. Ten days later, he met a smuggler who gave him a Nigerian passport with a Schengen visa issued by Switzerland. He left Nigeria from Lagos. After a stopover in Doha, the complainant arrived in Zurich on 13 December 2019.²

2.5 On 16 December 2019, the complainant submitted an application for asylum in Switzerland to the federal asylum centre in Boudry.³ On 24 April 2020, the State Secretariat for Migration rejected the complainant's asylum application and ordered his deportation from Switzerland. On 27 May 2020, the complainant filed an appeal against this decision with the Federal Administrative Court and requested full legal assistance⁴ from the Court. In an interim ruling issued on 10 June 2020, the Court rejected the complainant's request for legal

¹ The complainant has not provided any specific details about the abuse to which he was subjected.

² This information, which was provided by the complainant, contradicts that contained in paragraph 4.2 of the present decision, which was provided by the State party, according to which the complainant was banned from entering Switzerland between 28 December 2018 and 27 December 2021.

³ On 23 December 2019, the complainant was given a personal background interview pursuant to article 26 (2) of the Asylum Act (No. 142.31) of 26 June 1998. On 3 January 2020, he was the subject of a hearing under article 5 of Regulation No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the member State responsible for examining an application for international protection lodged in one of the member States by a third-country national or a stateless person (Dublin III Regulation). On 10 February and 4 March 2020, in accordance with article 29 (2) of the Asylum Act, he was interviewed in greater depth by the State Secretariat for Migration about his reasons for claiming asylum.

⁴ This appeal was supplemented by a memorandum issued on 2 June 2020.

assistance. In a ruling issued on 21 December 2020, the Court dismissed the claimant's appeal and upheld the decision rejecting his claim issued by the State Secretariat for Migration on 24 April 2020. The Court ordered his removal from Swiss territory.

2.6 In Switzerland, the complainant continued his political activities as an active member of *Mouvement pour la renaissance du Cameroun* and took part in demonstrations organized by opponents of the Government of Cameroon. He was responsible for mobilizing Cameroonian nationals in Switzerland to take part in demonstrations held on 3 October 2020 and organized by the Cameroonian opposition in Geneva.

Complaint

3.1 The complainant states that, according to a report published by Amnesty International in 2019, the Cameroonian authorities have flagrantly violated the rights to freedom of expression and peaceful assembly, in particular by preventing or violently dispersing any demonstrations against the re-election of the President, Paul Biya. Members of *Mouvement pour la renaissance du Cameroun* were particularly targeted. In this regard, the complainant considers that the condition set out in article 3 (2) of the Convention, relating to systematic violations of human rights in the State concerned, has been met.

3.2 The complainant states that he is the subject of an arrest warrant following his escape and that he is actively sought by the Cameroonian authorities for alleged offences relating to his political activities.⁵ He claims that the acts of torture and inhuman and degrading treatment to which he was subjected during his detention have left sequelae, including severe psychological disorders, post-traumatic stress disorder and a severe depressive episode.⁶ The complainant, referring to paragraph 11 of the Committee's general comment No. 4 (2017), states that he faces a risk that is foreseeable, personal, present and real. He believes that the indications of personal risk that he faces may include his ethnic origin⁷ and the fact that he was previously subjected to acts of torture. The complainant points out that, in addition to being a member of *Mouvement pour la renaissance du Cameroun*, he has held an important position within this opposition party. This makes him a significant figure in the eyes of the Cameroonian authorities.

3.3 The complainant considers that the State party did not give him the opportunity to demonstrate the risks that he would face if he was forcibly returned to Cameroon. He also believes that the single-judge decision taken against him by the Federal Administrative Court deprives him of proper legal protection and is contrary to article 21 of Act No. 173.32 of 17 June 2005 on the Federal Administrative Court, which establishes that the court's decisions must be handed down by a panel of three judges.⁸

3.4 The complainant maintains that, in the event of his return to Cameroon, where he risks being subjected to torture and other inhuman and degrading treatment, the State party would be in violation of its obligations under article 3 of the Convention. Given the urgency of the matter, the complainant requests the Committee to grant him interim measures.

3.5 The complainant claims that he has exhausted all available domestic remedies and that his complaint has not been submitted for examination by any other procedure of international investigation or settlement.

⁵ See the arrest warrant attached to the case file, which was issued against the complainant on 4 December 2019 by the Criminal Investigation Department of the Centre Region for the acts of "escape from prison, political activism, participation in the prohibited march and presence in places prohibited by the administrative authorities". Also attached to the case file is a copy of a wanted notice dated 17 December 2019, which was issued by the same authority in respect of the complainant.

⁶ See the medical certificate issued on 4 January 2019, which was submitted by the complainant.

⁷ In this connection, the complainant claims that politics in Cameroon are conducted along ethnic and tribal lines. Given that he is originally from the centre of the country, and the members of *Mouvement pour la renaissance du Cameroun* are mainly from the west, the *Mouvement* saw him as a lever for expanding into the centre.

⁸ However, article 111 of the Asylum Act recognizes the competence of single judges in this area.

State party's observations on the merits

4.1 On 8 November 2021, the State party submitted its observations on the merits of the complaint. The State party first recalls the facts and proceedings brought before the Swiss authorities and courts.

4.2 The State party notes that the Schengen visa that enabled the complainant to travel to Europe was issued to him by Switzerland in connection with his participation in an international conference held in Geneva from 17 to 19 September 2018. The State party also points out that, according to the information in the case file, the complainant did not take the return flight scheduled for 20 September 2018. Contrary to the undertaking he had given at the time of his visa application, the complainant did not inform the Swiss embassy in Cameroon of his return to the country. For this reason, according to the State party, the complainant was banned from entering Switzerland for a period of three years from 28 December 2018 to 27 December 2021.

4.3 The State party points out that the State Secretariat for Migration, in explanation of its decision to reject the complainant's asylum application, expressed doubts about his statements concerning the circumstances of his arrest and release, the events he had allegedly experienced and the interest that he might arouse on the part of the Cameroonian authorities. The State Secretariat considered that the description of the conditions of detention experienced by the complainant in Yaoundé was evasive and clichéd, and that his claim relating to his political turnaround in favour of Mouvement pour la renaissance du Cameroun was not convincing. The State Secretariat also noted that the circumstances in which the complainant travelled to, and arrived in, Switzerland were unclear.

4.4 The State party further points out that the Federal Administrative Court, in its ruling of 21 December 2020 rejecting the complainant's application, noted that the complainant had not been in Cameroon between September 2018 and December 2019, during which time the key events in his account of the facts supporting his application occurred. In support of this conclusion, the Court noted that the complainant's passport contained a stamp for his arrival in Europe at Roissy airport on 16 September 2018 but no stamp corresponding to his departure from Europe, whereas the complainant claimed that he had left Europe from Paris, with his passport, before 20 September 2018. The Court also noted that, although the passport contained an entry stamp for Cameroon (Yaoundé), dated 20 September 2018, it was unclear when and in what circumstances this stamp had been added to the document, since the complainant did not report to the Swiss embassy in Cameroon in September 2018. Furthermore, the complainant has not explained how he was suddenly able to recover his passport, which had supposedly been taken away from him by the Cameroonian authorities. The State party notes the Court's statement to the effect that the complainant produced neither the aeroplane ticket nor the receipt for its purchase, which he claimed to have bought with his own bank card. Nor has he provided an aeroplane ticket or any proof of his alleged trip from Nigeria to Switzerland in December 2019.

4.5 The State party adds that, according to the Federal Administrative Court, the evidence produced by the complainant, namely, copies of two slips relating to cash deposits to his bank, and a medical certificate dated 4 January 2019, did not constitute proof of his presence in Cameroon between September 2018 and December 2019. The Court found that, although the slips were indeed dated 5 December 2018 and 17 January 2019, the dates were clearer than the rest of the text on the slips and in a different font and they appeared to have been added after the fact. Furthermore, the medical certificate dated 4 January 2019 that was submitted by the complainant did not state when the medical examination had taken place. Lastly, the screenshots of the complainant's account on a social network did not prove that he had been in Cameroon in early 2019 either, since it was not clear when or where the photos posted on this platform in January and March 2019 had been taken.

4.6 The State party notes that article 3 of the Convention provides that "no State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence

in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”

4.7 The State party notes that the Committee has given concrete expression to the elements of article 3 in its jurisprudence and issued specific guidelines on the implementation of this article in its general comment No. 4 (2017), paragraph 38 of which states that a complainant must show that the danger of being subjected to torture in the event of an expulsion to his or her country of origin is foreseeable, present, personal and real. Moreover, the grounds for the existence of such a risk must appear to be substantial, which is the case when the relevant claims are based on credible facts. The factors that must be taken into account in order to conclude that such a risk exists include: evidence of a consistent pattern of gross, flagrant or mass violations of human rights in the State concerned; acts of torture or ill-treatment committed by a public official in the recent past; the existence of evidence from independent sources to support the allegations of torture or ill-treatment and the possibility of access to that evidence; allegations of torture or ill-treatment that may have been inflicted on the complainant or his or her entourage as a result of the proceedings before the Committee; political activity carried out by the complainant within or outside the country of origin; and any evidence as to the credibility of the complainant and the overall veracity of his or her allegations, despite certain inconsistencies in the presentation of the facts or lapses of memory.⁹

4.8 The State party notes that the Committee must take into account all relevant considerations, in accordance with article 3 (2) of the Convention, including the existence of a consistent pattern of violations of the complainant’s rights by the State. It must thus be determined whether the complainant faces a “personal” danger of being subjected to torture in the country to which he would be returned.¹⁰ It follows that the existence of a pattern of violations of human rights in a country is not sufficient to conclude that a particular person would be in danger of being subjected to torture on being returned to the country.¹¹ There must therefore be additional reasons to conclude that the danger of being subjected to torture is “foreseeable, present, personal and real”.¹²

4.9 With regard to the situation in Cameroon, the State party notes that, despite major unrest in the English-speaking part of the country (the North-West and South-West regions), the country as a whole is not in a state of war, civil war or generalized violence. The State party notes that the report on Cameroon issued by Amnesty International in 2019, which addressed human rights violations committed by the Cameroonian authorities against active members of Mouvement pour la renaissance du Cameroun, and various press articles on the situation of members of this party in Cameroon, are documents of general scope that do not personally concern the complainant. The State party therefore considers that no direct conclusions regarding the complainant’s case can be drawn from these sources.

4.10 The State party notes that the torture or ill-treatment to which the complainant claims to have been subjected in the past is a factor to be considered when assessing his risk of being subjected to torture or ill-treatment again in the event of his return to his country.¹³ In the present case, the State party notes the finding that the complainant did not return to his country of origin and therefore could not have been subjected to the alleged detentions or ill-treatment from 15 to 29 or 30 April 2019 or from 1 June to 25 November 2019.

4.11 The State party notes that the medical report submitted by the complainant in connection with the violence he endured shows that he is suffering from post-traumatic stress disorder and a severe depressive episode requiring psychotherapeutic counselling and treatment with medication, and that his symptoms consist of recollections of the traumatic event in the form of recurring nightmares and intrusive memories. The State party affirms

⁹ Committee against Torture, general comment No. 4 (2017), para. 49.

¹⁰ *K.N. v. Switzerland* (CAT/C/20/D/94/1997), para. 10.2; and *M.D.T. v. Switzerland*, (CAT/C/48/D/382/2009), para. 7.2.

¹¹ *Idem*.

¹² See, inter alia, *N.S. v. Switzerland* (CAT/C/44/D/356/2008), para. 7.2; and *T.Z. v. Switzerland* (CAT/C/62/D/688/2015), para. 8.3. See also Committee against Torture, general comment No. 4 (2017), paras. 11 and 38.

¹³ Committee against Torture, general comment No. 4 (2017), para. 49, (b), (c) and (d).

that the diagnosis of post-traumatic stress disorder set out in the medical report plausibly establishes that the complainant experienced a traumatic event and that his state of health required medical follow-up. However, it points out that a medical report can attest to the presence of trauma but not to its exact cause. Consequently, it considers that the finding of post-traumatic stress disorder does not constitute proof that the violence alleged by the claimant was perpetrated in the circumstances described.

4.12 The State party refutes the complainant's argument that the evidence submitted demonstrates his strong political commitment to Mouvement pour la renaissance du Cameroun, within which he served as the head of the local unit in his district. The State party points out that the complainant did not return to his country in September 2018 and that, as a result, his claims to have undertaken political activities, including in 2019, are not plausible. It also points out that these doubts are corroborated, *inter alia*, by the fact that, during the hearings, the complainant – who claims to have been the head of a local unit of the party in Yaoundé and to have taken part in meetings of the party's national executive board – was unable to provide information on the party's senior executives. As for the document signed by the national leader of the party, the State party points out that it is drafted in general terms and does not mention that the complainant was the head of a local unit of the party in Yaoundé.

4.13 As for the complainant's alleged political activities in Switzerland, in particular his participation in a number of demonstrations in Geneva against the President of his country of origin, the State party requests the Committee to disregard this claim, which was not submitted to the national authorities in advance as part of the asylum proceedings. The State party considers that the complainant's alleged political activities in Switzerland appear to be limited to his participation in a demonstration, and that he does not substantiate his claim to have worked to rally support for Mouvement pour la renaissance du Cameroun in Switzerland. On the basis of the information in the case file, the State party concludes that the complainant does not have the type of profile that might attract the attention of the authorities in his country of origin.

4.14 The State party notes that an allegation is insufficiently substantiated when, on an essential point, precise and detailed information is lacking, which indicates that the complainant has not experienced the events described. Likewise, an allegation is implausible when, on an essential point, it is contrary to logic or general experience.

4.15 The State party contests the claim that the complainant's asylum application was not effectively examined. It recalls that the State Secretariat for Migration and the Federal Administrative Court carefully examined the credibility of the complainant's claims concerning his stay in Cameroon between September 2018 and December 2019, his political activities, and the detentions and ill-treatment to which he was allegedly subjected there. The State party notes that the complainant's explanations about his alleged return to Cameroon in September 2018 were very vague and evasive. It noted that the complainant claimed that his return ticket had been purchased with his bank card by a friend, but he failed to substantiate this claim or his claims regarding the circumstances of his air travel from Lagos to Doha, and then to Zurich, in November 2019.

4.16 The State party further points out that the complainant claimed to have been involved in political activities for Mouvement pour la renaissance du Cameroun, led by Maurice Kamto, since January 2015. Throughout the hearings, however, he used the acronym RMC to refer to the party, which is known as MRC in French and CRM in English.¹⁴ The State party is surprised that the complainant, who claims to have been very committed to Maurice Kamto's party and to have headed one of the party's local units in Yaoundé, was unable to give the correct acronym of the party. It is of the view that, in the present case, the doubts surrounding the complainant's return to his country of origin were so significant that it was not necessary to verify the authenticity of the documents submitted in support of his allegations by means of a scientific procedure or an on-the-spot check. The State party further notes that the complainant has failed to explain how he came to be in possession of internal documents such as the arrest warrant of 4 December 2019 or the wanted notice of

¹⁴ See the party's website at <https://mrcparty.net>.

17 December 2019 and that, in its view, the claim that he is wanted by the police is also unsubstantiated.

4.17 Consequently, the State party concludes that the complainant has not shown that there is a foreseeable, present, personal and real risk that he would be exposed to torture or inhuman or degrading treatment if returned to Cameroon. The State party therefore invites the Committee to find that the removal of the complainant to Cameroon would not constitute a violation of the international obligations of Switzerland under article 3 of the Convention.

Complainant's comments on the State party's observations

5.1 On 10 March 2022, the complainant submitted his comments on the State party's observations. He points out that the human rights situation in Cameroon is generally worrying, as evidenced by Human Rights Watch, which reported in 2019 that the "Cameroonian law enforcement authorities seem happy to torture without an afterthought for the repercussions".¹⁵ The complainant also points out that, in Cameroon, civilians are tried by the military justice system if they are suspected of collaborating with separatists¹⁶ and that the country does not wish to respect its international commitments.¹⁷

5.2 In response to the State party's argument that there is neither widespread violence nor a state of civil war in Cameroon, the complainant points out that peaceful or stable States are not free from human rights violations or the use of torture. He adds that, in the context of the conflict in the north-west, Cameroon is routinely criticized for violations committed against persons considered to be opponents.¹⁸

5.3 The complainant states that, as a member of Mouvement pour la renaissance du Cameroun, he forms part of the opposition targeted by the Cameroonian authorities¹⁹ and that, as a senior member of this party, he risks persecution if he returns to the country. The complainant points out that, although the documents submitted are general in scope, they provide information on the Cameroonian State's treatment of the party's members.²⁰ He adds that, in addition to his being a defector from Rassemblement Démocratique du Peuple Camerounais, his ethnicity was seen by Mouvement pour la renaissance du Cameroun as a means of securing a foothold in the centre of the country.

5.4 With regard to the argument that he could not have been a victim of torture in Cameroon on the dates indicated, the complainant points out that, where asylum proceedings are concerned, what matters most is the rule of predominant likelihood and not strict proof. In this regard, he points out that it is obvious that a person fleeing his or her country cannot anticipate the evidence that will meet Swiss requirements. He argues that a person's failure to report to the Swiss embassy in Cameroon on returning to the country cannot be used as evidence that he was absent from Cameroon during the period concerned, as there is no proof that he was in Switzerland during that time either. In support of his claim that he was in Cameroon, the complainant produced two certificates of attendance for training courses held in Yaoundé between October 2018 and January 2019.

5.5 With regard to the factual inconsistencies in his statements, the complainant states that "inconsistencies do not necessarily mean that an allegation is false, instead, inconsistencies might indicate precisely the opposite".²¹ He also points out that interpreting inconsistencies

¹⁵ See <https://www.hrw.org/news/2019/08/20/cameroon-detainees-tortured>.

¹⁶ See <https://www.la-croix.com/Religion/Cameroun-pretre-comparait-devant-justice-militaire-2021-06-10-1201160461>.

¹⁷ Voir <https://www.la-croix.com/Monde/Au-Cameroun-ONG-etranteres-pression-2021-08-31-1201173076>.

¹⁸ See https://www.lemonde.fr/afrique/article/2021/08/13/au-cameroun-la-garde-a-vue-de-rebecca-enonchong-suscite-une-vague-d-indignation_6091354_3212.html.

¹⁹ See https://www.lemonde.fr/afrique/article/2021/12/28/au-cameroun-47-militants-du-principal-parti-d-opposition-condamnes-a-de-la-prison-ferme_6107491_3212.html.

²⁰ See <https://www.amnesty.ch/fr/pays/afrique/afrique-continent/docs/2020/les-conflits-armes-et-la-repression-favorisent-les-violations-des-droits-humains>.

²¹ International Rehabilitation Council for Torture Victims, *Psychological Evaluation of Torture Allegations: A practical guide to the Istanbul Protocol – for psychologists*, 2nd ed. (Copenhagen, 2009), p. 43.

immediately as representing malingering or false allegations may introduce errors in an evaluation, which might have serious consequences for the person being evaluated. The complainant states that, for a number of personal or political reasons, a person may falsely allege torture or exaggerate the seriousness of an incident, and that it is up to the person responsible for the evaluation to be aware of this possibility at all times while trying to identify the potential reasons why the person might be acting in this way. The complainant also maintains that certain statements that may appear to be inconsistent can be explained by the abuse to which he was subjected.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any complaint submitted in a communication, the Committee must decide whether it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22 (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.

6.2 The Committee recalls that, in accordance with article 22 (5) (b) of the Convention, it will not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. The Committee notes that, as the complainant's appeal was rejected, the rejection of his application for asylum became final and that the State party has not contested the admissibility of the complaint. The Committee therefore finds that it is not precluded by article 22 (5) (b) of the Convention from considering the communication.

6.3 As the Committee finds no further obstacles to admissibility, it declares the complaint admissible and proceeds with its consideration of the merits.

Consideration of the merits

7.1 In accordance with article 22 (4) of the Convention, the Committee has considered the communication in the light of all the information made available to it by the parties.

7.2 In the present case, the issue before the Committee is whether the return of the complainant to Cameroon would constitute a violation of the State party's obligation under article 3 of the Convention not to expel or to return (refouler) a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment.

7.3 The Committee must evaluate whether there are substantial grounds for believing that the complainant would be personally in danger of being subjected to torture upon return to Cameroon. In assessing that risk, the Committee must take into account all relevant considerations, pursuant to article 3 (2) of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights.²² However, the Committee recalls that the aim of this determination is to establish whether the individual concerned would be personally at a foreseeable and real risk of being subjected to torture in the country to which he or she would be returned. It follows that the existence of a pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute sufficient reason to conclude that a particular person would be in danger of being subjected to torture on return to that country. Additional grounds must be adduced to show that the individual concerned would be personally at risk. Conversely, the absence of a consistent pattern of flagrant violations of human rights does not mean that a person might not be subjected to torture in his or her specific circumstances.²³

7.4 The Committee recalls its general comment No. 4 (2017), which states, first, that the non-refoulement obligation exists whenever there are "substantial grounds" for believing that the person concerned would be in danger of being subjected to torture in the State to which

²² Committee against Torture, general comment No. 4 (2017), para. 43.

²³ *Kalinichenko v. Morocco* (CAT/C/47/D/428/2010), para. 15.3.

he or she is facing deportation, either as an individual or as a member of a group which may be at risk of being tortured in the State of destination and, second, that the Committee's practice has been to determine that "substantial grounds" exist whenever the risk is "foreseeable, personal, present and real".²⁴ It also recalls that the burden of proof is borne by the complainant, who must present an arguable case, that is, submit substantiated arguments showing that the danger of being subjected to torture is foreseeable, personal, present and real. However, when the complainant is in a situation where he or she cannot elaborate on his or her case, the burden of proof is reversed and the State party concerned must investigate the allegations and verify the information on which the communication is based.²⁵ The Committee gives considerable weight to findings of fact made by organs of the State party concerned; however, it is not bound by such findings, as it can make a free assessment of the information available to it in accordance with article 22 (4) of the Convention, taking into account all the circumstances relevant to each case.²⁶

7.5 The Committee notes the complainant's argument that the human rights situation in Cameroon is generally worrying and that the authorities resort to the use of torture against opponents,²⁷ bring civilians accused of separatism before the military courts,²⁸ and restrict the freedom of expression and peaceful assembly of members of Mouvement pour la renaissance du Cameroun. The Committee also notes the State party's argument that, despite the unrest in the English-speaking part of Cameroon (that is, in the North-West and South-West regions), the country as a whole is not experiencing a situation of war, civil war or generalized violence, and that, moreover, the reports of human rights violations against members of Mouvement pour la renaissance du Cameroun are documents of general scope that do not concern the complainant personally. The Committee also recalls that the existence of human rights violations in a complainant's country of origin is not, in itself, sufficient for it to conclude that he or she runs a personal risk of being tortured.²⁹ Therefore, the mere fact that human rights violations occur in Cameroon is not in itself sufficient to conclude that the complainant's expulsion to that country would constitute a violation of article 3 of the Convention.³⁰

7.6 The Committee notes the complainant's claim that, as the head of a local unit of Mouvement pour la renaissance du Cameroun in Yaoundé, he campaigned for that party during the 2018 presidential election, took part in several anti-government demonstrations, including on 9 April and 1 June 2019, and was arrested on 15 April and 1 June 2019 and detained until 25 November 2019. The Committee also notes the complainant's allegations that, during his arrest on 15 April 2019, police officers ill-treated him, remonstrated with him for abandoning Rassemblement démocratique du peuple camerounais and forced him to sign a document in which he undertook to leave Mouvement pour la renaissance du Cameroun. The Committee notes that the State party stresses in its observations that, as the complainant did not return to Cameroon in September 2018, his claims to have engaged in political activities, in particular in 2019, are not plausible, and that the State Secretariat for Migration expressed doubts about the events that he claimed to have experienced.

7.7 As for the political activities carried out in Switzerland, the Committee notes the claims that the complainant was responsible for mobilizing Cameroonian nationals living in Switzerland to take part in the demonstrations on 3 October 2020 in Geneva. It also notes that, according to the State party, the complainant had not substantiated his claim to have played a part in rallying support for Mouvement pour la renaissance du Cameroun in

²⁴ Committee against Torture, general comment No. 4 (2017), para. 11.

²⁵ *Ibid.*, para. 38.

²⁶ *Ibid.*, para. 50.

²⁷ See <https://www.hrw.org/news/2019/08/20/cameroon-detainees-tortured>.

²⁸ See <https://www.la-croix.com/Religion/Cameroun-pretre-comparait-devant-justice-militaire-2021-06-10-1201160461>.

²⁹ *A.M. v. Switzerland* (CAT/C/65/D/841/2017), para. 7.7.

³⁰ See the following decisions on the expulsion of persons to Ethiopia: *H.K. v. Switzerland* (CAT/C/49/D/432/2010), para. 7.5; *R.D. v. Switzerland* (CAT/C/51/D/426/2010), para. 9.7; *X. v. Denmark* (CAT/C/53/D/458/2011), para. 9.6; *E.E.E. v. Switzerland* (CAT/C/54/D/491/2012), para. 7.7; *M.F. v. Switzerland* (CAT/C/59/D/658/2015), para. 7.7; *T.Z. v. Switzerland* (CAT/C/62/D/688/2015), para. 8.7; and *X. v. Switzerland* (CAT/C/65/D/765/2016), para. 7.8.

Switzerland, that he merely took part in a demonstration and that, in any event, the Committee should reject this claim insofar as it was not submitted to the national authorities in connection with the asylum proceedings. The Committee also notes the State party's conclusion that, on the basis of the information in the case file, the complainant did not have the type of profile that might attract the attention of the authorities in his country of origin. The Committee notes that, besides the documents submitted, the veracity of which is disputed by the authorities of the State party, the complainant has not provided any solid evidence that he had problems with the Cameroonian authorities³¹ or that he engaged in political activities of sufficient importance to attract the interest of the authorities in his country of origin.³² It therefore concludes that the information provided does not demonstrate that the complainant would personally be at risk of facing torture or inhuman or degrading treatment if he returned to Cameroon.

7.8 The Committee notes that the torture or ill-treatment to which the complainant claims to have been subjected in the past is one of the factors to be considered when determining his risk of being subjected to torture or ill-treatment again in the event of his return to his country.³³ In the present case, it notes that the complainant claims to have been subjected to torture and ill-treatment during his detention in Cameroon in 2019. The Committee also notes the State party's arguments that these allegations are not credible, owing to the many inconsistencies in them and the fact that the complainant did not return to Cameroon after entering Switzerland on 18 September 2018 for the purpose of attending a meeting in Geneva.

7.9 With regard to the inconsistencies in the complainant's statements, the Committee notes that he claims to have carried out political activities in Cameroon in 2018 and 2019. The Committee also notes the State party's argument that the complainant never returned to Cameroon during this period. The Committee notes the State party's claim in support of its argument that the complainant was granted a Schengen visa by Switzerland in order to take part in a conference in Geneva from 17 to 19 September 2018 but did not take the return flight scheduled for 20 September 2018 and did not inform the Swiss embassy in Cameroon of his return to the country, for which reason he was banned from entering Switzerland until 27 December 2021. The Committee further notes that, according to the State party, the complainant's passport bears a stamp for entry into the Schengen area, while the stamp corresponding to his arrival in Cameroon is of dubious provenance. The Committee notes that the complainant does not dispute that he took part in the conference in Geneva from 17 to 19 September 2018. However, he stated that he returned to Cameroon from Paris in September 2018. The Committee further notes that, according to the State party, the complainant was unable to produce a stamp corresponding to his departure from Europe, from Paris, or a receipt for the purchase of his plane ticket or a copy of this ticket, which he claimed to have bought with his own bank card.

7.10 The Committee notes that the complainant, in support of his claim to have travelled to Cameroon, submits that he crossed the border between that country and Nigeria, travelled to Lagos and, once there, with the help of a smuggler, obtained a Nigerian passport bearing a Swiss visa, which was taken from him on his arrival in Switzerland. The Committee notes the State party's assertion that the complainant was unable to produce any evidence of his journey between Lagos and Zurich, which allegedly took place in November 2019. The Committee notes that none of the documents in the case file enables it to reach a different conclusion from that of the asylum authorities who doubted that this trip had taken place. In its assessment, the Committee notes that the complainant had ample opportunity to provide detailed supporting evidence about his claims at the national level to the State Secretariat for Migration and the Federal Administrative Court.

7.11 The Committee notes that the complainant submitted a number of documents in support of his claim to have been in Cameroon from September 2018 to December 2019, including two certificates indicating his participation in training courses that took place in Yaoundé between October 2018 and January 2019. It notes that the complainant produced several other documents, including a medical certificate, copies of an arrest warrant issued

³¹ Committee against Torture, general comment No. 4 (2017), para. 49 (f).

³² *Z v. Switzerland* (CAT/C/64/D/738/2016 and CAT/C/64/D/738/2016/Corr.1), para. 7.6.

³³ Committee against Torture, general comment No. 4 (2017), para. 49, (b), (c) and (d).

on 4 December 2019 and a wanted notice dated 17 December 2019 that related to him. The Committee notes that the State party shed doubt on the authenticity of these documents on the basis that the complainant had not been in Cameroon.

7.12 The Committee notes the complainant's assertion that the inconsistencies in his various statements do not mean that they are false, and that it is up to the person examining them to take into account the various personal or political reasons that may lead an individual to make false allegations of torture or to exaggerate the seriousness of an incident. The Committee also notes the complainant's claim that certain inconsistencies in his statements can be explained by the fact that he was subjected to abuse. Insofar as the complainant is unable to establish the veracity of his claim concerning this abuse, the Committee considers that it is not possible for it to conclude that there are sufficient grounds for doubting the assessment made by the State Secretariat for Migration and the Federal Administrative Court in connection with his asylum application.

7.13 While the Committee is concerned about the numerous reports of human rights violations, particularly against persons in the English-speaking separatist regions, and political opponents, including members of *Mouvement pour la renaissance du Cameroun*, it recalls that, for the purposes of article 3 of the Convention, complainants must run a foreseeable, real and personal risk of being tortured in the country to which they are returned. In the light of the above, the Committee believes that such a risk has not been established. It considers that the documents and information submitted by the complainant do not dispel the doubts expressed by the State party's authorities as to their reliability and are not sufficient to establish that he would run a foreseeable, present, personal and real risk of being subjected to torture if he was returned to Cameroon.³⁴

7.14 The Committee refers to paragraph 38 of its general comment No. 4 (2017), according to which the burden of proof is upon the complainant, who has to present an arguable case.³⁵ In the light of the above, and in the circumstances of the present case, the Committee considers that the complainant has not discharged the burden of proof, having failed to provide sufficient information to establish that the authorities of the State party have treated him in a manner that might be contrary to article 3 of the Convention.

8. In the light of the above, the Committee considers that the information submitted by the complainant is insufficient to substantiate his claim that he would face a foreseeable, present, personal and real risk of torture if he were returned to Cameroon, in violation of article 3 of the Convention.

9. The Committee, acting under article 22 (7) of the Convention, concludes that the deportation of the complainant to Cameroon, if it takes place, would not constitute a violation by the State party of article 3 of the Convention.

³⁴ *R.K. and L.B.M. v. Switzerland* (CAT/C/75/D/962/2019), para. 6.7.

³⁵ *T.M. v. Sweden* (CAT/C/68/D/860/2018), para. 12.13; and *S.B. v. Cameroon* (CAT/C/75/D/1034/2020), para. 8.6.