



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

Distr.: General  
20 September 2024

Original: English

## Committee against Torture

### Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 1119/2022\* \*\*

<i>Communication submitted by:</i>	R.G. (represented by counsel, Rebecca Ahlstrand)
<i>Alleged victim:</i>	The complainant
<i>State party:</i>	Sweden
<i>Date of complaint:</i>	17 January 2022 (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 27 January 2022 (not issued in document form)
<i>Date of adoption of decision:</i>	12 July 2024
<i>Subject matter:</i>	Deportation of the complainant to Cameroon
<i>Procedural issue:</i>	Level of substantiation of claims
<i>Substantive issue:</i>	Risk of torture upon return to country of origin (non-refoulement)
<i>Article of the Convention:</i>	3

1.1 The complainant is R.G., a national of Cameroon born in 1991. At the time of submission, her request for asylum in Sweden had been rejected and she was facing deportation to Cameroon. The complainant claims that, if Sweden were to proceed with her deportation, it would be in violation of its obligations under article 3 of the Convention. The State party has made the declaration pursuant to article 22 (1) of the Convention, effective from 26 June 1987. The complainant is represented by counsel.

1.2 On 27 January 2022, pursuant to rule 114 (1) of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, requested the State party not to deport the complainant to Cameroon while her complaint was being considered by the Committee.

#### Factual background

2.1 The complainant applied for asylum in Sweden on 27 January 2020, declaring that, in the case of return to Cameroon, she risked persecution due to her sexual orientation. She claimed that, as a lesbian, she belonged to a social group that is illegal and not accepted in

\* Adopted by the Committee at its eightieth session (8–26 July 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.



Cameroonian society. At her interview on 9 November 2020 with the Swedish Migration Agency,<sup>1</sup> the complainant explained she had realized that she was lesbian after she was raped on 17 December 2011. She had been in a same-sex relationship since 2015. On 22 February 2018, after her relationship had been brought to the attention of the authorities by her family and members of her community, she and her partner were assaulted at their home by a group of people. When the police came, they arrested the complainant and her partner. The complainant was detained for 11 months pending trial<sup>2</sup> and subjected to assault, torture and inhuman treatment and punishment.<sup>3</sup>

2.2 On 23 November 2020, the complainant, through a legal representative, submitted corrections to the interview minutes, alleging that they did not reflect accurately how she had come to realize and admit that she was attracted to girls and women and that she was lesbian and claiming that the Swedish Migration Agency had focused its understanding of the complainant's sexuality on the fact that she was raped in 2011, got pregnant and was traumatized by the sexual violence that she had experienced. The complainant also pointed out other inaccuracies regarding the same-sex relationship that she had been in for several years and provided, in addition to corrections, a health certificate from 20 November 2020,<sup>4</sup> a certificate of membership in a Swedish LGBTQI+ organization, a certificate of participation in activities for asylum-seekers and medical documents from a hospital.<sup>5</sup>

2.3 On 26 February 2021, the Swedish Migration Agency rejected the complainant's application for asylum and decided to expel her to Cameroon. The Migration Agency admitted, based on the available country information, that LGBTQI+ persons in Cameroon could be subjected to persecution because of their sexual orientation. It therefore considered that it needed to assess whether the complainant had plausibly demonstrated that she was a member of the LGBTQI+ social group. To do so, the Migration Agency referred to the guidelines of the Office of the United Nations High Commissioner for Refugees (UNHCR) for investigating grounds for asylum relating to sexual orientation,<sup>6</sup> according to which, to assess an asylum-seeker's sexual orientation, the investigator should focus on the applicant's personal perceptions, feelings, experiences of difference, stigma and shame. The Migration Agency noted that UNHCR proposes that investigators ask questions about the applicant's self-image and identity, experience of behaviour that deviates from the norm, family relationships, other relationships and religion. As the complainant had cited her sexual orientation as grounds for her asylum application, the Migration Agency considered that it must determine whether her account of her sexual orientation was reliable. In that context, it stressed that it was not a matter of assessing the complainant's sexual orientation, but rather of assessing whether she had plausibly demonstrated it through her account. For the Migration Agency, that assessment does not in itself deviate from the one it often conducts regarding ethnicity or political or religious affiliation. The Migration Agency therefore considered that assessing an account of an applicant's sexual orientation was primarily a question of reliability and recalled that the assessment of reliability in such cases needed to be undertaken in an individualized and sensitive way by exploring elements surrounding the applicant's personal perceptions, feelings and experiences of difference, stigma, and shame, rather than focusing on sexual practices. The applicant's own account was seen as the primary and often the only source of evidence.

2.4 The Migration Agency thus noted that the complainant had not submitted any written evidence to support her claim that she had been arrested or had received physical injuries. The fact that she had been diagnosed with post-traumatic stress disorder did not prove her invoked need for protection and her membership in a Swedish LGBTQI+ organization also

---

<sup>1</sup> In the presence of the public counsel and an interpreter, whom the complainant confirmed she understood.

<sup>2</sup> She alleged that her cousin had helped her to escape from prison and flee the country.

<sup>3</sup> No further details were provided.

<sup>4</sup> On file, issued by a health-care counsellor and attesting to post-traumatic stress disorder.

<sup>5</sup> The complainant does not specify, however, to what medical documents she was referring or what hospital.

<sup>6</sup> UNHCR, Guidelines on International Protection No. 9: claims to refugee status based on sexual orientation and/or gender identity within the context of article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 23 October 2012.

did not prove that she was homosexual. The Migration Agency then noted that the complainant had not been able to give an authentic and detailed account of how she came to realize that she was lesbian while being raised in a Muslim family, in a country where homosexual relationships are illegal and not socially accepted. She was also not able to reflect on living as a homosexual and the risks that it involves, although she had already been in a homosexual relationship. The Migration Agency considered that the additions and adjustments submitted on 23 November 2020 seemed to be an attempt to make the complainant's story more credible, given that she had already been given the opportunity to give details during the asylum investigation, without pointing to issues with the interpretation. The complainant was also not able to recount the 2018 assault in a detailed and authentic way or to give a credible account of her escape from prison and her legal departure from Cameroon – without attracting attention – given the serious crime of which she had been accused.

2.5 The complainant appealed before the Luleå Administrative Court. During an oral hearing,<sup>7</sup> she claimed that she had been able to provide detailed explanations about her sexuality, but that no questions had been posed to her regarding her imprisonment and the inhuman treatment to which she was subjected.

2.6 On 21 June 2021, the Luleå Administrative Court admitted that the complainant could not be expelled to Cameroon if she plausibly demonstrated that she was homosexual. It confirmed, however, the decision of the Swedish Migration Agency on similar grounds, considering that the complainant had not sufficiently proved her sexual orientation and the risk of persecution due to her actual or attributed sexual orientation. In particular, the Administrative Court noted that the complainant had altered her account of whether she had reflected on her sexual orientation before being raped. While before the Swedish Migration Agency, the complainant had repeatedly declared that, after being raped, she had started to develop a hatred towards men and become attracted to women – declaring expressly that, before the rape, she had not had romantic feelings towards women – she declared before the Administrative Court, both in writing and orally, that she had questioned her sexuality and developed feelings for women even before the rape, around the age of 10 or 11 years. The Court did not accept her explanation, however, that she had not declared this before the Migration Agency because she had misunderstood the questions and was not well when she arrived in Sweden. The Court also noted that the complainant had not been able to expand upon or reply to follow-up questions in an authentic way, which made her account appear rehearsed.

2.7 On 16 August 2021, the Migration Court of Appeal rejected the complainant's application for leave to appeal.

2.8 On 7 September 2021, the complainant filed an application for impediments to enforcement by providing additional evidence, including a Cameroonian newspaper article, dated 12 February 2020, containing her name and photo and reporting on her arrest on charges of lesbianism and her escape from prison. As a valid and acceptable excuse for not having previously submitted the newspaper article from Cameroon, the complainant stated that she suffered from post-traumatic stress disorder. The complainant attached additional certificates regarding her mental health and requested to be allowed to submit further documentation. On 14 September 2021, the Migration Agency granted the request, but did not receive any supplementary documents.

2.9 On 16 September 2021, the Swedish Migration Agency dismissed her application for impediments to enforcement because the protection needs based on the complainant's sexual orientation had already been examined. It found that no new circumstances had emerged that would constitute impediments to enforcement under the Aliens Act. It noted that the question of her grounds for protection relating to her sexual orientation had been examined previously by the Migration Agency and by the Migration Court and that, as recently as 21 June 2021, the Migration Court had found that she had not given a reliable account of her claimed sexual orientation and had not plausibly demonstrated that she risked persecution on the grounds of actual or ascribed sexual orientation. Regarding the complainant's health condition, the

---

<sup>7</sup> In the presence of the public counsel and an interpreter.

Migration Agency considered that her mental health condition was not so serious that enforcement was not practically possible or unreasonable. It also noted that she had not produced any current medical certificate and that the certificates submitted had not been issued by a doctor, but by a health-care counsellor.

2.10 The complainant appealed, producing statements from a licensed psychologist, a psychiatrist, a forensic pathologist and a counsellor, which confirmed that she suffered from post-traumatic stress disorder and that the probable cause was that she had been subjected to abuse in her country. She argued that this constituted new evidence that she had been subjected to torture in Cameroon, which she could not present before due to her health condition. Her mood had deteriorated towards the end of 2021, due to the trauma she had suffered, as evidenced by certificates, and her condition was deemed life-threatening. Her trauma and diagnosed post-traumatic stress disorder may have affected her memory, concentration and ability to talk about the reasons for which she was requesting protection. She further claimed that the new evidence demonstrated that persistent impediments to the enforcement of the deportation decision existed and that a new, thorough examination of her case was required to ensure that the principle of non-refoulement was not violated.

2.11 On 8 November 2021, the Stockholm Administrative Court dismissed her appeal. It did not question that the complainant had suffered the injuries stated in the forensic medical opinion but considered that the account of how the injuries had occurred related to her previous grounds for asylum, which had already been examined. In the Court's view, the forensic medical opinion and other medical documentation that the complainant had produced could not be considered anything other than additions and new evidence to support the already examined grounds for asylum. The same applied to the newspaper article and the testimonial from the LGBTQI+ organization. The Court noted that the available medical documentation confirmed that the complainant's health condition was life-threatening but considered that it was not sufficient to conclude that her deportation would violate article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights).

2.12 On 23 November 2021, the Migration Court of Appeal refused leave to appeal.

### **Complaint**

3.1 The complainant submits that, if she is returned to Cameroon, she faces a real risk of persecution, in violation of article 3 of the Convention.

3.2 The complainant contests the findings of the Swedish migration authorities, in particular the fact that her evidence was dismissed. She claims that, in her subsequent application for impediments to enforcement of her deportation, she had submitted evidence, including from two specialized doctors, that showed that it was likely that she had been subjected to torture and ill-treatment. A newspaper article with her name and photo also confirmed that she had been imprisoned in Cameroon. Given that the Migration Court did not question that she was suffering from mental health issues, she considers that past persecution or injury is a serious indication that her fear of persecution is well-founded and that a real risk exists. By rejecting her request for a new investigation after producing new evidence, the State party has violated the principle of non-refoulement and its duty to investigate further.

3.3 The complainant submits that the Swedish Migration Agency's legal positions on medical investigations of alleged injuries<sup>8</sup> state that, if applicants, during the asylum process, invoked injuries due to torture and, in an application for impediments to enforcement, submit, as the only new circumstance, a medical certificate stating that the injuries may be a consequence of torture, a retrial should be granted unless certain exceptions apply. In the present case, none of the exceptions set out are relevant and the Migration Court did not consider the question of whether any of the exceptions were applicable but merely referred to the fact that the certificate related to previous circumstances and constituted a modification.

---

<sup>8</sup> Available at <https://lifos.migrationsverket.se/dokument?documentSummaryId=45449> (in Swedish).

For the complainant, this is an extremely serious shortcoming in the handling and assessment of the complaint.

3.4 The complainant declares that she had a valid excuse for not being able to provide the new evidence sooner and for having faced difficulties during the oral investigation in November 2020 and the subsequent hearing before the Luleå Administrative Court. She recalls that, in her application for impediments to enforcement, she invoked, as new circumstances, a medical certificate stating that her injuries might be a consequence of torture. She therefore contests the Swedish authorities' refusal to re-examine her case despite clear and multiple evidence of the torture she suffered. For the complainant, the Swedish authorities have not complied with their duty to investigate.

#### **State party's observations on admissibility and the merits**

4.1 On 31 August 2022, the State party challenged the admissibility of the complaint, arguing that it was manifestly unfounded because it failed to rise to the minimum level of substantiation.

4.2 On the merits, the State party referred to the decisions issued at the domestic level to hold that there was no reason to conclude that they were inadequate or that the outcome of the domestic proceedings was in any way arbitrary or amounted to a denial of justice. It also recalled that Cameroon was a party to the Convention and to the International Covenant on Civil and Political Rights. While not wishing to underestimate the concerns that may legitimately be expressed regarding the human rights situation in Cameroon, the State party recalls that the situation does not in itself suffice to establish that the complainant's expulsion would be contrary to article 3 of the Convention.

4.3 The State party notes that the complainant has had several opportunities to explain the relevant facts and circumstances in support of her claim and to argue her case, both orally and in writing, before the Swedish Migration Agency and the Migration Court, which are specialized bodies with particular expertise in the field of asylum law and practice. It then notes that the medical reports produced by the complainant do not contain any assessment of her alleged injuries. While the certificates state that the complainant is suffering from mental health issues, which has not been contested by the Swedish migration authorities, they do not assess the origin of the complainant's health status. The State party also notes that the certificates are called "statement from doctor" and contain several diagnoses, even though they were not issued by a doctor.

4.4 Concerning the medical report from a psychiatrist, the State party notes that the report is based on a single personal examination of the complainant. In addition to that examination, the assessment is based on written and oral information from the complainant's representative. As regards the certificate from a psychologist, the State party notes that it was issued by a psychologist, not a doctor, after an initial examination. Furthermore, the psychologist does not make any assessment of the alleged injuries.

4.5 As regards the report from the forensic pathologist, the State party notes that the pathologist has not met and examined the complainant in person. It follows from the report that the assessment is based on an undated written statement from the representative and 20 photographs. There is no assessment of the complainant's psychological symptoms in relation to the alleged torture in the report.

4.6 The State party then points to the lack of credibility of the complainant's claim. While observing that her state of mental health may account for some contradictions and insufficiencies in her account to the migration authorities, the State party considers that it does not provide a satisfactory explanation for the gaps and inconsistencies identified by the Swedish authorities, which concern all the core elements of her account.

4.7 Finally, the State party refers to the news article produced by the complainant and her allegation that the article confirms that she was imprisoned in Cameroon. It firstly notes that

the complainant has failed to make her identity probable.<sup>9</sup> The name mentioned in the article can therefore not be linked to her personally. Furthermore, the article, dated 12 February 2020, was not invoked until September 2021, that is, one month after the decision to expel the complainant became final. Against that background and the lack of credibility of the oral account and the lack of other written evidence, the State party maintains the Swedish migration authorities' assessment that the invoked news article does not make probable that there is a real risk of the complainant being subjected to torture or other ill-treatment. In that context, it can also be noted that fake news articles are known to appear in Cameroon for the purpose of being used in asylum processes.<sup>10</sup>

### **Complainant's comments on the State party's observations on admissibility and the merits**

5.1 On 31 March 2023, the complainant submitted her comments on the State party's observations, referring to the deteriorating situation for LGBTIQI+ persons in Cameroon.<sup>11</sup> She argues that the Swedish migration authorities have not adequately assessed all the facts and evidence, which amounts to a denial of justice. She claims that the risk of persecution cannot be assessed unless her case is re-examined. She also mentions that the public counsel submitted many corrections and additions to the interview minutes, which were never taken into consideration by the Migration Agency because they were considered to be too extensive.

5.2 As to the medical evidence, the complainant confirms the State party's allegation that two of the certificates produced were not issued by a doctor. She mentions that the psychologist examined her mental health and concluded that she showed clear indications of trauma and post-traumatic stress disorder due to events in her home country. Then she clarifies that she was seen by the psychiatrist only once because of the restrictions linked to the coronavirus disease (COVID-19) pandemic. Regarding the Swedish authorities' allegation that the pathologist's forensic report was questionable since the pathologist had not met the complainant, she submits that the doctor had worked for the Swedish National Board of Forensic Medicine, where she regularly used the same method: she examined photos, instead of meeting patients. The complainant also refers to the jurisprudence of the European Court of Human Rights<sup>12</sup> and of the Committee<sup>13</sup> to claim that the medical evidence provided in the asylum proceedings demonstrate a causal link between her injuries, her mental health and the ill-treatment she suffered.

5.3 The complainant contests the authorities' findings as to her credibility. While the Luleå Administrative Court alleged that she had changed her story about when she had first had romantic feelings for persons of the same sex, that was one of the assumptions that she had corrected in the minutes, which were disregarded. Nonetheless, the complainant considers that this cannot be claimed to be of such core importance as to result in the disregard of her overall story. It could have merited an additional interview to provide her with the opportunity to address the stated inconsistencies but such an additional interview was never held at the Migration Agency. The complainant invokes the Swedish Migration Court of Appeal's guiding case law, which states that, regardless of how other parts of the asylum story are assessed, torture injuries should be assessed as reliable if there is nothing to contradict that the individual received them in the manner stated.<sup>14</sup>

<sup>9</sup> Both the Swedish Migration Agency and the Luleå Administrative Court have ruled that the complainant did not plausibly demonstrate her identity because the identification card that she produced was considered to be of a simple nature and easy to falsify or manipulate.

<sup>10</sup> The State party refers to Canada: Immigration and Refugee Board of Canada, "Cameroon: corruption of journalists; the falsification of newspaper articles for the purpose of refugee claims", 13 April 2012, available at <https://www.refworld.org/docid/4f9e37342.html>.

<sup>11</sup> The complainant referred to Human Rights Watch, *World Report 2022: Events of 2021*, Keynote, "Cameroon: events of 2021", available at <https://www.hrw.org/world-report/2022/country-chapters/cameroon>.

<sup>12</sup> European Court of Human Rights, *R.C. v. Sweden*, Application No. 41827/07, Judgment, 9 March 2010, para. 53.

<sup>13</sup> *Mondal v. Sweden* (CAT/C/46/D/338/2008), paras. 7.6 and 7.7.

<sup>14</sup> Migration Court of Appeal, MIG 2014:21, UM3739-14, Judgment, 23 September 2014, available at <https://lagen.nu/dom/mig/2014:21> (in Swedish).

5.4 The complainant declares that the news article that she produced supports her oral statements that she was imprisoned in Cameroon. She considers that the fact of submitting written evidence later than its date of issuance does not demonstrate in and of itself that the evidence is unreliable. Furthermore, the fact that her oral statements were not found to be credible and that there was a lack of other written evidence should not undermine the evidential value of the article.

### **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 In accordance with article 22 (5) (b) of the Convention, the Committee shall not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. The Committee notes that, in the present case, the State party has not contested that the complainant has exhausted all available domestic remedies. The Committee therefore finds that it is not precluded from considering the communication under article 22 (5) (b) of the Convention.

6.3 The Committee notes that the State party challenges the admissibility of the complainant's claims under article 3 on the basis that they are manifestly unfounded, given that the complainant has not substantiated the existence of substantial grounds for believing that she would face a foreseeable, present, personal and real risk of torture if she were to be returned to Cameroon. The Committee considers, however, that the complainant has sufficiently substantiated her claims for the purposes of admissibility, on the basis of article 3 of the Convention, regarding her risk of being subjected to torture and ill-treatment if returned to Cameroon. Accordingly, it declares the communication admissible and proceeds with its consideration of the merits.

#### *Consideration of the merits*

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

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.

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. However, the Committee recalls that the aim of such determination is to establish whether the complainant 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 for determining 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. Moreover, the Committee notes that, since Cameroon has made the declaration provided for in article 22 (1) of the Convention and has also accepted the Optional Protocol to the International Covenant on Civil and Political Rights, in the event of a violation of the complainant's rights under the Convention

or under the Covenant in that country, she would have the legal option of recourse to the Committee or to the Human Rights Committee for protection of any kind.

7.4 The Committee recalls its general comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22, according to which the risk of torture must be assessed on grounds that go beyond mere theory or suspicion. Although the risk does not have to be shown to be highly probable, the burden of proof generally falls on the complainant, who must present an arguable case establishing that he or she faces a foreseeable, real and personal risk.<sup>15</sup> The Committee also recalls that, in accordance with its general comment No. 4 (2017), it gives considerable weight to findings of fact made by organs of the State party concerned, while, at the same time, it is not bound by such findings and instead has the power, under article 22 (4) of the Convention, to make a free assessment of the information available to it, taking into account all the circumstances relevant to each case.<sup>16</sup>

7.5 In the present case, the Committee notes that the complainant maintains that she fears for her life should she be returned to Cameroon because she considers that she will be targeted by the authorities because of her sexual orientation. To support her argument that she has already suffered torture and ill-treatment on those grounds, she produced a copy of a news article and medical certificates that attest, in particular, that she suffers from post-traumatic stress disorder. The Committee observes that those documents have been produced before the Swedish administrative and judicial authorities. On the one hand, and without questioning the fact that the complainant had suffered injuries, the authorities considered that the cause of those injuries – State agents – had not been demonstrated. On the other hand, the Committee notes the State party's argument regarding not only the authenticity of the news article produced by the complainant but also that she failed to prove her identity in domestic proceedings, both in the first instance and in the appeal proceedings. The complainant failed to provide a reasonable explanation for the late submission of the article in the asylum proceedings or to find ways to prove that it was genuine<sup>17</sup> or to demonstrate that she is the person referred to in the article. In those conditions, the Committee is not persuaded that the press article invoked by the complainant refers to herself. The Committee also observes that the complainant has provided no evidence to challenge the specific arguments given by the State party. In particular, the complainant provided no evidence to substantiate her assertions that she was arrested by the Cameroonian authorities and that a trial was pending against her.

7.6 In that regard, the Committee notes that, even if it were to accept the argument that the complainant was subjected to torture and ill-treatment in the past because of her sexual orientation, the question that arises is whether she would be at risk of torture in Cameroon at the present time if she were forcibly returned. The Committee also notes that, according to its practice, the onus is generally on the complainant to make an arguable case.<sup>18</sup>

7.7 The Committee notes that the State party's authorities have called into question the credibility of the complainant's claims regarding her detention and her sexual orientation. They did not deny existing persecution in Cameroon based on sexual orientation – and even admitted that the complainant could not be expelled if she plausibly demonstrated that she was homosexual – but expressed doubts as to the credibility of her allegations. In that sense, even if the Committee is aware of and has expressed concern about instances of violence and discrimination in Cameroon on the grounds of sexual orientation and gender identity,<sup>19</sup> it reiterates that the occurrence of human rights violations in a complainant's country of origin

<sup>15</sup> See, for example, *A.R. v. Netherlands* (CAT/C/31/D/203/2002), para. 7.3; and *Dadar v. Canada* (CAT/C/35/D/258/2004), para. 8.4.

<sup>16</sup> General comment No. 4 (2017), paras. 11, 39 and 50.

<sup>17</sup> *P.S. v. Sweden* (CAT/C/72/D/1000/2020), para. 7.6.

<sup>18</sup> See, for example, Committee against Torture, *S.L. v. Sweden*, communication No. 150/1999, para. 6.3; *M.A.K. v. Germany* (CAT/C/32/D/214/2002), para. 13.5; *Zare v. Sweden* (CAT/C/36/D/256/2004), para. 9.3; *C.A.R.M. et al. v. Canada* (CAT/C/38/D/298/2006), para. 8.10; and *N.B.-M. v. Switzerland* (CAT/C/47/D/347/2008), para. 9.9.

<sup>19</sup> CAT/C/CMR/CO/5, paras. 43 and 44; and CCPR/C/CMR/CO/5, paras. 13 and 14.



is not, in itself, sufficient for it to conclude that a complainant would face a personal risk of being tortured there.<sup>20</sup>

7.8 The Committee notes that the complainant was given the opportunity to substantiate and clarify her claims before the domestic authorities. On the basis of the evidence provided, however, it has not been possible to confirm that the complainant demonstrated her sexual orientation and thus to determine the existence of a personal, foreseeable, real and present risk of being subjected to torture in the event of her return to her country of origin.<sup>21</sup>

7.9 In particular, the Committee notes that the main question before the Swedish authorities was whether the complainant was able to demonstrate her sexual orientation rather than focusing on whether she was indeed lesbian. In those circumstances, the Committee notes that the domestic authorities relied on the UNHCR guidelines for investigating grounds for asylum relating to sexual orientation when assessing the complainant's allegations, which recommend exploring elements around the applicant's personal perceptions, feelings and experiences of difference, stigma and shame.<sup>22</sup> The Committee further notes that, according to the UNHCR guidelines, ascertaining the applicant's LGBTQI+ background is essentially an issue of credibility.<sup>23</sup> In the present case, the Committee notes that oral hearings were held at both the first instance and appeal levels, which must have allowed the Swedish authorities to investigate the complainant's alleged sexual orientation and evaluate her credibility. The Committee notes, however, that the Swedish authorities questioned the complainant's credibility. Thus, the Migration Agency considered that she had not been able to give an authentic and detailed account of how she had come to realize that she was lesbian while she was raised in a Muslim family in a country where homosexual relationships are illegal and not socially accepted. She was also not able to reflect on living as a homosexual and the risks that this involves, although she had already been in a homosexual relationship. The Luleå Administrative Court also pointed to inconsistencies in her account and to the fact that she was not able to explain those contradictions in a satisfactory manner. In addition, the Committee notes that the complainant has not produced further evidence, such as statements from her partner in Cameroon, or at least she has not explained why it was not possible to do so.

7.10 In the light of the considerations above and on the basis of all the information submitted to it by the complainant and the State party, including on the general situation of human rights in Cameroon, the Committee considers that, in the present case, the information in the file does not allow it to conclude that the decision of the domestic authorities was arbitrary in finding that the complainant would not face a real, foreseeable, personal and present risk of being subjected to torture if she were to be deported to Cameroon or that the authorities of the State party failed to conduct a proper investigation into her allegations in accordance with the UNHCR guidelines.

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

---

<sup>20</sup> *H.S. v. Denmark* (CAT/C/71/D/792/2016), para. 8.13. For similar conclusions of the Human Rights Committee, see *W.K. v. Canada* (CCPR/C/122/D/2292/2013).

<sup>21</sup> See, for example, *M.K. v. Switzerland* (CAT/C/60/D/662/2015), paras. 7.8 and 7.9; and *D.R. v. Switzerland* (CAT/C/63/D/673/2015), paras. 7.8 and 7.9.

<sup>22</sup> Guidelines on International Protection No. 9, para. 62.

<sup>23</sup> *Ibid.*