EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 40524/10
Naima MOHAMMED HASSAN against the Netherlands and Italy
and 9 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 27 August 2013 as a Chamber composed of:

Josep Casadevall, *President*,
Alvina Gyulumyan,
Guido Raimondi,
Corneliu Bîrsan,
Luis López Guerra,
Nona Tsotsoria,
Johannes Silvis, *judges*,
and Santiago Quesada, *Section Registrar,*

Having regard to the above applications lodged against both the Netherlands and Italy between 19 July 2010 and 14 February 2013,

Having regard to the interim measures indicated in the applications to the Netherlands Government under Rule 39 of the Rules of Court and the fact that these interim measures have been complied with,

Having regard to the factual information submitted by the Netherlands and/or Italian Government and the comments in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

1. A list of the applicants is set out in the appendix. The Government of the Netherlands were represented by their Agent, Mr R.A.A. Böcker, and/or their Deputy Agent, Ms L. Egmond, both of the Ministry of Foreign Affairs. The Italian Government were represented by their Agent, Ms E. Spatafora, and their Co-Agent, Ms P. Accardo.

A. The circumstances of the cases

2. The facts of the case, as submitted by the applicants, the Italian Government and the Netherlands Government, may be summarised as follows. Some of the facts are in dispute between the parties.

1. Application no. 40524/10

3. The applicant is a national of Somalia, who was born in 1985 and hails from Adado (central Somalia). At the time of the introduction of the application, she was staying in Middelburg, the Netherlands. She was represented before the Court by Ms M. Stoetzer-van Esch, a lawyer practising in Lent.

4. The applicant entered Italy on 1 March 2009, landing on the coast of Sicily. She was transferred to a reception centre for asylum seekers (*Centro di Accoglienza per Richiendenti Asilo*; "CARA") in Borgo Mezzanone, Foggia province. On 10 March 2009, with the assistance of an interpreter, the applicant applied for international protection at the Foggia police headquarters (*questura*), stating *inter alia* that she was single. Her interview with the Foggia Territorial Commission for the Recognition of International Protection (*Commissione Territoriale per il Riconoscimento della Protezione Internationale*) was scheduled for 13 May 2009.

5. On 7 April 2009, the Borgo Mezzanone reception centre informed the Foggia prefecture, the Foggia police headquarters and the Territorial Commission for the Recognition of International Protection that the applicant as well as nine others had left the centre.

6. In its decision of 25 February 2010, having noted that the applicant had left for an unknown destination as confirmed by the local police headquarters on 6 May 2009, the Foggia Territorial Commission for the Recognition of International Protection dismissed the applicant's request for international protection.

7. In the meantime, the applicant had travelled to the Netherlands where she had arrived in the beginning of May 2009 and applied for asylum on 15 May 2009. The examination and comparison of her fingerprints by the Netherlands authorities generated a Eurodac "hit" report on 7 September 2009, indicating that she had been registered in Foggia on 3 March 2009.

8. In the applicant's first interview with the Dutch immigration authorities, held on 8 July 2009, she stated *inter alia* that she had married on 5 May 2007, that her husband's name was Naasir Yaasiin Hassan and that they had no children. She has last seen him in Adado and believed that he was still there. She explained that she had travelled to Italy via Ethiopia, Sudan and Libya. On 28 February 2009 she and others had travelled from Libya to Italy by boat, which had taken two days. She confirmed that she had applied for asylum in Italy. She stated that she had not been provided with a residence permit in Italy, that – after having stayed for a month in a

reception centre for asylum seekers in Foggia – she had gone to Naples and later to Turin whence she had travelled to the Netherlands where she had arrived on 5 or 10 May 2009.

9. In the applicant's further interview with the Dutch immigration authorities, held on 9 September 2009, she stated *inter alia* that she had left Somalia because a member of one of the marauding gangs known as *moryaan* had been bothering her although he knew that she was married. When she had refused his advances, he and another man had come to her mother's restaurant seeking to abduct the applicant. This other man had then shot and killed her mother. Some days later, her brother had shot and killed the man who had bothered her as well as the man who had killed her mother. She had then left Somalia. During the boat trip from Libya to Italy she had seen the cousin of her mother's murderer on board and he had recognised her. He had also stayed in the Foggia asylum seekers centre, and she had understood that the reason he was there was to take revenge on her and her family and that also the brother of her mother's murderer was staying in Italy. That was the reason why she had left the asylum seekers centre and had gone to the Netherlands. She had not informed the Italian authorities about this.

10. On 9 February 2010 the Netherlands authorities asked the Italian authorities to take back the applicant in accordance with Article 16 § 1(c) of Council Regulation (EC) no. 343/2003 of 18 February 2003 ("the Dublin Regulation"). As the Italian authorities failed to react to that request within two weeks, they were considered under Article 20 § 1 of the Dublin Regulation as having implicitly acceded to that request.

11. The applicant's asylum request filed in the Netherlands was rejected on 2 March 2010 by the Minister of Justice (*Minister van Justitie*) who found that, pursuant to the Dublin Regulation, Italy was responsible for the processing of the asylum application. The Minister rejected the applicant's argument that the Netherlands could not rely on the principle of mutual interstate trust (*interstatelijk vertrouwensbeginsel*) in respect of Italy as there were, according to the applicant, sufficient concrete indications that Italy failed to respect its international treaty obligations in respect of asylum seekers and refugees. The Minister further rejected the applicant's argument that she risked treatment in breach of Article 3 of the Convention in Italy.

12. On 20 May 2010, the applicant married Mr M.A.H., a Somali national, in a traditional Islamic ceremony conducted in Rotterdam. It does not appear from the case file that this religious marriage was preceded by a civil marriage contracted before the Registrar of Births, Deaths and Marriages (*ambtenaar van de burgerlijke stand*), as required under Netherlands domestic law (see below §§ 160-161).

13. The applicant's appeal against the decision of 2 March 2010 and her accompanying request for a provisional measure were rejected on 14 July 2010 by the provisional-measures judge (*voorzieningenrechter*) of the

Regional Court (*rechtbank*) of The Hague sitting in Zutphen. The judge did not consider the applicant's arguments based on Article 8 of the Convention, finding that – given the strict separation in the system under the Aliens Act 2000 (*Vreemdelingenwet 2000*) between asylum-based and regular residence permits – asylum proceedings offered no scope for these arguments to be entertained by the court.

14. On 22 July 2010, the applicant filed a further appeal with the Administrative Jurisdiction Division (*Afdeling Bestuursrechtspraak*) of the Council of State (*Raad van State*). In its ruling of 24 November 2011, the Administrative Jurisdiction Division accepted this appeal. It noted that the applicant had relied as from the outset on documents containing general information, namely *inter alia* two articles published in the (Netherlands) Newsletter on Asylum and Refugee law (*Nieuwsbrief Asiel- en Vluchtelingenrecht*) on Italy (no. 7, August 2004) and on the Italian asylum system in the context of European Union legislation (no. 3, June 2009), the "ECRAN weekly update" of 30 May 2008 of the European Council on Refugees and Exiles ("ECRE"), the report "Pushed back, pushed around" published by Human Rights Watch in September 2009, the Amnesty International country reports 2007 and 2008 on Italy, the report "Italy, a briefing to the United Nations Committee against Torture" of April 2007, a report of Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, drawn up on 16 April 2009 following his visit to Italy from 13-15 January 2009, the draft resolution of the European Parliament of 27 January 2009 and proposals to amend Council Directive 2003/9 of 27 January 2003 ("the Reception Directive") and to revise Council Regulation (EC) no. 343/2003 of 18 February 2003 ("the Dublin II Regulation"). In view of the Court's judgment of 21 January 2011 in the case of *M.S.S. v. Belgium and Greece* ([GC], no. 30696/09, ECHR 2011), the Administrative Jurisdiction Division found that these documents had not been examined in the manner as described in the *M.S.S.* judgment. As it did, however, not find any reason for reaching a different decision in the applicant's case, the Administrative Jurisdiction Division decided that the legal consequences of the impugned decision of 2 March 2010 were to remain intact (*rechtsgevolgen geheel in stand blijven*). No further appeal lay against this decision.

15. The application was introduced to the Court on 19 July 2010. On 23 July 2010, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant to Italy. This indication was initially limited in time. On 15 November 2010, the President decided to prolong the Rule 39 indication until further notice.

16. On an unspecified date in November 2010, the applicant gave birth to a son named Maahir Mohammed Hassan. On 28 February 2012, the

applicant gave birth to a second son, named Madar Naasir Yaasiin. According to the latter's birth certificate, his father is Naasir Yaasiin Hassan. The applicant explained that Madar's father, Mr M.A.H., who holds a Netherlands residence title and whom she married on 20 May 2010 in the Netherlands, is the child's actual father. However, he cannot recognise his paternity as the applicant is officially still married in Somalia. Divorce proceedings had started but these would take time as her first husband was living in Somalia.

17. On 13 March 2012, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicant's situation in Italy before her arrival in the Netherlands. The Italian Government submitted their replies on 14 May 2012 and the applicant's comments in reply were submitted on 19 June 2012.

2. Application no. 41993/10

18. The applicant is a national of Somalia, who was born in 1981 and hails from Yagoori (northern Somalia). At the time of the introduction of the application, she was staying in Luttelgeest, the Netherlands. She was represented before the Court by Mr P. Blaas, a lawyer practising in 's-Hertogenbosch.

19. The applicant entered Italy on 8 October 2008, landing on the coast of Lampedusa, where the local police registered her as having illegally entered the territory of the European Union. On 12 October 2008, she was transferred to a reception centre for asylum seekers in Campomarino Lido, Campobasso province. On 13 October 2008, with the assistance of an interpreter, the applicant applied for international protection at the Campobasso police headquarters, stating *inter alia* that she was married to Yusuf Ali Gedi and that she had left and could not return to her country of origin because of the civil war. Apart from his first name, she did not give more details about her husband in Somalia.

20. In its decision of 2 February 2009, the Caserta Territorial Commission for the Recognition of International Protection granted the applicant a residence permit for the purpose of subsidiary protection. This decision was served on the applicant in person on 21 March 2009. She was provided with a residence permit for an alien having been granted subsidiary protection and a travel document. Both the residence permit and the travel document were valid until 9 April 2012.

21. On an unspecified date, the applicant left the Campomarino Lido asylum seekers reception centre.

22. The applicant applied for asylum in the Netherlands on 19 April 2009. On 27 August 2009, previous attempts on 19 April 2009 and 15 July 2009 having failed due to the poor quality of her fingerprints, the examination and comparison of her fingerprints by the Netherlands

authorities generated a Eurodac "hit" report, indicating that she had been registered in Lampedusa (Italy) on 11 October 2008.

23. In the applicant's first interview with the Dutch immigration authorities, held on 8 July 2009, she stated *inter alia* that, in May 2008 and after the death of her first husband, she had married Yusuf Ali Gedi and that he had remained in Somalia. She further stated that she had left Italy in March 2009. She stated that, after having stayed in an asylum seekers centre for six months and after she had been granted an Italian residence title, the Italian authorities had turned her out onto the streets. As for a weak woman like herself this was dangerous, she had decided to go to the Netherlands.

24. On 27 October 2009, the lawyer representing the applicant in the Netherlands proceedings on her asylum request informed the Netherlands immigration authorities *inter alia* that the applicant had been found to be suffering from hepatitis B for which treatment was temporarily impossible as she was eight months pregnant.

25. On 14 December 2009, the applicant gave birth to a son named Ajuub Haali Ayanie. He did not suffer from hepatitis B.

26. On 27 January 2010 the Netherlands authorities asked the Italian authorities to take back the applicant in accordance with Article 16 § 1(c) of the Dublin Regulation. As the Italian authorities failed to react to that request within two weeks, they were considered to have implicitly acceded to that request.

27. On 26 February 2010, the applicant's asylum request filed in the Netherlands was rejected by the Minister of Justice who found that, pursuant to the Dublin Regulation, Italy was responsible for the processing of the asylum application. The Minister rejected the applicant's argument that the Netherlands could not rely on the principle of mutual interstate trust in respect of Italy as there were, according to the applicant, sufficient concrete indications that Italy failed to respect its international treaty obligations in respect of asylum seekers and refugees. The Minister further rejected the applicant's argument that she risked treatment in breach of Article 3 of the Convention in Italy.

28. The applicant's appeal against the decision of 26 February 2010 and her accompanying request for a provisional measure were rejected on 30 June 2010 by the provisional-measures judge of the Regional Court of The Hague sitting in Zutphen.

29. On 26 July 2010, the applicant filed a further appeal with the Administrative Jurisdiction Division. In its ruling of 11 November 2011, the Administrative Jurisdiction Division accepted this appeal. It noted that the applicant had relied as from the outset on documents containing general information, namely *inter alia* the report "Italy, a briefing to the United Nations Committee against Torture" of April 2007, the Amnesty International country reports 2007 and 2008 on Italy, and a report of Thomas Hammarberg, the Council of Europe's Commissioner for Human

Rights, drawn up on 16 April 2009 following his visit to Italy from 13-15 January 2009. In view of the Court's judgment of 21 January 2011 in the case of *M.S.S. v. Belgium and Greece* ([GC], no. 30696/09, ECHR 2011), the Administrative Jurisdiction Division found that these documents had not been examined in the manner as described in the *M.S.S.* judgment. As it did, however, not find any reason for reaching a different decision in the applicant's case, the Administrative Jurisdiction Division decided that the legal consequences of the impugned decision of 2 March 2010 were to remain intact. No further appeal lay against this decision.

30. The application was introduced to the Court on 26 July 2010. On 27 July 2010, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant to Italy until further notice.

31. On 13 March 2012, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicant's situation in Italy before her arrival in the Netherlands. The Italian Government submitted their replies on 14 May 2012 and the applicant's comments in reply were submitted on 20 June 2012.

3. Application no. 57531/10

32. The applicant is a national of Somalia, who hails from Dinsoor (southern Somalia) and claims that he was born in 1995. At the time of the introduction of the application, he was staying in Tilburg, the Netherlands. He was represented before the Court by Mr W. Spijkstra, a lawyer practising in Beetsterzwaag.

33. The applicant entered Italy on 29 March 2009, landing on the coast of Portopalo (Syracuse province, Sicily). The next day, his fingerprints were taken at the Syracuse police headquarters where he was registered as having illegally entered the territory of the European Union. He was registered as Mohamud Mohamed, born in Somalia on 1 January 1989.

34. On 31 March 2009, he was transferred to a reception centre for asylum seekers in Bari. On 16 April 2009, with the assistance of an interpreter, the applicant applied for international protection at the Bari police headquarters. He stated that his name was Mohamed Ahmed Mohamud, that he was born on 1 January 1989 in Xawali Barbare, Dinsoor District, Somalia and that he was single. The applicant personally signed his asylum application. On 21 April 2009, the applicant's fingerprints were taken again, this time at the Bari police headquarters and he was registered as an asylum seeker. He was provided with a temporary residence permit as an asylum seeker on which document a passport photograph was affixed. This renewable permit had a validity of twenty days.

35. In its decision of 21 May 2009, the Bari Territorial Commission for the Recognition of International Protection granted the applicant a residence permit for the purpose of subsidiary protection. This decision was served on the applicant in person on 28 May 2009 at the Bari police headquarters. At the same time, he was provided with a residence permit for an alien having been granted subsidiary protection. This permit was valid until 20 May 2012 and bears the applicant's signature.

36. On 30 June 2009, the applicant left the Bari asylum seekers reception centre.

37. The applicant applied for asylum in the Netherlands on 31 August 2009. According to the information given in the standard personal data form, as completed and signed by the applicant himself on 31 August 2009, his family name was Mohamed Ahmed, his first name Mohamud and he was born in 1995 in Dinsoor Bay, Somalia. In an interview with a police officer held on 1 September 2009, during which the applicant was assisted by an interpreter, he confirmed the information set out in the personal data form he had completed the day before. He further stated that he had arrived in the Netherlands on 30 August 2009 on a flight from Nairobi.

38. On 17 September 2009, the applicant as well as the "Nidos" Foundation, which acts as guardian for unaccompanied minor asylum seekers, were informed that a first interview would be held with him on 7 October 2009 and that his asylum request would be dealt with by the Unit responsible for handling asylum requests for unaccompanied minor asylum seekers. Should the applicant so wish, his guardian could attend the interview.

39. The examination and comparison of the applicant's fingerprints by the Netherlands authorities generated a Eurodac "hit" report on 7 October 2009, indicating that he had been registered in Syracuse on 30 March 2009 and in Bari on 21 April 2009. In a further interview with a police officer on 7 October 2009, the applicant confirmed his personal details, but wished to change his account about his journey to the Netherlands. He stated that in 2007 or 2008 he had travelled from Somalia – via Ethiopia and Sudan – to Libya from where he had travelled in a rubber boat to Italy. After the Italian authorities had taken his fingerprints for a second time, they had turned him out onto the streets and he had then travelled via France and Brussels to the Netherlands.

40. In the applicant's first interview with the Netherlands immigration authorities, held on 7 October 2009, he stated *inter alia* that he was a minor although he had no documents to demonstrate this. He confirmed that he had been granted an Italian residence permit with a three years' validity. He had thrown this document away after his arrival in the Netherlands. He further stated that, although he had wished to stay longer in the Italian reception centre, he and others had been turned out onto the streets. After a

period in which he had led a wandering existence in Rome, he had travelled to the Netherlands via France and Belgium.

41. In his further interview held on 16 December 2009, the applicant stated that he had not applied for asylum in Italy and that his fingerprints had been forcibly taken there. He confirmed that he had been provided with a kind of travel document in Italy but, because he had no confidence in the system, he had thrown it away.

42. On 28 April 2010, the applicant's asylum request filed in the Netherlands was rejected by the Minister of Justice who found that, pursuant to the Dublin Regulation, Italy was responsible for the processing of the asylum application.

43. The applicant's appeal against the decision of 28 April 2010 and his accompanying request for a provisional measure were rejected on 27 July 2010 by the provisional-measures judge of the Regional Court of The Hague sitting in Almelo. The judge held that the Minister had correctly asked the Italian authorities on 30 M arch 2010 to take back the applicant in accordance with Article 16 § 1(c) of the Dublin Regulation. As the Italian authorities had failed to react to that request within two weeks, their responsibility was determined as from 14 April 2010, pursuant to Article 20 § 1(c) of the Dublin Regulation. The judge further did not find it established that Italy fell short of its international treaty obligations in respect of asylum seekers and refugees, and rejected the applicant's argument that he risked treatment in breach of Article 3 of the Convention in Italy.

44. On 24 August 2010, the applicant filed a further appeal with the Administrative Jurisdiction Division. On 7 October 2010, he also applied for a provisional measure, which request was rejected the same day by the President of the Administrative Jurisdiction Division. No further information about the final outcome of the applicant's further appeal has been submitted.

45. The application was introduced to the Court on 6 October 2010. On 7 October 2010, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant to Italy until further notice.

46. On 15 March 2012, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicant's situation in Italy before his arrival in the Netherlands. The Italian Government submitted their replies on 14 May 2012 and the applicant's comments in reply were submitted on 27 June 2012.

4. Application no. 18764/11

47. The applicants are a couple and their two children. The parents hail from Eritrea and were born in 1981 (the first applicant) and 1982 (the second applicant). The third applicant was born in Sudan in 2004 and the fourth applicant in Italy in 2008. At the time of the introduction of the application, the applicants were staying in Markelo, the Netherlands, and the second applicant was about five months pregnant. They were represented before the Court by Ms H. Visscher, a lawyer practising in Dordrecht.

48. The first, second and third applicants entered Italy on 3 October 2004. The next day, the parents' fingerprints were taken at the Ragusa police headquarters where the family was registered as having illegally entered the territory of the European Union. That same day, the family was transferred to a reception centre for asylum seekers in Isola di Capo Rizzuto, Crotone province.

49. Having expressed their wish to apply for asylum after their arrival in the reception centre, the first and second applicant did so on 21 October 2004 at the Crotone police headquarters. They stated that they were a married couple and further provided the particulars of their son, the third applicant, who had been born in Sudan after their flight from Eritrea. The parents' fingerprints were taken again, they were registered as asylum seekers and they were provided with a temporary residence permit as an asylum seeker on which document a passport photograph was affixed. These permits were initially valid until 3 January 2005. The validity of these permits was subsequently prolonged by the Foggia police headquarters.

50. On 6 November 2004, the family was transferred to another reception centre in Foggia and, in January 2006, to a reception centre in Florence in facilities set up in the context of the project "Emergency housing for nationals of Ethiopia and Eritrea having a status on humanitarian grounds" (*Accoglienza straordinaria di cittadini etiopi ed eritrei in possesso di status umanitari*).

51. In its decision of 7 March 2006, the special bench of the National Commission for Asylum (*Commissione Nazionale per il diritto d'Asilo, Sezione Speciale Stralcio*) held that the applicants did not qualify for the status of refugee within the meaning of the 1951 Geneva Convention relating to the Status of Refugees ("the 1951 Refugee Convention"), but it did grant the family a residence permit for humanitarian reasons under the terms of the Legislative Decree (*decreto legislativo*) no. 286/1998. On the basis of this decision, the applicants were provided with a residence permit valid until 5 February 2011.

52. On 16 July 2007, when the special project ended, the applicants left the Florence reception centre. According to the Italian Government, the first applicant had found a stable job and rented accommodation had been found for the family who had further been granted a housing allowance of € 4,000

as well as an allowance for furniture of € 958. The applicants deny having received these two allowances and submit that the job referred to by the Government was never found. On 11 July 2008 and in Florence, the second applicant gave birth to a daughter.

53. The applicants applied for asylum in the Netherlands on 27 October 2010. On the same day, the examination and comparison of the fingerprints of the first and second applicant by the Netherlands authorities generated a Eurodac "hit" report, indicating that they had been registered in Crotone on 23 October 2004. The applicants declared that they had been granted an Italian residence permit whose initial one-year validity had subsequently been extended by three years, and that they had thrown the Italian documents away.

54. On 29 October 2010 the Netherlands authorities asked the Italian authorities to take back the applicants in accordance with Article 16 § 1(c) of the Dublin Regulation. As the Italian authorities failed to react to that request within two weeks, they were considered under Article 20 § 1 of the Dublin Regulation as having implicitly acceded to that request.

55. In separate decisions taken on 22 November 2010, the Minister for Immigration, Integration and Asylum Policy (*Minister voor Immigratie, Integratie en Asiel*; the successor to the Minister of Justice) rejected the applicants' asylum request filed in the Netherlands. The Minister concluded that, pursuant to the Dublin Regulation, Italy was responsible for the processing of the applicants' asylum request.

56. The applicants' appeal against the decisions of 22 November 2010 and their accompanying request for a provisional measure were rejected on 17 December 2010 by the provisional-measures judge of the Regional Court of The Hague sitting in 's-Hertogenbosch, who did not find it established that Italy fell short of its international treaty obligations in respect of asylum seekers and refugees and rejected the applicants' claim that they risked treatment in breach of Article 3 of the Convention in Italy.

57. On 24 August 2010, the applicants filed a further appeal with the Administrative Jurisdiction Division, which was declared inadmissible because of a procedural shortcoming on 29 March 2011.

58. The application was introduced to the Court on 23 March 2011. On 29 March 2011, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicants to Italy pending the proceedings before the Court.

59. On 19 March 2012, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicants' situation in Italy before their arrival in the Netherlands. The Italian Government submitted their replies on 15 May 2012 and the applicants' comments in reply were submitted on 15 June 2012.

60. According to a medical certificate drawn up on 25 April 2012, the first and second applicant consulted a paediatrician in order to discuss the third applicant's lag in development and his history of epilepsy since birth and until he turned four. It was decided to carry out further tests. No further information has been submitted about the second applicant's pregnancy at the time of the introduction of the application.

5. Application no. 20355/12

61. The applicant is a national of Eritrea, who states that she was born in 1989. At the time of the introduction of the application, she was staying in Heerlen. She was represented before the Court by Mr B. Lit, a lawyer practising in Amsterdam.

62. The applicant entered Italy on 26 October 2009, landing on the coast of Sicily. On 29 October 2009, her fingerprints were taken at the Modica police headquarters where she was registered as having illegally entered the territory of the European Union. She was registered as Nazret Okbakristos, born in Eritrea on 26 June 1986.

63. On 5 November 2009, with the assistance of an interpreter, the applicant applied for international protection at the Trapani police headquarters, stating *inter alia* that she was single and that she would explain her reasons for fleeing Eritrea before the Commission. The applicant personally signed her application with the name "Nazret". On the same day, she was issued with the decision to admit her to a reception centre for asylum seekers in Salinagrande for the duration – limited to 35 days – of the proceedings on the determination of her asylum request. She also signed this document with the name "Nazret".

64. By a note dated 11 December 2009, the director of the Salinagrande reception centre informed the Trapani prefecture and other state agencies that on an unspecified date the applicant had left the reception centre without authorisation and without any prior notice. On 17 December 2009, the Trapani prefecture withdrew its decision to admit the applicant to the Salinagrande reception centre.

65. In its decision of 14 December 2009, and having regard to the note of 11 December 2009 stating that the applicant had left the reception centre, the Trapani Territorial Commission for the Recognition of International Protection found that neither the applicant's nationality had been established nor elements of persecution or grave danger. Consequently, it rejected the applicant's request for international protection.

66. In the meantime, the applicant had travelled to the Netherlands where she had arrived on 25 November 2009 and applied for asylum on 1 December 2009 under a different identity. According to the information given in the standard personal data form, as completed and signed by the applicant herself, her name was M.K. and she was an Eritrean national, born on 10 May 1989. On the same day, the examination and comparison of her

fingerprints by the Netherlands authorities generated a Eurodac "hit" report on 1 December 2009, indicating that she had been registered in Pozzallo (Sicily) on 29 October 2009 and in Trapani on 5 November 2009.

67. When confronted with this result in the course of an interview with the Netherlands immigration authorities, the applicant confirmed the correctness of the Eurodac report. She stated that, after her fingerprints had been taken in Italy, the Italian authorities had thrown her out onto the streets, despite her being pregnant and in need of medical care.

68. On 4 January 2010 and in the Netherlands, the applicant gave birth to a son named N.

69. On 10 May 2010 the Netherlands authorities asked the Italian authorities to take back the applicant in accordance with Article 16 § 1(c) of "the Dublin Regulation". On 11 May 2010, the Italian authorities accepted this request, also in respect of the applicant's son who had in the meantime been born in the Netherlands.

70. The applicant's asylum request was rejected on 10 June 2010 by the Minister of Justice who found that, pursuant to the Dublin Regulation, Italy was responsible for processing the applicant's asylum request and that this was not altered by the fact that the applicant had been in an advanced stage of pregnancy when she arrived in the Netherlands.

71. The applicant's appeal against the decision of 10 June 2010 was accepted on 24 August 2010 by the provisional-measures judge of the Regional Court of The Hague sitting in Haarlem, who quashed the impugned decision and ordered the Minister to take a fresh decision. The Minister's appeal against this ruling was rejected on 27 October 2011 by the Administrative Jurisdiction Division.

72. In a fresh decision taken on 17 January 2012, the Minister for Immigration, Integration and Asylum Policy rejected the applicant's asylum request, holding that Italy was responsible for that request under the terms of the Dublin Regulation. The Minister did not find it established that Italy failed to respect its international treaty obligations in respect of asylum seekers and refugees or that the applicant had been a victim of a violation of her rights under Article 3 in Italy or that she would risk treatment prohibited by Article 3 in case she was transferred back to Italy.

73. The applicant's appeal against the decision of 2 March 2010 and her accompanying request for a provisional measure were rejected on 5 April 2012 by the provisional-measures judge of the Regional Court of The Hague sitting in Haarlem. On the same day, the applicant filed a further appeal against this decision with the Administrative Jurisdiction Division. No further information about the outcome of this further appeal, which has no automatic suspensive effect, has been submitted.

74. The application was introduced to the Court on 5 April 2012. On 10 April 2012, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was

desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant to Italy until further notice. The President further decided that the applicant's identity should not be disclosed to the public (Rule 47 § 3 of the Rules of Court) and that the documents concerning her application should remain confidential (Rule 33 § 1 of the Rules of Court).

75. Also on 10 April 2012, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicant's situation in Italy before her arrival in the Netherlands. The Italian Government submitted their replies on 24 May 2012 and the applicant's comments in reply were submitted on 13 July 2012.

6. Application no. 23696/12

76. The applicant is a national of Somalia, who states that she was born in 1984 and hails from Mogadishu. At the time of the introduction of the application, she was staying in Venlo. She was represented before the Court by Ms A. Spel, a lawyer practising in Alkmaar.

77. The applicant entered Italy on 10 August 2008, landing on the coast of Lampedusa, where the local police registered her as having illegally entered the territory of the European Union and under the name Naama Mahamed Fedo, a Somali national who was born on 4 April 1983.

78. On 12 August 2008, with the assistance of an interpreter, the applicant applied for international protection at the Agricento police headquarters, stating *inter alia* that she was married to Abdullahi Abdulle Sambrie, that she had four children who were born in, respectively, 1999, 2002, 2004 and 2006 and who were all living in Somalia. She had left Somalia in 2007 because of the civil war and lack of prospects. On 19 August 2008, the applicant was transferred to a reception centre for asylum seekers in Mazara Del Vallo, Trapani province. According to a "Welcome Contract" signed on behalf of the direction of this reception centre and the applicant, her stay would in principle not last beyond 31 December 2008 but could be prolonged in accordance with applicable legal rules.

79. In its decision of 15 October 2008, the Trapani Territorial Commission for the Recognition of International Protection granted the applicant a residence permit for the purpose of subsidiary protection and rectified her name to Naima Mohamed Fido. The applicant was provided with a residence permit for an alien having been granted subsidiary protection and a travel document. Both the residence permit and the travel document were valid until 15 October 2011 and were signed by the applicant with the name "Naama".

80. On an unspecified date about four months after having been admitted there, the applicant left the Mazara Del Vallo reception centre.

81. The applicant arrived in the Netherlands on 13 January 2009, reported to the Netherland authorities the next day, and filed an asylum request on 6 April 2009 under the name Foos Ali Ahmed, born on 1 July 1984 in Mogadishu. In her first interview with the Netherlands immigration authorities, held on 7 April 2009, she stated that she had left Mogadishu on 12 January 2009 and that she had travelled by air to the Netherlands. She further stated that her first husband had died in 2004, that she had remarried, that her second husband's name was Duale Moyhadiin Shaeeb and that she had last seen him on 1 December 2008. She had four children who had been born out of her first marriage and who were living with her second husband. She had no children by her second husband. As Italian products had been found on the applicant, she was asked whether she had been in Italy which she denied. It appeared that her fingerprints were of too poor a quality for verification in Eurodac. She explained that she had sweaty hands due to nervousness.

82. On 19 May 2009, fresh fingerprints were taken from the applicant and an examination and comparison of these fingerprints by the Netherlands authorities generated a Eurodac "hit" report, indicating that she had been registered in Lampedusa on 10 August 2008.

83. In a further interview held with the immigration authorities on 19 May 2009, the applicant explained that she had left Somalia after she had been held hostage for fifteen days in May or June 2008 by the man who had killed her first husband in 2004. The applicant further admitted that she had been in Italy. She had left Italy because she had been homeless there. She had initially been transferred to an asylum seekers centre. She had then obtained a residence permit and was subsequently told to leave the centre. She had chosen to travel to the Netherlands because she had heard that the Netherlands offered the possibility of allowing family members who stayed behind to come to the Netherlands.

84. On 23 June 2009 the Netherlands authorities asked the Italian authorities to take responsibility for the applicant in accordance with Article 10 § 1 of the Dublin Regulation. As the Italian authorities failed to react to that request within two months, they were considered as having implicitly acceded to that request.

85. On 5 January 2010, the Deputy Minister of Justice (*Staatssecretaris van Justitie*) rejected the applicant's asylum request filed in the Netherlands. The Deputy Minister held that, pursuant to the Dublin Regulation, Italy was responsible for the processing of this asylum request and rejected the applicant's claim that her transfer to Italy would be in violation of Article 3 of the Convention on account of the treatment of asylum seekers there.

86. On 1 May 2010, the applicant gave birth to a son named Zakariya. According to his birth certificate, his father is Du'ale Muhudiin Shu'eyb, the applicant's second husband.

87. The applicant's appeal against this decision to reject her asylum request, filed on 7 January 2010, was accepted on 17 May 2010 by the Regional Court of The Hague sitting in Haarlem. It quashed the impugned decision and ordered the Minister of Justice to take a fresh decision.

88. On 11 June 2010, the Minister filed a further appeal with the Administrative Jurisdiction Division. On 24 November 2011, the Administrative Jurisdiction Division accepted the Minister's appeal, quashed the judgment of 17 May 2010, accepted the applicant's appeal of 7 January 2010, quashed the decision of 5 January 2010 but ordered that its legal effects were to remain entirely intact. Having noted the Court's judgment in the case of *M.S.S. v. Belgium and Greece* (cited above), it noted that the applicant had relied as from the outset on documents containing general information, namely *inter alia* a report drawn up by ECRE in 2006, a letter written in August 2008 by the Netherlands Refugee Council (*VluchtelingenWerk Nederland*), three Amnesty International reports, a report on a visit by the European Parliament to Lampedusa in February 2009, an Amnesty International report of February 2009, a report of 16 April 2009 by Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, drawn up on 16 April 2009 following his visit to Italy from 13-15 January 2009 and a report of 4 August 2009 by the NGO Statewatch. The Administrative Jurisdiction Division found that these documents had not been examined in the manner as described in the *M.S.S.* judgment. As it did, however, not find any reason for reaching a different decision in the applicant's case, the Administrative Jurisdiction Division decided that the legal consequences of the impugned decision of 5 January 2010 were to remain intact. No further appeal lay against this decision.

89. On 16 February 2012, the applicant filed a fresh asylum request which, pursuant to section 4:6 of the General Administrative Law Act (*Algemene Wet Bestuursrecht*), must be based on newly emerged facts or altered circumstances (*nieuw gebleken feiten of veranderde omstandigheden*) warranting a revision of the initial decision taken. During her interview on this request, held on 20 February 2012, the applicant stated that she was five months pregnant. She further stated that, in June 2009, she had received a letter informing her that her second husband had divorced her. In July 2009, she had met the father of Zakariya and of the child she was carrying. This person was a naturalised Dutch national. The applicant did not cohabit with him as he was already married to another woman with whom he had a family. Although he would like to recognise his paternity, this was only possible when the applicant could prove to the competent Netherlands municipal authorities that she and her second husband had divorced. The reason for her fresh asylum request was that she did not wish to return to Italy where she feared that, as an asylum seeker, she risked to be subjected to treatment in breach of Article 3 and where her son risked not getting the necessary treatment for his asthmatic condition.

90. This fresh request was dismissed on 24 February 2012 by the Minister for Immigration, Integration and Asylum Policy, who rejected the applicant's arguments to the effect that her transfer to Italy, as a pregnant woman with a young child, would entail a violation of her rights under Article 3 of the Convention.

91. The applicant's appeal against the decision of 24 February 2012 and her accompanying request for a provisional measure were rejected on 20 March 2012 by the provisional-measures judge of the Regional Court of The Hague who accepted the impugned decision. Although possible, the applicant did not file a further appeal to the Administrative Jurisdiction Division, considering – in view of the case-law of the Administrative Jurisdiction Division in cases concerning transfers to Italy under the Dublin Regulation – that such would be bound to fail.

92. The application was introduced to the Court on 20 April 2012. On 2 May 2012, the President of the Section decided, under Rule 39 of the Rules of Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant and her son to Italy for the duration of the proceedings before the Court.

93. Also on 2 May 2012, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicant's situation in Italy before her arrival in the Netherlands. The Italian Government submitted their replies on 24 May 2012 and the applicant's comments in reply were submitted on 20 June 2012.

94. On 26 July 2012, the applicant gave birth to a daughter, named Salma. The father, as recorded on her birth certificate, is Du'ale Muhudiin Shu'eyb.

7. Application no. 62865/12

95. The applicant is a Russian national of Armenian origin, who was born in 1984. At the time of the introduction of the application, she was staying in Aalden. She was represented before the Court by Ms M. Hoogendoorn, a lawyer practising in Leiden.

96. On an unspecified date, the Italian General Consulate in Moscow issued a tourist visa, valid from 21 July 2010 to 5 August 2010, to the applicant and to her two minor daughters – born in 2006 and 2007, respectively – for the purpose of a visit to Naples.

97. On 21 July 2010, the applicant and her children arrived in the Netherlands, where the applicant applied for asylum, also on behalf of her two children. She stated that she was a victim of general ethnic discrimination of Armenians in Russia as well as a victim of targeted persecution by the Russian authorities, that her house had been plundered and that she had been raped as a result of which she had fallen pregnant and developed a post-traumatic stress disorder.

98. On 17 September 2010, the Netherlands authorities asked the Italian authorities to take responsibility for the applicant in accordance with Article 9 § 2 of the Dublin Regulation. As the Italian authorities failed to react to that request within two months, they were considered as having acceded to that request, pursuant to Article 18 § 7 of the Dublin Regulation.

99. On 13 December 2010, the Minister for Immigration, Integration and Asylum Policy rejected the applicant's asylum request, holding that Italy was responsible for that request under the terms of the Dublin Regulation. The Minister rejected as not established the applicant's claim that she should be admitted to the Netherlands asylum procedure as the principle of mutual interstate trust could longer be seen as applicable in respect of Italy given sufficient concrete indications that Italy failed to respect its international treaty obligations in respect of asylum seekers and refugees. The Minister did not find it demonstrated that the applicant, if transferred to Italy, would have no access to adequate medical care or otherwise risk treatment in breach of Article 3 of the Convention.

100. On 15 January 2011, the applicant gave birth to a son.

101. The applicant's appeal against the Minister decision of 13 December 2010, filed on 24 January 2011, was accepted on 19 December 2011 by the Regional Court of The Hague sitting in Haarlem. It quashed the impugned decision and ordered the Minister to take a fresh decision. The Regional Court accepted that Italy was responsible for the determination of the applicant's asylum request. However, it considered – taking into account that the applicant was suffering from a post-traumatic stress disorder and was a mother of three young children, the indication of several interim measures by the Court under Rule 39 of the Rules of Court, and a report of Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, drawn up in September 2011 after a formal visit to Italy in May 2011 – that the applicant had submitted sufficient concrete indications that Italy failed to respect its international treaty obligations in respect of asylum seekers and refugees. It therefore concluded that the Minister could not, without further examination, have relied on the principle of mutual interstate trust.

102. On 12 January 2012, the Minister filed a further appeal with the Administrative Jurisdiction Division. On 5 September 2012, the Administrative Jurisdiction Division accepted the Minister's appeal, quashed the judgment of 19 December 2011 in so far as the Regional Court had not ordered that the legal effects of the decision of 13 December 2010 were to remain intact and in so far it had ordered the Minister to take a fresh decision, ordered that the legal effects of the decision of 13 December 2010 were to remain intact, and upheld the impugned judgment for the remainder. Having noted the Court's judgment in the case of *M.S.S. v. Belgium and Greece* (cited above), the Administrative Jurisdiction Division noted that the applicant had relied as from the outset on the Hammarberg report and

found that this had not been examined by the Minister in the manner as described in the *M.S.S.* judgment. As it did, however, not find any reason for reaching a different decision in the applicant's case, the Administrative Jurisdiction Division decided that the legal consequences of the decision of 13 December 2010 were to remain intact. No further appeal lay against this decision.

103. The application was introduced to the Court on 28 September 2012. On 11 October 2012, the President of the Section decided, under Rule 39 of the Rules of Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant and her children to Italy for the duration of the proceedings before the Court.

104. Also on 2 May 2012, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the situation of single mothers with young children who apply for asylum in Italy. The Italian Government submitted their replies on 16 November 2012 and the applicant's comments in reply were submitted on 22 December 2012.

8. Application no. 81839/12

105. The applicant is an Eritrean national, born in 1982. She is the mother of a son, born in 2012 in the Netherlands. At the time of the introduction of the application, she was staying in Almere. She was represented before the Court by Ms M. Hoogendoorn, a lawyer practising in Leiden.

106. The applicant entered Italy on 28 March 2011, landing on the coast of Sicily. On 29 March 2011, her fingerprints were taken at the Modica police headquarters where she was registered as having illegally entered the territory of the European Union. She was registered as Weini Fkre, born in Eritrea in 1982. As she stated that she wished to apply for international protection, she was transferred on the same day to a reception centre for asylum seekers in Isola di Capo Rizzuto, Crotone province.

107. On an unspecified date and before filing a formal application for international protection, the applicant left the reception centre of her own volition.

108. On 4 May 2011, the applicant arrived in the Netherlands where she applied for asylum under the name Weyni Fikre. On 6 June 2011, the examination and comparison of her fingerprints by the Netherlands authorities generated a Eurodac "hit" report, indicating that she had been registered in Pozzallo (Sicily) on 29 March 2011 and in Crotone on 31 March 2011. On the same day, the Netherlands immigration authorities held a first interview with the applicant.

109. In this interview, she confirmed her presence in Italy before arriving in the Netherlands. She further stated that she was single and had never been married. She had a daughter, who was born in 2002. She was

being cared for by relatives in Eritrea and the applicant had seen her daughter for the last time in July 2009 when she had left Eritrea. She further stated that she had stayed for a lengthy period and in deplorable conditions in Libya. Her non-marital partner T.Y. had been invited, through the United Nations, to come to the Netherlands for resettlement as an invited refugee. T.Y. had intended to take her along. This had however proved impossible as, due to the unsettled situation in Libya at that time, the UN office had closed and its staff left. As she wanted to save her life, she and about 600 other Eritreans had left Libya for Italy where – after her arrival – her fingerprints had been taken. Being very weak, she had required hospital treatment but treatment would only be given if she agreed to give her fingerprints. Her partner T.Y. had travelled with her to the Netherlands.

110. In a further interview held with the applicant on 8 June 2011, she stated that, during her stay in Libya, she had heard that the living conditions for Eritreans in Italy were very harsh. As she and her partner had had work in Libya and been earning money, they had awaited arrangements to be made for going to the Netherlands. When she had arrived in Italy, she had been taken to a reception camp where she had stayed for 24 hours and from where she had gone to another reception camp where she had stayed for four days and then left. She further related that, when she came off the boat, she had been received by the medical service. Apart from a glucose infusion, she had received no medication upon her arrival in Italy, although she had asked for medication as her body itched all over. She further stated that she and T.Y. had always intended to travel to the Netherlands and had no wish to stay in Italy.

111. On 4 August 2011, the Netherlands authorities asked the Italian authorities to take back the applicant and T.Y. in accordance with Article 10 § 1 of the Dublin Regulation. As the Italian authorities failed to react to that request within two months, they were considered as having acceded to that request.

112. In separate decisions taken on 1 December 2011, the Minister for Immigration, Integration and Asylum Policy rejected the asylum request filed in the Netherlands by the applicant and T.Y. The Minister concluded that, pursuant to the Dublin Regulation, Italy was responsible for the processing of these asylum requests.

113. On 18 March 2012, the applicant gave birth to a son.

114. The separate appeals filed by the applicant and T.Y. were rejected in a single judgment given on 14 June 2012 by the Regional Court of The Hague sitting in Arnhem, who agreed with the Minister that Italy was responsible for the determination of the asylum applications concerned. It noted, in this respect, that – at the time T.Y. had been in Libya – no decision had been taken yet to invite him for resettlement in the Netherlands and that the interview, on the basis of which the Netherlands were to take that decision, had not taken place. In this light and given that Italy had not

reacted to the request of 4 August 2011, the Regional Court found that Italy was responsible for the asylum requests filed by the applicant and T.Y. It further did not find that the applicant and T.Y. had demonstrated that Italy fell short of its international treaty obligations in respect of asylum seekers and refugees and rejected their claim that they, as asylum seekers, risked treatment in breach of Article 3 of the Convention, if transferred to Italy.

115. The further appeal filed by the applicant and T.Y. on 6 July 2012 was rejected on 19 July 2012 by the Administrative Jurisdiction Division.

116. In the meantime, on 9 July 2012, the applicant and T.Y. had been notified of the Minister's intention to transfer them and their son to Italy on 24 July 2012.

117. On 20 July 2012, the applicant and her son filed an objection (*bezwaarschrift*) with the Minister against the latter's intention and, at the same time, requested the provisional-measures judge of the Regional Court of The Hague to issue a provisional measure staying their transfer to Italy.

118. In the decision taken on 23 July 2012 by the provisional-measures judge of the Regional Court of The Hague sitting in Amsterdam, the judge noted that on 18 July 2012 T.Y. had evaded his obligation to report that day (*onttrokken aan de meldplicht*) and that the applicant had stated that he had left for an unknown destination. The judge further noted that the Minister did not object to the requested provisional measure being granted in case T.Y. had not been traced at the moment of transfer. The provisional-measures judge therefore decided to grant the request in the sense that the Minister was not allowed to transfer the applicant and her son to Italy for as long as T.Y. was not found yet for no longer than four weeks after the determination of the objection filed on 20 July 2012.

119. On 17 August 2012, the Minister rejected the objection filed by the applicant and her son.

120. On 27 December 2012, the applicant and her son filed a fresh objection with the Minister against the latter's intention to transfer them to Italy on 10 January 2013. At the same time, they requested the provisional-measures judge of the Regional Court of The Hague to issue a provisional measure staying their transfer to Italy.

121. On 9 January 2013, the applicant was informed that the provisional-measures judge of the Regional Court of The Hague sitting in Middelburg had rejected her request for a provisional measure.

122. The application was introduced to the Court on 28 December 2012. On 9 January 2013, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant to Italy until further notice.

123. On 9 January 2013, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicant's

situation in Italy before her arrival in the Netherlands and after transfer to Italy. On the same date, a number of factual questions were also put to the Netherlands Government, which concerned their possible contacts with the United Nations High Commissioner for Refugees ("UNHCR") concerning the resettlement in the Netherlands of the applicant and T.Y. as invited refugees.

124. The Italian Government and the Netherlands Government submitted their respective replies on 30 January 2013 and the applicant's comments in reply were submitted on 11 March 2013. The Netherlands Government confirmed that there had been contact with the UNHCR concerning resettlement of T.Y. but they never had received a request from the UNHCR to resettle the applicant. The UNHCR registration form of T.Y. names the applicant as his ex-girlfriend and states that she lives in Eritrea. In total 21 persons of Eritrean origin, including T.Y., had been selected for an in-depth asylum interview to be held in an Emergency Transit Centre (ETC) in Romania, in order to assess whether these persons qualified for an asylum-based residence permit under Netherlands domestic rules. However, no such interviews had been held in 2010 in the ETC as the Libyan authorities had refused to allow the persons concerned to leave Libya.

125. On 2 July 2013, the applicant informed the Court that her partner T.Y. had contacted her again in May 2013 and that, on 4 June 2013, he had filed a fresh asylum request in the Netherlands. This request had been rejected by the Deputy Minister for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) on 14 June 2013. His appeal against this decision, which does not have suspensive effect, is currently pending before the Regional Court of The Hague. T.Y. is currently staying with the applicant and their son.

9. Application no. 7903/13

126. The applicants are a mother (the first applicant) and daughter. The first applicant states that she is a national of Eritrea, and that she was born in 1995 in Ethiopia. The second applicant was born in 2009. At the time of the introduction of the application, they were staying in Luttelgeest. They were represented before the Court by Ms I. van den Elshout, a lawyer practising in's-Hertogenbosch.

127. The first applicant entered Italy on 14 July 2008 in Lampedusa, where she was registered as Snaite A., an Ethiopian national who was born in 1980.

128. Her subsequent asylum request, filed on an unspecified date, was accepted on 11 November 2008 by the Rome Territorial Commission for the Recognition of International Protection. Accepting that the first applicant – who at that time was staying in a "CARA" reception centre for asylum seekers in Castelnuovo di Porto – was a refugee within the meaning of the

1951 Refugee Convention, it granted her an asylum-based residence permit, valid until 6 October 2014.

129. On 18 January 2009 and in Rome, the first applicant gave birth to a daughter who was named Rut.

130. From 11 June 2009 to 7 September 2010, the applicant, together with her husband B.S. and their daughter Rut were staying in accommodation provided under the Protection System for Asylum Seekers and Refugees ("*Sistema di Protezione per Richiedenti Asilo e Rifugiati*"; "SPRAR") in the Rome province.

131. On an unspecified date in October 2010, the two applicants arrived in the Netherlands where on 20 October 2010 they applied for asylum under slightly different names. On the same day, the examination and comparison of the first applicant's fingerprints by the Netherlands authorities generated a Eurodac "hit" report, indicating that she had been registered in Rome as an asylum seeker on 24 July 2008.

132. During her interviews with the Netherlands immigration authorities, the first applicant stated that she was a citizen of Eritrea and that she had been born in 1985. She was married but unaware of her husband's whereabouts. They had become separated when they had travelled on different boats from Libya to Italy. She had not seen him since. She had obtained an Italian residence document allowing her to travel but she had lost this document in the Netherlands. She had lived in Ethiopia from birth until the age of fifteen when she left Ethiopia for Sudan where she had lived until 2008 and met her husband. In April 2008 she and her husband had travelled to Libya where they had stayed for four months and then left for Italy. She had left Italy because in that country she had been raped once and there had been attempts to rape her, and she had had to beg for food to feed her daughter. It had furthermore been an unwholesome environment for her daughter to grow up in. She had come to the Netherlands for a better life.

133. On 25 October 2010 the Netherlands authorities asked the Italian authorities to take responsibility for the applicants' asylum request under the terms of the Dublin Regulation. Although the Italian authorities rejected this request on 11 November 2010 as the applicants had already been granted refugee status in Italy, they accepted on 28 February 2011 to take them back under the terms of the European Agreement on Transfer of Responsibility for Refugees of 16 October 1980.

134. The applicants' asylum request was rejected on 29 April 2011 by the Minister for Immigration, Integration and Asylum Policy, who noted that they had been admitted as refugees in Italy and thus entitled to facilities for recognised refugees. In the absence of any concrete indications that the applicants, if returned to Italy, would find themselves in a situation in which their rights under Article 3 would be violated, the Minister rejected this claim raised by the applicants.

135. The applicants' appeal against this decision was rejected on 31 January 2012 by the Regional Court of The Hague sitting in Arnhem. Although acknowledging that the applicants' account illustrated the difficult position of asylum seekers and admitted refugees in Italy, as was also apparent from general information submitted by the applicants, it found that it could not be concluded therefrom that this position was so bad that the applicants' removal to Italy should be regarded as being in violation of Article 3 of the Convention.

136. On 20 December 2012, the Administrative Jurisdiction Division accepted the applicants' further appeal, quashed the judgment of 31 January 2012, accepted the applicant's appeal against the decision of 29 April 2011, and quashed this decision but ordered that its legal effects were to remain entirely intact. In view of the Court's judgment of 21 January 2011 in the case of *M.S.S. v. Belgium and Greece* (cited above), it noted that the applicants had relied as from the outset on documents containing general information and found that these had not been examined in the manner as described in the *M.S.S.* judgment. As it did, however, not find any reason for reaching a different decision in the applicants' case, the Administrative Jurisdiction Division decided that the legal consequences of the impugned decision of 29 April 2011 were to remain intact. No further appeal lay against this decision.

137. The application was introduced to the Court on 30 January 2013. On the same date, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicant to Italy until further notice.

138. Also on 30 January 2013, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the applicants' situation in Italy before their arrival in the Netherlands. The Italian Government submitted their replies on 21 February 2013 and the applicant's comments in reply were submitted on 31 May 2013.

139. At the applicants' request, the President further decided that the applicants' identity should not be disclosed to the public (Rule 47 § 3 of the Rules of Court) and that the documents concerning their application should remain confidential (Rule 33 § 1 of the Rules of Court).

10. Application no. 11746/13

140. The applicants are a mother (the first applicant) and her two children. The first applicant is an Eritrean national who was born in 1979. Her children were born in 2010 and 2012, respectively. At the time of the introduction of the application, the applicants were staying in Oisterwijk. They were represented before the Court by Mr M. Verwers, a lawyer practising in Wageningen.

141. The first applicant entered Italy on 8 August 2008, landing on the coast of Lampedusa. On 5 September 2008, she applied for asylum and, on an unspecified date, was granted an Italian residence permit for the purpose of subsidiary protection, which was valid until 12 October 2011.

142. On an unspecified date, the first applicant travelled from Italy to the Netherlands where, on 5 January 2009, she applied for asylum. On 3 March 2009, the examination and comparison of her fingerprints by the Netherlands authorities generated a Eurodac "hit" report, indicating that she had been registered in Lampedusa on 8 August 2008 and in Crotone on 5 September 2008. On 4 and 6 March 2009, the Netherlands immigration authorities held interviews with the first applicant.

143. On 29 May 2009 the Netherlands authorities asked the Italian authorities to take back the applicants in accordance with Article 16 § 1(c) of the Dublin Regulation. As the Italian authorities failed to react to that request within two weeks, they were considered as having acceded to it.

144. On 23 July 2009, the Deputy Minister of Justice rejected the first applicant's asylum request, finding that, pursuant to the Dublin Regulation, Italy was responsible for this request.

145. The Regional Court of The Hague sitting in Zwolle rejected the first applicant's appeal against the Deputy Minister's decision on 10 September 2009. The first applicant's subsequent objection (*verzet*) was rejected by the Regional Court of The Hague on 19 October 2009.

146. On 20 October 2009, the first applicant introduced an application to the Court, accompanied by a request for an interim measure within the meaning of Rule 39 of the Rules of Court, namely to stay her transfer from the Netherlands to Italy. It was registered under no. 55811/09. On the same day the President of the Section rejected the first applicant's request for an interim measure. On 2 November 2009, the first applicant was transferred from the Netherlands to Italy and, on 4 December 2009, she informed the Court that she did not wish to pursue her application.

147. On 26 May 2010 and under another identity, the first applicant filed a fresh asylum request in the Netherlands. On 8 May 2010, her fingerprints were taken. However, due to the poor quality of these fingerprints it was not possible to verify them in the Eurodac database. On 26 May 2010, fresh fingerprints were taken from her, which resulted in a Eurodac "hit" report, indicating that – under another identity – she had already previously applied for asylum in Italy, the Netherlands and, most recently, Belgium.

148. In the course of an interview which the Netherlands immigration authorities held with the first applicant on 28 May 2010, she stated that she was more than two months pregnant. She further stated that, after having been returned to Italy, she had been refused accommodation, that she had been kidnapped by three men who had detained her for two days and raped her several times. She had then left Italy for Belgium where she had applied for asylum and received medical care. As it was found out that she had

previously been in Italy, she could not stay in Belgium. From Belgium, she had travelled to the Netherlands.

149. On 1 July 2010, the Minister of Justice rejected the first applicant's fresh asylum request. The first applicant filed an appeal with the Regional Court of The Hague.

150. On 30 November 2010, the first applicant gave birth to a son in the Netherlands.

151. On 3 December 2010, the Regional Court of The Hague sitting in Maastricht accepted the applicant's appeal. It quashed the decision of 1 July 2010 and ordered the Minister to take a fresh decision, indicating that the Minister should examine whether interim measures issued by the Court under Rule 39 of the Rules of Court in cases concerning transfers to Italy under the Dublin Regulation constituted a concrete indication that Italy would fail to respect its international obligations vis-à-vis the first applicant.

152. In a fresh decision taken on 28 March 2011, the Minister for Immigration, Integration and Asylum Policy again rejected the first applicant's asylum request, finding that pursuant to the Dublin regulation Italy was responsible for this request.

153. On 13 September 2011, the Regional Court of The Hague sitting in Zutphen accepted the first applicant's appeal. It quashed the impugned decision and ordered the Minister to take a fresh decision. It held that the Minister had failed to respect the indication given in the Regional Court's ruling of 3 December 2010.

154. On 11 October 2011, the Minister filed a further appeal with the Administrative Jurisdiction Division.

155. On 8 November 2012, the first applicant gave birth to a daughter in the Netherlands. The father of the first applicant's children is Y.M., an Eritrean national who, according to the first applicant, has no legal residency in the Netherlands or elsewhere in Europe but who sporadically enters Europe illegally and has visited the first applicant a number of times. She had last seen him when their second child was born and had lost contact with him since. According to the Netherlands birth certificate of the daughter, drawn up on 12 November 2012, her birth had been reported to the competent authority by Y.M.

156. On 18 January 2013, the Administrative Jurisdiction Division accepted the Minister's appeal, quashed the judgment of 13 September 2011, accepted the first applicant's appeal against the decision of 28 March 2011, and quashed this decision but ordered that its legal effects were to remain entirely intact. It held that, as the decision of 28 March 2011 was in essence the same as the decision of 23 July 2009, the Regional Court should first have examined whether the fresh asylum request was based on newly emerged facts and circumstances which it had failed to do. Further, having noted the Court's judgment in the case of *M.S.S. v. Belgium and Greece* (cited above), it noted that the first applicant had relied as from the outset on

documents containing general information about the situation in Italy and found that these had not been examined in the manner as described in the *M.S.S.* judgment. As it did, however, not find any reason for reaching a different decision in the first applicant's case as regards her arguments based on Article 3 of the Convention, the Administrative Jurisdiction Division decided that the legal consequences of the impugned decision of 28 March 2011 were to remain intact. No further appeal lay against this decision.

157. The application was introduced to the Court on 15 February 2013. On the same day, factual questions were put to the applicants and the Netherlands Government, who both replied on 18 February 2013. On 19 February 2013, the President of the Section decided, under Rule 39 of the Rules of the Court, to indicate to the Netherlands Government that it was desirable in the interest of the parties and the proper conduct of the proceedings before the Court not to remove the applicants to Italy until further notice.

158. Also on 19 February 2013, a number of factual questions were put to the Government of Italy (Rule 54 § 2 (a)), which concerned the first applicant's situation in Italy and whether Y.M., the father of the second and third applicant, was known to the Italian authorities. The Italian Government submitted their replies on 12 March 2013, providing *inter alia* a copy of an Italian asylum-based residence permit granted to Y.M. which had initially been valid until 8 February 2011 but whose validity had subsequently been prolonged until 7 February 2016. The applicants' comments in reply to the information provided by the Italian Government were submitted on 9 April 2013.

B. Relevant European Union, Italian and Netherlands law and practice

159. The relevant European, Italian and Netherlands law, instruments, principles and practice in respect of asylum proceedings, reception of asylum seekers and transfers of asylum seekers under the Dublin Regulation have recently been exhaustively summarised in *Mohammed Hussein v. the Netherlands and Italy* ((dec.), no. 27725/10, §§ 25-28 and 33-50, 2 April 2013); *Daybetgova and Magomedova v. Austria* ((dec.), no. 6198/12, §§ 25-29 and §§ 32-39, 4 June 2013); *Halimi v. Austria and Italy* ((dec.), no. 53852/11, §§ 21-25 and §§ 29-36, 18 June 2013); and *Abubeker v. Austria and Italy* (dec.), no. 73874/11, §§ 31-34 and §§ 37-41, 18 June 2013).

C. Relevant Netherlands law concerning marriage

160. Pursuant to section 33 of Book 1 of the Netherlands Civil Code (*Burgerlijk Wetboek*), a person may only be united in marriage with one other person at the same time and, pursuant to section 68 of Book 1 of the Civil Code, no religious marriage ceremonies may take place before the parties have shown to the foreman of the religious service that the marriage has been concluded before the Registrar of Births, Deaths and Marriages.

161. According to section 237 of the Netherlands Criminal Code (*Wetboek van Strafrecht*), the offence of intentionally contracting a double marriage attracts a punishment of maximum four years' imprisonment or a fourth category fine (not exceeding € 19,500). Section 449 of the Criminal Code stipulates that the celebration of a religious wedding prior to a civil wedding attracts a second category fine (not exceeding € 3,900).

COMPLAINTS

A. Against the Netherlands

162. All applicants complained under Article 3 of the Convention that their removal from the Netherlands to Italy would subject them to treatment contrary to that provision, given the general situation and living conditions in Italy for asylum seekers, in particular those who are particularly vulnerable such as, for instance, single parents with young children or persons requiring medical care. On the basis of this claim, one applicant (no. 81839/12) also complained that the Netherlands, in refusing her request for protection and seeking to remove her to Italy, acted contrary to Article 1 of the Convention.

163. Some applicants (nos. 40524/10, 41993/10, 57531/10, 18764/11, 20355/12 and 11746/13) further complained under Article 3 that the Netherlands, by removing them to Italy without having examined what treatment they risk in their country of origin, will expose them to a risk of *refoulement* from Italy to their country of origin without a proper examination of their asylum and Article 3 claims having taken place in Italy.

164. Some applicants complained that their removal would also be contrary to their rights under Article 8 of the Convention as this would separate them from their husband in the Netherlands (nos. 40524/10 and 81839/12), or because this would entail a risk of separation from their children if the latter, if found living on the streets, were taken into public care in Italy (nos. 41993/10 and 7903/13).

165. Some applicants (nos. 40524/10, 41993/10, 57531/10, 18764/11, 7903/13 and 11746/13) complained that, in respect of their complaints under Article 3, they did not have an effective remedy within the meaning of Article 13 of the Convention.

B. Against Italy

166. Apart from the applicant in case no. 62865/12, all applicants complained that they had been subjected to treatment in breach of Article 3 of the Convention during their stay in Italy and all applicants complain that, given the general situation and living conditions in Italy for asylum seekers, they will be subjected to such treatment if removed to Italy.

167. Relying on Article 8 of the Convention, the applicants in case nos. 41993/10 and 7903/13 further complained that, due to the inadequate reception facilities in Italy for aliens in their position, they risked to be separated from their children if the latter, if found living on the streets, would be taken into public care.

168. Some of the applicants (nos. 40524/10, 41993/10, 57531/10, 18764/11, 81839/12, 7903/13 and 11746/13) lastly complained that, in respect of their claims under Article 3 both in respect of the treatment they risked in their country of origin and in respect of their treatment in Italy, they did not have an effective remedy within the meaning of Article 13 of the Convention in Italy.

THE LAW

169. The applicants complained that their removal from the Netherlands to Italy under the terms of the Dublin Regulation would subject them to treatment contrary to Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

170. In respect of this grievance under Article 3, some of the applicants also complained of a violation of Article 13 of the Convention, which provides as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

171. The applicant in case no. (no. 81839/12) also complained that the Netherlands, in refusing her request for protection and seeking to remove her to Italy, acted contrary to Article 1 of the Convention, which reads:

> "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention."

172. The Court reiterates at the outset the relevant general principles under Article 3 of the Convention as set out most recently in its decision on admissibility in the cases of *Mohammed Hussein v. the Netherlands and Italy* (cited above, §§ 65-71) and *Daybetgova and Magomedova v. Austria* (cited above, §§ 58-64). It further recalls that, if an applicant has not yet been removed when the Court examines the case, the relevant time for assessing the existence of the risk of treatment contrary to Article 3 will be that of the proceedings before the Court (see *Saadi v. Italy* [GC], no. 37201/06, § 133, ECHR 2008, and *A.L. v. Austria*, no. 7788/11, § 58, 10 May 2012). A full assessment is called for, as the situation in a country of destination may change over the course of time (see *Salah Sheekh v. the Netherlands*, no. 1948/04, § 136, 11 January 2007).

173. The Court notes at the outset that the applicants in case no. 7903/13 have been admitted to Italy as refugees within the meaning of the 1951 Refugee Convention and are holding an Italian asylum-based residence permit which is valid until 6 October 2014. Accordingly, for the purposes of the present application, they cannot be regarded as asylum seekers but should be considered as recognised refugees.

174. The remaining applicants can be regarded as asylum seekers as, even if some have already been admitted in Italy in the past as aliens requiring subsidiary protection (nos. 41993/10, 57531/10, 23696/12 and 11746/13) or for humanitarian reasons (no. 18764/11), none of the remaining applicants holds a valid Italian residence permit at present. Consequently, they will have to file a (fresh) asylum request in Italy in case they are transferred to Italy.

175. The Court will first consider the question whether the situation in which the latter category of applicants, if removed to Italy, are likely to find themselves, can be regarded as incompatible with Article 3, taking into account their situation as asylum seekers and, as such, members of a particularly underprivileged and vulnerable population group in need of special protection (see *M.S.S. v. Belgium and Greece*, cited above, § 251).

176. Reiterating its findings in the case of *Mohammed Hussein v. the Netherlands and Italy* (cited above, § 78) and having found no reasons in the submissions made in the applications at hand warranting another conclusion, the Court finds that, although the general situation and living conditions in Italy of asylum seekers is certainly far from ideal and may disclose some shortcomings, there is no systemic failure where it concerns providing support or facilities catering for asylum seekers, as was the case in *M.S.S. v. Belgium and Greece* (cited above). The Court further finds, also in view of the manner in which the applicants who stayed in Italy were treated by the Italian authorities after their initial arrival in Italy, that none of the applicants – whom the Court regards as asylum seekers – have

established that their future prospects, if returned to Italy, whether taken from a material, physical or psychological perspective, disclose a sufficiently real and imminent risk of hardship severe enough to fall within the scope of Article 3. The Court has found no basis on which it can be assumed that the applicants will not be able to benefit from the available resources in Italy for asylum seekers or that, in case of difficulties, the Italian authorities would not respond in an appropriate manner.

177. It follows that this part of the applicants' complaints under Article 3 brought against the Netherlands and Italy is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and therefore inadmissible pursuant to Article 35 § 4.

178. As regards the situation of the applicants in case no. 7903/13, the Court notes that they have been granted an Italian residence permit for being a recognised refugee, and that this permit is valid until 6 October 2014. The Court further notes that they were admitted in a facility for recognised refugees run under the SPRAR scheme.

179. The Court reiterates that asylum seekers, i.e. persons seeking refuge, are an underprivileged and vulnerable population group requiring special protection in the form of basic reception facilities pending the determination of their asylum request (see *M.S.S. v. Belgium and Greece*, cited above). The Court is nevertheless of the view that the situation of asylum seekers cannot be equated with the lawful stay of a recognised refugee who has been explicitly granted permission to settle in the country of refuge, such as the applicants in case no. 7903/13 whose Italian asylum-based residence permit put them on a par, as regards rights and obligations under Italian domestic law, with the general population in Italy (*Mohammed Hussein v. the Netherlands and Italy*, cited above, § 37).

180. The Court further reiterates that the mere fact of return to a country where one's economic position will be worse than in the expelling Contracting State is not sufficient to meet the threshold of ill-treatment proscribed by Article 3, that this provision cannot be interpreted as entailing a general obligation for the High Contracting Parties to provide everyone within their jurisdiction with a home and/or refugees with financial assistance to enable them to maintain a certain standard of living, that aliens who are subject to removal cannot in principle claim any entitlement to remain in the territory of a Contracting State in order to continue to benefit from medical, social or other forms of assistance and services provided by the expelling State, and that, in the absence of exceptionally compelling humanitarian grounds against removal, the fact that the applicant's material and social living conditions would be significantly reduced if he or she were to be removed from the Contracting State is not sufficient in itself to give rise to a breach of Article 3 (see *Mohammed Hussein v. the Netherlands and Italy*, cited above, §§ 70-71 with further references).

181. The Court is therefore of the opinion that also this part of the application filed in case no. 7903/13 against the Netherlands and Italy is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and therefore inadmissible pursuant to Article 35 § 4.

182. In respect of their complaints under Article 3, some of the applicants also complained of a violation of Article 13 of the Convention, which provision guarantees the right to an effective remedy in respect of Convention rights and freedoms.

183. The Court emphasises that, in so far as the facts of which complaint is made fall within the scope of one or more Convention provision, the word "remedy" within the meaning of Article 13 does not mean a remedy bound to succeed, but simply an accessible remedy before an authority competent to examine the merits of a Convention grievance (see *Ivakhnenko v. Russia* (dec.), no. 12622/04, 21 October 2008; and *Adamczuk v. Poland* (revision), no. 30523/07, § 78, 15 June 2010).

184. The Court notes that the applicants concerned have not sought to challenge the actions and/or decisions taken by the Italian authorities in the context of their asylum request filed in Italy and have not substantiated their claim that this would be virtually impossible, either at the material time or in case they would file a fresh request for international protection in Italy.

185. As regards the determination of their asylum request filed in the Netherlands, the Court notes that the applicants could and indeed did avail themselves of the possibility of challenging the decision taken by the responsible (Deputy) Minister before the Regional Court of The Hague and the Administrative Jurisdiction Division and that these judicial bodies examined and determined the applicants' arguments based on Article 3 of the Convention in respect of their transfer to Italy.

186. It follows that these complaints are also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

187. The applicants in cases nos. 40524/10 and 81839/12 complained that their removal from the Netherlands would also be contrary to their rights under Article 8 of the Convention as this would separate them from their husband in the Netherlands.

Article 8, in its relevant part, reads:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

188. To the extent that the applicant in case no. 40524/10 relies on her marriage of 20 May 2010, the Court recalls that Article 8 cannot be

interpreted as imposing an obligation on the State to recognise a religious marriage (see *Şerife Yiğit v. Turkey* [GC], no. 3976/05, § 102, 2 November 2010). In any event, the Court nevertheless considers that the applicant's relationship with Mr M.A.H. falls within the scope of Article 8 since the notion of "family life" in this provision is not confined solely to families based on marriage and may encompass other *de facto* relationships (see *Van der Heijden v. the Netherlands* [GC], no. 42857/05, § 50, 3 April 2012).

189. The Court notes that under Netherlands domestic law it is apparently not possible for the judicial authorities reviewing decisions taken on an asylum request to entertain claims based on Article 8 of the Convention as – under the applicable statutory system – such claims must be raised in proceedings concerning a request for a non-asylum based residence permit. However, it does not appear that the applicant has filed a request for a residence permit on the basis of her relationship with Mr M.A.H.

190. The Court therefore finds that in respect of this complaint the applicant in case no. 40524/10 cannot be considered as having complied with the exhaustion of domestic remedies rule and that, consequently, this part of the application must therefore be rejected for non-exhaustion of domestic remedies under Article 35 § 1 of the Convention.

191. As regards the complaint under Article 8 raised by the applicant in case no. 81839/12, the Court notes that the applicant and her partner are currently cohabiting in the Netherlands and that they are both eligible for removal to Italy. The Court does not find it established that the Netherlands authorities would seek to transfer them separately to Italy. Accordingly, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

192. As to the complaint under Article 8 raised by the applicants in cases nos. 41993/10 and 7903/13 that, in Italy, they would risk to be separated from their children in case the latter were to be taken into public care, the Court finds that this claim has remained wholly unsubstantiated and considers that it should also be rejected as manifestly ill-founded within the meaning of Article 35 § 3 (a) and 4 of the Convention.

193. In view of the above, it is appropriate to discontinue the application of Rule 39 of the Rules of Court.

For these reasons, the Court unanimously

Decides to join the applications;

Declares the applications inadmissible.

Santiago Quesada
Registrar

Josep Casadevall
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	40524/10	19/07/2010	**Naima MOHAMMED HASSAN** 02/01/1985 Middelburg	M. STOETZER-VAN ESCH
2.	41993/10	26/07/2010	**Haali AYANLE DAHIR** 01/07/1981 Luttelgeest **Ayuub HAALI AYANLEB** 14/12/2009	P. BLAAS
3.	57531/10	06/10/2010	**Mohamud MOHAMED AHMED** 01/01/1995 Tilburg	W. SPIJKSTRA
4.	18764/11	23/03/2011	**Filmon EMBAYE HABTE** 02/03/1981 Dordrecht **Hayle YERGALEM** 05/01/1982 Dordrecht **Hannibal FILMON** 04/11/2004 **Jaquelien FILMON** 11/07/2008	H. VISSCHER

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
5.	20355/12	05/04/2012	**M.K.** 10/05/1989 Heerlen	B. LIT
6.	23696/12	20/04/2012	**Foos ALI AHMED** 01/07/1984 Venlo **Zakariya DU'ALE MUHUDIIN** 01/05/2010	A. SPEL
7.	62865/12	02/10/2012	**Anna AKOPYAN** 14/06/1984 Aalden	M. HOOGENDOORN
8.	81839/12	28/12/2012	**Weynie FIKRE ZEKARIAS** 16/08/1982 Leiden	M. HOOGENDOORN
9.	7903/13	30/01/2013	**S.A.** 01/01/1985 Rotterdam **M.S.** 18/01/2009	I. VAN DEN ELSHOUT
10.	11746/13	14/02/2013	**Senait MEBRAHTU GHEBRETNSAE** 10/02/1979 Oisterwijk **Hermon MEBRAHTU GHEBRETNSAE** 30/11/2010 **Hermala MEBRAHTU GHEBRETNSAE** 08/11/2012	M. VERWERS