Information Note on the Court's case-law No. 95

March 2007

E. Collins and A. Akaziebie v. Sweden (dec.) - 23944/05

Decision 8.3.2007 [Section III]

Article 3

Expulsion

Alleged risk of being subjected to female genital mutilation in case of extradition to Nigeria: *inadmissible*

The applicants are Nigerian nationals. In 2002, the first applicant entered Sweden and applied for asylum or a residence permit. She alleged that according to Nigerian tradition, women were forced to undergo female genital mutilation ("FGM") when they gave birth. As she was pregnant, she was afraid of this inhuman practice. Neither her parents nor her husband, who had supported her, could prevent this since it was such a deep-rooted tradition. She claimed that if she had travelled to another part of Nigeria to give birth to her child, she and her child would have been killed in a religious ceremony. Having decided to flee the country, she paid a smuggler, who took her to Sweden. Some months later, she gave birth to her daughter, the second applicant. The Migration Board rejected the applications for asylum, refugee status or a residence permit, stating, *inter alia*, that FGM was prohibited by law in Nigeria and that this prohibition was observed in at least six Nigerian states. Thus, if the applicants returned to one of those states it would be unlikely that they would be forced to undergo FGM. The applicants appealed unsuccessfully, maintaining that the practice of FGM persisted despite the law against it and had never been prosecuted or punished.

Inadmissible: It was not in dispute that subjecting a woman to female genital mutilation amounted to ill-treatment contrary to Article 3. Nor was it in dispute that women in Nigeria had traditionally been subjected to FGM and to some extent still were. However, several states in Nigeria had prohibited FGM by law, including the state where the applicants came from. Although there was as yet no federal law against the practice of FGM, the federal government publicly opposed FGM and campaigns had been conducted at state and community level through the Ministry of Health and NGOs and by media warnings against the practice. Although there were indications that the FGM rate was higher in the south, including the applicants' home state, according to the official sources, the FGM rate for the whole country in 2005 amounted to approximately 19%, a figure that had declined steadily in the past 15 years. Furthermore, while pregnant, the first applicant had not chosen to go to another state within Nigeria or to a neighbouring country, in which she could still have received help and support from her own family. Instead she had managed to obtain the necessary practical and financial means to travel to Sweden, having thus shown a considerable amount of strength and independence. Viewed in this light, it was difficult to see why she could not protect her daughter from being subjected to FGM, if not in her home state, then at least in one of the other states in Nigeria where FGM was prohibited by law and/or less widespread**.** The fact that the applicants' circumstances in Nigeria would be less favourable than in Sweden could not be regarded as decisive from the point of view of Article 3. Moreover, the first applicant had failed to reply to the Court's specific request to substantiate some of her allegations and to provide a satisfactory explanation for the discrepancies

in her submissions. In sum, the applicants had failed to substantiate that they would face a real and concrete risk of being subjected to female genital mutilation upon returning to Nigeria: *manifestly ill-founded*.
