CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

DECISION

Application no. 43153/98
by Zeynab AHMED MOHAMED
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 10 March 2005 as a Chamber composed of:

Mr B.M. ZUPANČIČ, *President*,
Mr J. HEDIGAN,
Mr L. CAFLISCH,
Mr C. BÎRSAN,
Mrs M. TSATSA-NIKOLOVSKA,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON, *judges*,
and Mr V. BERGER, *Section Registrar*,

Having regard to the above application lodged with the European Commission of Human Rights on 7 July 1998,

Having regard to Article 5 § 2 of Protocol No. 11 to the Convention, by which the competence to examine the application was transferred to the Court,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mrs Zeynab Ahmed Mohamed, is a Somali national who was born in 1951. She was last known to be living in Amerongen, the Netherlands, where she was residing with her seven children. She was initially represented by Mr S.B. Kleerekooper, and subsequently by Mr A.H. Hekman, Ms C. Willemsen, and, most recently, by Ms I. Gerrand,

all lawyers at the Kleerekooper law firm in Utrecht. The respondent Government were represented by their Agent, Mr R.A.A. Böcker, of the Netherlands Ministry of Foreign Affairs.

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant and her family used to live in Kismaayo, a port city in the southern part of Somalia. In 1992, during the civil war, the applicant's husband and father of her children was killed.

The applicant's eldest son Awil was wounded in 1992. In 1993 he fled via Kenya to the Netherlands, where he requested asylum. On 28 December 1994 he was granted an unrestricted residence permit (*vergunning tot verblijf zonder beperkingen*) in the Netherlands, effective as from 3 June 1993.

Five of the applicant's children were taken to the Netherlands by her brother. They requested asylum on 29 October 1994. The applicant herself, together with her youngest child, arrived in that country on 14 February 1996 and applied for asylum the following day. These requests were rejected, the final decision being taken by the Regional Court (*arrondissementsrechtbank*) of The Hague, on 23 December 1997 in respect of the applicant and on 31 March 1998 in respect of her children.

COMPLAINTS

The applicant complained that her expulsion to Somalia would violate her rights under Article 3 of the Convention. She further complained under Article 8 that she was prevented from exercising family life with her eldest son Awil, legally resident in the Netherlands, and the rest of her children.

THE LAW

The Court observes that the application form is signed by the applicant herself. With that form, a letter of authority, also signed by the applicant, was submitted in which the applicant authorised Mr S.B. Kleerekooper to represent her in the present proceedings. In June 1999 it appeared that it was in fact Mr A.H. Hekman who was representing the applicant. At the request of the Registry, a new letter of authority was submitted on 20 April 2000, in which Mr Hekman was appointed as the applicant's representative.

On 18 June 2003 Ms C. Willemsen informed the Court that she had replaced Mr Hekman as representative of the applicant. Despite two requests from the Registry for Ms Willemsen to provide the Court with a letter of authority, no such document was submitted. In January 2005, the

Court was informed that the applicant's case was now being handled by Ms I. Gerrand. On 17 February 2005 Ms Gerrand wrote to the Court, saying that her attempts to trace the applicant had been unsuccessful and that she was thus unable to submit a letter of authority.

The Court considers that neither the application form, signed by the applicant, nor the two letters of authority, appointing, respectively, Messrs Kleerekooper and Hekman, can be construed as authorising Ms Gerrand to pursue an application before the Court in the applicant's name. Moreover, it appears that the applicant is no longer in contact with the law firm where her four successive representatives work or have worked. Therefore, counsel and, consequently, the Court are not in a position to communicate with the applicant. Given the apparent impossibility of establishing any communication with the applicant, the Court considers that her representative cannot meaningfully continue the proceedings before it (see *Ali v. Switzerland*, judgment of 5 August 1998, *Reports of Judgments and Decisions* 1998-V, p. 2149, § 32).

In these circumstances, the Court considers that further examination of the case is not justified. Accordingly, it should be struck out of the list.

In reaching this conclusion, the Court has taken into account its competence under Article 37 § 2 of the Convention to restore the case to its list of cases if it considers that the circumstances justify such a course.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President