AS TO THE ADMISSIBILITY OF

Application No. 14982/89
by B.
against Switzerland

The European Commission of Human Rights sitting in private on 12 May 1989, the following members being present:

MM. J.A. FROWEIN, Acting President
S. TRECHSEL
F. ERMACORA
G. SPERDUTI
A. WEITZEL
J.-C. SOYER
H. DANELIUS
G. BATLINER
H. VANDENBERGHE
Mrs. G.H. THUNE
Sir Basil HALL
MM. F. MARTINEZ
C.L. ROZAKIS
Mrs. J. LIDDY
Mr. L. LOUCAIDES

Mr. H.C. KRÜGER, Secretary to the Commission

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 1 March 1989 by B. against Switzerland and registered on 8 May 1989 under file No. 14982/89;

Having regard to the report provided for in Rule 40 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a Turkish citizen of Kurdish origin born in 1956. He is currently remanded in custody at Burgdorf prison in Switzerland.

According to his statements before the Bern Aliens' Police on 18 May 1988, his father ran a transport company at Polatli in Turkey. Other business people who were members of the conservative Motherland Party ANAP decided under the direction of the mayor of Polatli to found a rival business the purpose of which was to ruin the father's company. The rival company received tax benefits and set up a group of thugs (Schlägertrupp).

The applicant's father then entrusted the company to the applicant and went for some time to work in Ankara. Later, the father returned to Polatli where today he is again running his company.

The applicant further explained to the Bern Aliens' Police that while in military service he was transferred three times as a punishment without being given reasons therefor. Moreover, when he became president of the local youth organisation of the Republican People's Party, CHP, political opponents framed him by planting two

grams of hashish on him, whereupon he was sentenced to 20 months' imprisonment.

The applicant left Turkey on 21 February 1988 and travelled by train to Switzerland, though the Swiss authorities refused him entry. On 23 February 1988 he entered Switzerland illegally with the help of hired persons (Schlepper). He claims that these persons took away his passport.

On 25 February 1988 he requested asylum in Basel. On 18 March 1988 he was interrogated by the Bern Aliens' Police. Subsequently, on 12 July 1988 he was remanded in custody on suspicion of having committed drug offences.

On 31 March 1988 the Delegate for Refugees (Delegierter für das Flüchtlingswesen) dismissed the applicant's request for asylum.

The applicant's appeal against this decision was dismissed on 10 February 1989 by the Federal Department for Justice and Police (Eidgenössisches Justiz- und Polizeidepartement) which also ordered the applicant to leave Switzerland upon his release from detention. The Department found in particular that the difficulties concerning the company of the applicant's father could not be attributed to State authorities and that the applicant had never requested State assistance with regard to rival businessmen. The decision also noted that the father was still running the company in Turkey.

COMPLAINTS

The applicant complains of his prospective expulsion to Turkey. He claims that he will be arrested upon his entry into Turkey as he no longer has a passport, and will then suffer ill-treatment contrary to Article 3 of the Convention since he is a Kurd and as retaliation for having sought asylum in Switzerland. The applicant refers in particular to the problems with his father's company and his imprisonment.

THE LAW

The applicant complains that if he is expelled to Turkey he will be subjected to inhuman treatment contrary to Article 3 (Art. 3) of the Convention. This provision states:

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

The Commission has constantly held that the right of an alien to reside in a particular country is not as such guaranteed by the Convention. However, it has also held that expulsion may in exceptional circumstances involve a violation of the Convention, for example where there is a serious fear of treatment contrary to Article 3 (Art. 3) of the Convention (see No. 10564/83, Dec. 10.12.84, D.R. 40 p. 262).

Insofar as the applicant refers to the general situation of Kurds in Turkey, the Commission considers that he has failed to show by means of concrete submissions concerning his own situation that his treatment in Turkey would render his expulsion contrary to Article 3 (Art. 3) of the Convention.

Moreover, the fact that the applicant was legally convicted and imprisoned in Turkey on account of a drug offence cannot in itself amount to treatment contrary to Article 3 (Art. 3) of the Convention.

The Commission further considers that the applicant has not supplied any confirmation for his allegations that he or his family

endured ill-treatment on the part of the State authorities in connection with the activities of his father's company. The Commission notes in this respect that after the applicant's departure from Turkey the applicant's family continued to run the company.

In any event the Commission notes that after his return to Turkey the applicant can bring an application before the Commission under Article 25 (Art. 25) of the Convention in respect of any violation of his Convention rights by the Turkish authorities.

It follows that the application must be rejected as being manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE

Secretary to the Commission — Acting President of the Commission

(H. C. KRÜGER) — (J. A. FROWEIN)