CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

FINAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 32213/04
by Aminatu BELLO
against Sweden

The European Court of Human Rights (Second Section), sitting on 17 January 2006 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr R. TÜRMEN,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 8 September 2004,

Having regard to the interim measure indicated to the respondent Government under Rule 39 of the Rules of Court and the fact that this interim measure has been complied with,

Having regard to the partial decision of 21 September 2004,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Aminatu Bello, is a Nigerian national who was born in 1984. She was represented before the Court by Ms Ylva Orrenius, a lawyer

practising in Linköping. The respondent Government were represented by Ms Anita Linder, Ministry for Foreign Affairs.

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

The applicant arrived in Sweden on 20 July 2003 and applied for asylum.

At an initial interview conducted by the Migration Board (*Migrationsverket*) on 21 July 2003, the applicant stated, *inter alia*, that she had been born in Oyo State, in the south-west of Nigeria, and had gone to school and always lived in Ibadan in that state. She belonged to the ethnic group Lafia and was a Muslim. She submitted a certificate of registration of birth dated 18 March 2000 and a copy of an article published in the newspaper the Nigerian Observer on 7 May 2003. The article, entitled "A Pregnant Teenager Muslim Girl Elopes To Europe?", stated the following:

> "A young 19 year old, Aminatu Bello of Nassarawa State in the Northern part of Nigeria is reported to be on the run, having fled from one 60 year old, Tijani Yesufu whom she was engaged to. Feeling that she did not like the man she was betrothed to, young Aminatu Bello is alleged to have become pregnant by her younger lover, a discovery that she has not found to be comfortable with in her Muslim Community.
>
> By the Sharia laws, being pregnant by another man while being engaged is regarded as adulterous and the penalty would mean condemnation to death. The matter has been reported to the head of her village in Katsina-Ala and the Muslim clerics have declared Aminatu Bello wanted. A search to the hometown of her lover in Oyo State, in the Western part of the country has proved abortive so far since the event came to light some three months ago.
>
> Fears are expressed that Miss Aminatu Bello may have eloped outside the country with her lover but that cannot be confirmed as at the time of filing this report."

Below the article was a picture allegedly depicting the applicant.

At the interview, the applicant stated that she had last been in contact with her boyfriend "...when [she] had this problem, in February this year. In March and April [she] was still in contact with him, but now [she] no longer had any contact with him. ... [She] saw him last in May". She further stated that she had not wanted to get married to the 60-year-old man suggested by her father, and she had told her father that she already had a boyfriend. She was however married against her will. After a while she discovered that she was pregnant. She told her father who got very angry. Later, her father showed her the newspaper article and told her that she had to escape to save her life. Her boyfriend had contacted and paid a business woman who had helped her to leave Nigeria.

A second interview was held with the applicant on 2 September 2003. The applicant then stated that she lived in Ala-Ladfin in Nassarawa State, in central Nigeria. She had been married for four months. When her husband had learned about her pregnancy he had beaten her severely, after which she had left to stay with her aunt. She was at her aunt's for about two weeks until her aunt arranged for her journey to Sweden. She had seen in the

newspaper that she was wanted by the village chief and that she was to be stoned to death. She did not know exactly how long she had been pregnant but she believed that it had been about eleven weeks.

On 8 October 2003 the Migration Board rejected the applicant's application for asylum. It remarked that, according to the newspaper article submitted by the applicant, the incidents had taken place in March 2003, whereas the applicant had stated that she got married in March 2003 and that the incidents leading to her leaving the country had occurred four months after the marriage. The Board found that, irrespective of the truthfulness of her story, the applicant had not made a sufficiently probable case that she would not receive any protection or help from the Nigerian authorities. Protection from criminal actions and assault was a matter for the domestic authorities, and it appeared that the applicant had not reported the incidents to the police. The Board concluded that the applicant had not been able to show that, upon return to Nigeria, she would be treated in a manner which would entitle her to refugee status or protection. It further concluded that, having regard to the very restrictive practice concerning the grant of a residence permit on humanitarian grounds, the facts in the instant case were not sufficient to warrant such a permit.

On 4 February 2004 the applicant gave birth to a son.

The applicant appealed to the Aliens Appeals Board (*Utlännings-nämnden*). The Migration Board also referred to the Appeals Board the applicant's request for a residence permit concerning her son.

In the appeal, the applicant's representative stated that the applicant had been beaten by her husband when he found out about her infidelity and, on 9 April 2003, she had escaped to her aunt's home. According to the representative, the applicant had been sentenced to death by the council in her husband's village. In a subsequent letter to the Appeals Board, the representative stated, in relation to the comments of the Migration Board regarding the dates mentioned in the article and those given by the applicant herself, that the applicant was a very young, inexperienced girl who had a great respect for authority and had not been fully aware of the length of a pregnancy. However, she was certain that she had been married in March 2003 and had become pregnant in April 2003.

On 30 August 2004 the Aliens Appeals Board rejected the applicant's appeal and the application concerning her son. It concluded that the applicant's identity was unclear and that the time frames given by her were not compatible with the information in the Nigerian newspaper article. The time indicated for the "event" in the article was also inaccurate in relation to the time of birth of her baby. Due to the above, and considering the applicant's case as a whole, the Appeals Board found that she had not shown that she was to be regarded as a refugee or as a person otherwise in need of protection. Nor did it find any humanitarian grounds to warrant a residence permit.

COMPLAINT

The applicant complained under Article 3 of the Convention that her life would be at risk if she were to return to Nigeria. The authorities would not be able to protect her, since they followed the Sharia laws, and she would risk being killed not only through the execution of a court order but also by private individuals.

THE LAW

The applicant complains that a deportation of her to Nigeria would violate her rights under Article 3 of the Convention which reads as follows:

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

The Court observes that the complaint also falls to be considered under Article 2 of the Convention and Article 1 of Protocol No. 13 to the Convention, which read as follows:

> Article 2 § 1:
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> "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law."
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> Article 1 of Protocol No. 13:
>
> "The death penalty shall be abolished. No one shall be condemned to such penalty or executed."

The respondent Government submitted that the application should be declared inadmissible as being manifestly ill-founded, as the applicant had not been able to show that there were substantial grounds for believing that she would face a risk of treatment contrary to the above provisions. The Government stated that the applicant had made several inconsistent statements regarding matters of vital importance for the assessment of her asylum application, including which part of Nigeria she came from, when various events had taken place and how her travel from Nigeria had been arranged.

In relation to the newspaper article invoked by the applicant, the Government stated that, while the applicant had mentioned living in Ibadan and Ala-Ladfin, she had never spoken of Katsina-Ala, the woman's home village according to the article. Moreover, the applicant had invariably argued that she had been "married" to an older man, whereas, according to the article, the young woman was "engaged" to be married. However, the most remarkable inconsistency was the date of the article in comparison with the time for the delivery of the applicant's child. Since the child had

been born on 4 February 2004 the time of conception must have been at the end of April or the beginning of May 2003. Under no circumstances could the applicant have been described as pregnant in a newspaper article published on 7 May 2003. By that time she could hardly have known herself that she was pregnant. The Government maintained that, irrespective of whether the invoked article was authentic or not, it could not possibly be about the applicant. In this context, they also pointed out that she had had no passport or other means of identification to confirm her identity.

The applicant maintained that, having regard to the facts of the case as well as the situation for women in Nigeria, there were substantial grounds for believing that she would face a real risk of treatment in violation of the Convention.

She submitted that she had been born in Ibadan in Oyo State where she had lived with her mother until ten years of age, at which time they had moved to her father in Nassarawa State. The village where they lived was ruled by Sharia law. She did not know who had given the information to the newspaper; it might have been her aunt or her boyfriend. The article was about her, which was evident when looking at the photograph beneath it. It had been published at the time of her escape. With regard to the inconsistencies in her statements pointed out by the Government, the applicant submitted that she was an extremely shy woman from the rural areas of Nigeria. She had not at all the same frankness and sense of time management as a person of her age from Europe would have. During the investigation of her case, she had sometimes been vague when dates and other issues had been discussed. She had also had problems in answering questions concerning intimate details, like when she had become pregnant.

The Court observes at the outset that Contracting States have the right, as a matter of well-established international law and subject to their treaty obligations, including the Convention, to control the entry, residence and expulsion of aliens. However, the expulsion of an alien by a Contracting State may give rise to an issue under Article 3, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person in question, if deported, would face a real risk of being subjected to treatment contrary to Article 3 in the receiving country. In these circumstances, Article 3 implies the obligation not to deport the person to that country (see, among other authorities, *H.L.R. v. France*, judgment of 29 April 1997, *Reports of Judgments and Decisions* 1997-III, p. 757, §§ 33-34).

Moreover, the Court does not exclude that analogous considerations might apply to Article 2 of the Convention and Article 1 of Protocol No. 13 to the Convention where the return of an alien puts his or her life in danger, as a result of the imposition of the death penalty or otherwise (see, e.g., *Bahaddar v. the Netherlands* judgment of 19 February 1998, *Reports of Judgments and Decisions* 1998-I, opinion of the Commission, p. 270-71,

§§ 75-78, and *Sinnarajah v. Switzerland* (dec.), no. 45187/99, 11 May 1999, unpublished).

The Court finds that the issues under Articles 2 and 3 of the Convention and Article 1 of Protocol No. 13 are indissociable. They will therefore be examined together.

While aware of the occurrence of reports of human rights violations in Nigeria, the Court has to establish whether the applicant's personal situation is such that her return to Nigeria would contravene the Convention. In this respect, it is of importance to assess the general credibility of the statements made by her before the Swedish authorities and during the present proceedings.

The Court acknowledges that complete accuracy as to dates and events cannot be expected in all circumstances from a person seeking asylum. In the present case, however, it is struck by the number of major inconsistencies in the applicant's story. For example, at the first asylum interview in July 2003, the applicant claimed that she had always lived in Ibidan in Oyo State. At the second interview in September 2003, she stated, in what appears to have been an attempt to make her story more congruent with the Nigerian newspaper article, that she lived in Ala-Ladfin in Nassarawa State. Still, the village of Katsina-Ala, the home of the woman described in the article, has apparently never been mentioned by the applicant to the Swedish immigration authorities. Moreover, while the applicant initially claimed that her boyfriend had contacted a business woman who had organised her escape from Nigeria, she stated at the second interview that she had left to stay with her aunt who had arranged for her journey to Sweden. The Court considers that she has not provided any reasonable explanation for these discrepancies in her statements.

The Court further notes that the Nigerian newspaper article, which was published on 7 May 2003, stated that "the event came to light some three months ago". The event referred to is obviously the young woman's pregnancy and the discovery thereof by prominent members of her community. Thus, the woman described in the article must have become pregnant at the latest in February 2003. The applicant gave birth on 4 February 2004. Consequently, she could not have been pregnant before the end of April or the beginning of May 2003, that is, about the time of the publication of the newspaper article. It is thus remarkable that the article spoke about occurrences dating back three months. Even assuming that the newspaper had misdated the occurrences, the applicant's allegation that the article was about her presupposes that the whole course of events (her realisation that she was pregnant, the report thereof to the head of her village, her escape from the village, the clerics' declaration that she was wanted, the unsuccessful search for her boyfriend and the newspaper's discovery of the story) took place within a period of just a few days or weeks from the date of her conception. Thus, despite the fact that a picture

of a woman resembling the applicant is next to the article on the copy submitted by the applicant, it is highly unlikely that the article is about her. In this connection, it should be noted that the applicant did not submit any passport or other identification to prove her identity to the Swedish immigration authorities.

Having regard to the above, the Court finds that there are strong reasons to call into question the veracity of the applicant's statements and the newspaper article submitted in support thereof. She has offered no reliable evidence in support of her claims. Consequently, it has not been established that there are substantial grounds for believing that, if deported to Nigeria, she faces a real risk of being subjected to treatment contrary to Article 2 or 3 of the Convention or Article 1 of Protocol No. 13 to the Convention.

It follows that the application must be rejected as being manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

S. DOLLÉ
Registrar

J.-P. COSTA
President