AS TO THE ADMISSIBILITY OF

Application No. 43891/98
by Fasil BEZABI TSEGYE
against Germany

The European Commission of Human Rights sitting in private on 29 October 1998, the following members being present:

MM S. TRECHSEL, President
J.-C. GEUS
M.P. PELLONPÄÄ
E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.-C. SOYER
H. DANELIUS
Mrs G.H. THUNE
MM F. MARTINEZ
C.L. ROZAKIS
Mrs J. LIDDY
MM L. LOUCAIDES
B. MARXER
M.A. NOWICKI
I. CABRAL BARRETO
B. CONFORTI
I. BÉKÉS
D. ŠVÁBY
G. RESS
A. PERENIČ
C. BÎRSAN
P. LORENZEN
E. BIELIŪNAS
E.A. ALKEMA
M. VILA AMIGÓ
Mrs M. HION
MM R. NICOLINI
A. ARABADJIEV

Mr M. de SALVIA, 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 25 June 1998 by Fasil BEZABI TSEGYE against Germany and registered on 13 October 1998 under file No. 43891/98;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant, born in 1980, is an Ethiopian citizen. He is currently staying at Dinslaken. In the proceedings before the Commission, he is represented by Ms F. Heiber, a lawyer practising in Remscheid.

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

The applicant entered Germany in July 1996. On 18 July 1996 he filed a request for asylum. He submitted that he belonged to the Oromo minority in Ethiopia and that he had lived with his uncle, an activist of the Oromo minority and the Oromo Liberation Front, since the early death of his parents. He alleged that his uncle had been arrested and had "disappeared" in May 1996. In June 1996, at the age of fifteen, he had been arrested by the police for having assisted his uncle in his political activities. He had allegedly been ill-treated by the police during the interrogations, but he had been able to escape after ten days' imprisonment. A friend of his uncle had helped him to abscond to Germany.

On 28 November 1996, after having heard the applicant in July 1996, the Federal Office for Refugees (Bundesamt für die Anerkennung ausländischer Flüchtlinge) dismissed his request for asylum and ordered him to leave Germany voluntarily, warning him that he would otherwise be expelled. The Office found that the applicant's submissions concerning his imprisonment in Addis Abeba and in particular his absconding were very contradictory and did not therefore appear credible.

On 25 August 1997 the Düsseldorf Administrative Court (Verwaltungsgericht) dismissed the applicant's request for legal aid with a view to instituting proceedings challenging the refusal of asylum. The Court found that the envisaged action offered no prospect of success. The Court, referring to the reasoning in the decision taken by the Federal Office for Refugees, considered that the applicant's unspecific submissions were untrue, as confirmed by the contradictions in his statements. According to information from the German Foreign Office, it was not easy to escape from Ethiopian prisons. Moreover, the applicant's allegation not to have any person who could take care of him in

Ethiopia was contradicted by the fact that somebody had paid for his flight to Germany and persons had assisted him.

On 27 August 1997 the Düsseldorf Administrative Court dismissed the applicant's action challenging the refusal of asylum. The Court, referring to its decision of 25 August 1997, confirmed the Federal Office's decision. It further considered that the applicant, who hardly spoke the Oromo language, would possibly not be associated with the Oromo people. In any event, having regard to the Foreign Ministry's report on Ethiopia, the association with the Oromo minority did not constitute in itself a danger of persecution.

On 5 November 1997 the North-Rhine Westphalia Administrative Court of Appeal (Oberverwaltungsgericht) dismissed the applicant's request for legal aid and refused his appeal. The Court of Appeal found that the applicant's submissions did not disclose any fundamental importance of the issues underlying the case.

On 16 January 1998 the Federal Constitutional Court (Bundes-verfassungsgericht) refused to admit the applicant's constitutional complaint (Verfassungsbeschwerde).

On 22 January 1998 the Dinslaken Aliens Office ordered the applicant to leave Germany before 1 February 1998. This time-limit was extended until 8 July 1998, the date of his eighteenth birthday.

The applicant is still staying in Germany. Since July 1998 he has been undergoing psychological treatment.

COMPLAINTS

The applicant submits that, in case of his expulsion to Ethiopia, he risks being arrested and mistreated by the Ethiopian authorities on the ground of his Oromo origin and his involvement with the Oromo Liberation Front and that his expulsion would therefore amount to inhuman and degrading treatment within the meaning of Article 3 of the Convention.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 25 June 1998.

On 10 July 1998 the Commission dismissed the applicant's request under Rule 36 of its Rules of Procedure for an indication to the respondent Government to stop his expulsion to Ethiopia.

The application was registered on 13 October 1998.

THE LAW

The applicant complains under Article 3 of the Convention of his envisaged expulsion to Ethiopia. He submits that, as a member of the Oromo minority and on account of his previous activities in supporting his uncle and the Oromo Liberation Front, there is a real risk that he will be arrested and subjected to torture or inhuman or degrading treatment or punishment upon his return to Ethiopia.

Article 3 of the Convention states:

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

According to the Convention organs' case-law, the right of an alien to reside in a particular country is not as such guaranteed by the Convention. Nevertheless, expulsion may in exceptional circumstances involve a violation of the Convention, for example where there is a serious and well-founded fear of treatment contrary to Article 3 of the Convention in the country to which the person is to be expelled (cf. Eur. Court HR, Chahal v. United Kingdom judgment of 15 November 1996, Reports of Judgments and Decisions, 1996-V, p. 1831, paras. 72 et seq.).

Nevertheless, the mere possibility of ill-treatment on account of the unsettled general situation in a country is in itself insufficient to give rise to a breach of Article 3 of the Convention (cf. Eur. Court HR, Vilvarajah and others v. United Kingdom judgment of 30 October 1991, Series A no 215, p. 37, para. 111).

The Commission has examined the circumstances of the present case as they have been submitted by the applicant.

The Commission notes that the circumstances referred to by the applicant, in particular his alleged political activities on behalf of the Oromo Liberation Front and his alleged arrest and ill-treatment by the police, occurred in the context of investigations against his uncle in 1996. His submissions in these respects are not conclusive. Moreover, he has not submitted any recent information indicating that he is wanted by the Ethiopian police or that, for other reasons, he would risk persecution upon his return to Ethiopia, or that there is a systematic persecution of the minority.

The Commission further notes the German authorities' conclusion according to which the applicant's submissions did not appear credible. In particular, his allegations were of a global nature and contradictory. It appeared unlikely that he had been able to escape from an Ethiopian prison under the circumstances mentioned by him. Moreover, the Courts, having regard to reports of the German Foreign Office, considered that even assuming that the applicant, who only had a very limited knowledge of the Oromo language, at all belonged to the Oromo minority, the mere association with this minority did not give rise to any risk of ill-treatment upon his return.

As a result, the applicant has failed to show that upon his return to Ethiopia he would face a real risk of being subjected to treatment contrary to Article 3 of the Convention.

The application is, therefore, manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

M. de SALVIA Secretary to the Commission	S. TRECHSEL President of the Commission