AS TO THE ADMISSIBILITY OF

Application No. 15782/89
by G.
against Sweden

The European Commission of Human Rights sitting in private on 5 October 1990, the following members being present:

MM. C.A. NØRGAARD, President
S. TRECHSEL
F. ERMACORA
G. SPERDUTI
E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.-C. SOYER
H.G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
Sir Basil HALL
MM. F. MARTINEZ RUIZ
C.L. ROZAKIS
Mrs. J. LIDDY
MM. L. LOUCAIDES
A.V. ALMEIDA RIBEIRO
M.P. PELLONPÄÄ

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 16 October 1989 by G. against Sweden and registered on 20 November 1989 under file No. 15782/89;

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

Having regard to the Government's written observations dated 10 May 1990 and the applicant's observations dated 2 July 1990;

Having deliberated;

Decides as follows:

THE FACTS

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

The applicant is an Ethiopian citizen, born in 1981 and resident at Ä., Sweden. Before the Commission the applicant is represented by Mr. Jan Axelsson, a lawyer practising in Stockholm.

The applicant's parents are not married.

The applicant's father came to Sweden as a refugee in 1985 and was granted asylum. At that time the applicant was living with her mother in a village in the Eritrea countryside in Ethiopia. When the village was bombed by Government forces in 1987, the applicant and her mother fled and were separated from each other in the confusion. With the help of others, the applicant went to Sudan. Her father was

informed of her situation and took her to Sweden. The applicant has now a permanent residence permit in Sweden.

The applicant's mother remained in Sudan as a refugee. Her request for a visa and a residence and work permit in Sweden was first refused by the National Immigration Board (statens invandrarverk) on 1 June 1989. A further request was refused on 6 October 1989. On 10 May 1990 the applicant's mother was granted a residence permit in Sweden.

COMPLAINTS

1. The applicant alleged a violation of Article 8 of the Convention on the ground that her mother was refused a residence permit in Sweden.

2. The applicant also alleged a violation of Articles 6 and 13 of the Convention, claiming that there was a dispute over her civil rights and that no remedy was available in Sweden.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 16 October 1989 and registered on 20 November 1989.

On 5 March 1990 the Commission decided to communicate the application to the respondent Government and invite them to submit written observations on the admissibility and merits of the application.

The Government's observations were received by letter dated 10 May 1990 and the applicant's observations were dated 2 July 1990.

THE LAW

1. In her written observations of 2 July 1990 the applicant stated that, as her mother had been allowed to settle in Sweden, she wished to withdraw her complaint under Article 8 (Art. 8) of the Convention, while maintaining her complaints under Articles 6 and 13 (Art. 6, 13) of the Convention.

In view of the fact that the applicant has withdrawn her complaint under Article 8 (Art. 8) of the Convention, the Commission finds no reason to examine this complaint further.

2. The applicant has maintained her complaint under Article 6 para. 1 (Art. 6-1) of the Convention. However, according to the Commission's case-law, Article 6 para. 1 (Art. 6-1) does not apply to disputes whether an alien should be allowed to enter a particular country (cf. No. 8244/78, Dec. 2.5.79, D.R. 17 p. 157 and No. 9285/81, Dec. 6.7.82, D.R. 25 p. 201). The Commission finds no reason to depart from this case-law in the present case.

It follows that this part of the application is incompatible ratione materiae with the provisions of the Convention and must be rejected pursuant to Article 27 para. 2 (Art. 27-2).

3. The applicant has also alleged a violation of Article 13 (Art. 13) of the Convention on the ground that she had no effective remedy for her grievance under Article 8 (Art. 8) of the Convention.

However, Article 13 (Art. 13) requires a remedy in domestic law only in respect of a claim of a violation which can be regarded as "arguable" (cf. Eur. Court H.R., Boyle and Rice judgment of 27 April 1988, Series A no. 131, p. 23, para. 52). As the applicant has withdrawn her complaint under Article 8 after her claim had been satisfied, the Commission finds no "arguable" claim which would

entitle the applicant to a remedy under Article 13 (Art. 13).

It follows that this complaint is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission, unanimously

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the Commission — President of the Commission

(H.C. KRÜGER) — (C.A. NØRGAARD)