



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

24 November 2010

THIRD SECTION

Application no. 56424/10
by A.A.
against Sweden
lodged on 1 October 2010

STATEMENT OF FACTS

THE FACTS

The applicant, Mr A.A., is a Somali national who was born in 1995 or 1996. He is represented before the Court by Mr Stefan Zebrowski, a guardian appointed by the Swedish Chief Guardians Board (*Överförmyndarkontoret*).

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

The applicant is an unaccompanied minor. From 6 to 8 years of age he attended a religious school, in which he was exposed to corporal punishment by the teacher. This resulted in his not attending the school and hence he was punished by his father at home. Also, he witnessed his father beating his mother. Because of these circumstances he fled from home and lived his life on the street. The last time he saw his family was in 2007. His family, including his mother, father and siblings, are still in Somalia.

He travelled from Somalia together with his uncle. From Libya they travelled by boat to Italy. The boats were overcrowded with people and the boat on which the uncle was a passenger sank and he drowned. The boat in which the applicant travelled was rescued by the Italian marine. The applicant and other immigrants were taken to a refugee camp in Lampedusa, where his fingerprints were taken on 17 June 2008. The refugee camp was on an island from where it was not possible to flee. At the camp he was provided with food, a place to sleep and money in order to call his family. He was moved to another camp in Elmas, where his fingerprints were taken on 24 June 2008 and where he stayed for five months. For two months he was not allowed to leave the camp. He was given a document stating that he had the right freely to remain in Italy for three months and that after that time he had to renew the document. No help was given by the social authorities. The applicant became involved in criminal activities, mainly drug dealing with the mafia. He was threatened to death if he did not cooperate with the mafia and was also beaten up. At one occasion he was arrested by the police but was released. He received financial support from other Somali nationals in order to



travel from Italy. He went to France where he was arrested by the police who had his fingerprints taken. Following release, he continued the trip to the Netherlands. He was hospitalised in the Netherlands for 24 days in order to be treated for tuberculosis. He finally arrived in Sweden where he applied for asylum on 31 August 2009.

On 15 January 2010 the Migration Board (*Migrationsverket*) decided to dismiss the applicant's application for asylum and ordered that he should be transferred to Italy in accordance with the Dublin Regulation. The decision was enforceable since an appeal had no suspensive effect in accordance with Article 20.1 (e) of the Dublin Regulation. After a search in the Eurodac system (an EU database identifying and comparing asylum seekers' fingerprints), the Migration Board found that the applicant had arrived in Italy and applied for asylum there. At first, the applicant denied that he had been in Italy and stated that he had applied for asylum in England and in the Netherlands. However, later on he admitted that he had been in Italy. On 18 December 2009 the Migration Board requested the Italian authorities to take back the applicant. Since the Italian authorities did not communicate their decision within the prescribed time limit, Italy was considered to have agreed to take back the applicant. On 2 January 2010 Italy was considered to be the responsible state in accordance with Articles 20.1 (c) and 25 of the Dublin Regulation. The Board stated that it would not be against the best interest of the child if he were to be transferred to Italy in order to have his asylum application examined there. The Migration Board stated that he should be transferred as soon as possible and at the latest on 2 July 2010.

The applicant was not served with the Migration Board's decision as he was in hiding. Therefore, on 20 January 2010, the case was handed over to the police in order to be enforced. On 15 July 2010 the applicant showed up at the Migration Board informing the Board that he was not able to live in hiding anymore.

On 1 October 2010 the applicant requested the Court to apply interim measures. He submitted two medical certificates from September 2010, one of which contained the assessment that the applicant probably suffered from Post-Traumatic Stress Disorder (PTSD) and therefore was in need of a safe and stable environment. Also, it was suspected that the applicant suffered from tuberculosis.

On 1 October 2010 the President of the Section applied Rule 39 until further notice.

COMPLAINTS

The applicant complains that his transfer by the Swedish authorities to Italy under the Dublin Regulation would be in violation of Articles 3 and 13 of the Convention. He is concerned about the situation of asylum seekers, in particular that of unaccompanied minors, in Italy and about not having access to asylum proceedings there. He claims that he has been threatened to death in Italy and that the Italian authorities are not capable to protect him.

He fears that he would be deported to Somalia if transferred to Italy. If he were to return to Somalia he would risk being subjected to treatment contrary to Article 3 of the Convention.

The applicant has also invoked Articles 2, 4, 5, 6 and 8 of the Convention.

QUESTION TO THE PARTIES

In the light of the applicant's claims and the documents which have been submitted, would he face a risk of being subjected to treatment in breach of Article 3 of the Convention if the transfer order were enforced?