

## AS TO THE ADMISSIBILITY OF

Application No. 14457/88  
by B. and others  
against the Netherlands

The European Commission of Human Rights sitting in private  
on 16 December 1988, the following members being present:

MM. C.A. NØRGAARD, President  
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  
C.L. ROZAKIS  
Mrs. J. LIDDY

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 24 November  
1988 by B. and others against the Netherlands and registered on 8  
December 1988 under file No. 14457/88;

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 applicants are 13 persons of Surinamese nationality who,  
on the date of registration of this application were all resident in  
the Netherlands. Their particulars are set out in the appendix.  
Before the Commission they are represented by Mr. V.M. WESKI, a  
lawyer practising in Rotterdam.

The facts as submitted by the applicants may be summarised as

follows:

Surinam became independent of the Netherlands in 1975. In accordance with the agreements concluded at the time between the two states, the applicants became citizens of Surinam.

In 1982 a military coup took place which overthrew the democratic civilian Government in Surinam. Soon thereafter a flow of political refugees commenced from Surinam to the Netherlands. In 1985 the resistance against the military Government grew into a civil war. With many others, the applicants fled Surinam at this time.

Due to the large influx of Surinamese, and the difficult situation in that country, the Netherlands Government decided in December 1986 not to apply the usual rules governing the granting of residence permits. Instead, all incoming Surinamese, including the applicants, were to be tolerated in the Netherlands until such time as the political situation in Surinam would have stabilised. Their requests for political asylum and residence permits were suspended for the time being. Only obviously serious cases were still examined and only in such cases were residence permits granted.

In February 1988, the Netherlands Government announced that they considered the situation in Surinam to have calmed down and that the country was on the way to the re-establishment of democracy. Therefore, from that moment on the unprocessed residence permit requests of the approximately 5.000 so-called "tolerated Surinamese" (gedoog-Surinamers) would be taken up and decided upon.

In consequence, those applicants who had already been denied asylum in 1986 but who were not expelled under the toleration policy, and those who had arrived in the Netherlands during the toleration policy, were each informed after May 1988 that they did not comply with Dutch immigration regulations and that, therefore, they would have to leave the Netherlands.

Some of the applicants have instituted summary proceedings before the President of the Regional Court (Arrondissementsrechtbank) of the Hague requesting suspensive effect for the duration of their appeal proceedings in the Netherlands. They have presented their objections to their expulsion, but these requests have all been denied.

The other applicants have had their appeals to the Council of State decided. They have presented their objections to not being granted asylum and a residence permit, but their appeals have all been rejected late in 1988.

A Surinamese man who was not one of the applicants but who had a similar background to the applicants', returned to Surinam and was found dead in prison on 7 November 1988 under allegedly suspicious circumstances soon after his arrival in Surinam.

## THE COMPLAINTS

1. The applicants complain that they are being sent back to Surinam by the Netherlands, in the execution of a policy of expelling all Surinamese who were tolerated in the Netherlands between late 1986 and February 1988. They allege that this expulsion is collective in character and that the standard-form decisions of expulsion with the applicants' name on them only give the appearance of individualised decisions. They invoke Article 4 of Protocol No. 4.

2. The applicants also complain that the situation in Surinam has not yet become fully regularised and that all Surinamese returning from the Netherlands risk being killed or seriously hurt if sent back to Surinam. They allege that the Netherlands is treating them inhumanly by expelling them to Surinam. They invoke Article 3 of the Convention.

## THE LAW

1. The applicants have complained that after having been tolerated in the Netherlands under an official policy of toleration of Surinamese refugees, they are now being expelled. They have invoked Article 4 of Protocol No. 4 (P4-4) which provides as follows:

"Collective expulsion of aliens is prohibited".

The Commission recalls its decision in Application No. 7011/75 (Dec. 3.10.75, Yearbook 19 p. 416, 454) wherein it defined collective expulsion as follows:

"...any measure of the competent authorities compelling aliens as a group to leave the country, except where such a measure is taken after and on the basis of a reasonable and objective examination of the particular cases of each individual alien of the group".

The Commission notes that in the present case the expulsion or the examination of the applicants' requests for asylum was suspended by the Netherlands authorities between 5 December 1986 and February 1988. Thereafter, examination of these cases was taken up again. The applicants have, individually, received decisions on their requests and have requested a review of these decisions by the Minister of Justice. They have all instituted summary proceedings before the President of the Regional Court or appeals to the Council of State against their expulsion. Before the President of the Regional Court they have the opportunity to explain their objections to their expulsion. Before the Council of State, which has already decided on their cases, they have had the opportunity to explain their objections to not being granted asylum or a residence permit.

In these circumstances the Commission considers that the applicants' expulsion does not reveal the appearance of a collective expulsion within the meaning of Article 4 of Protocol No. 4 (P4-4).

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

2. The applicants have also complained that they all face being severely ill-treated or killed if returned to Surinam. They allege that sending Surinamese people back to Surinam constitutes inhuman treatment on the part of the Netherlands. They invoke Article 3 (Art. 3) of the Convention which provides as follows:

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

On the basis of the information submitted, the Commission considers that the applicants have failed to substantiate their complaint that the situation in Surinam is so dangerous that a possible return of them would violate Article 3 (Art. 3) of the Convention.

It follows that this complaint must also 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

President of the Commission

(H.C. KRÜGER)

(C.A. NØRGAARD)