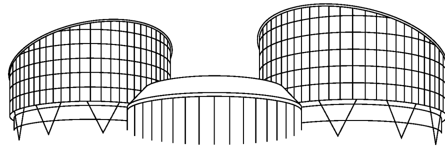

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 25960/13
I.A.A. and Others
against the United Kingdom

The European Court of Human Rights (First Section), sitting on 8 March 2016 as a Chamber composed of:
Mirjana Lazarova Trajkovska, *President,*
Guido Raimondi,
Kristina Pardalos,
Linos-Alexandre Sicilianos,
Paul Mahoney,
Aleš Pejchal,
Robert Spano, *judges,*
and André Wampach, *Deputy Section Registrar,*
Having regard to the above application lodged on 15 April 2013,
Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,
Having deliberated, decides as follows:

THE FACTS

1. The applicants I.A.A., Z.A.A., B.A.A., A.A.A. and A.M. are Somali nationals who were born in 1994, 1996, 1995, 2001 and 2002 respectively and who currently live in Addis Ababa. They are represented before the Court by Asylum Aid. The President ordered that the applicants' identity should not to be disclosed to the public (Rule 47 § 4).

2. The United Kingdom Government ("the Government") were represented by their Agent, Ms R. Tomlinson of the Foreign and Commonwealth Office.

A. The circumstances of the case

3. The five applicants comprise four biological siblings and their first cousin who is a sibling by adoption.

4. The applicants' mother was born in Somalia. Between 1990 and 1996 she had seven children with her first husband. The two eldest children went to live with their mother's paternal aunt and appear to have remained with her in Somalia. Following the breakdown of her relationship with her first husband, the applicant's mother married her second husband and had a child with him in 1997. She subsequently returned to her first husband and gave birth to two further children in 2001 and 2003. In 2002 she adopted her niece, who is the fifth applicant in the proceedings before the Court.

5. The applicant's mother left her first husband for a second time in 2003. Around the same time, her second husband was granted refugee status in the United Kingdom. She joined him there the following year, leaving her nine youngest children, including the applicants, in the care of her sister in Somalia.

6. In 2005 the applicants' mother's only child with her second husband was granted entry clearance to join the couple in the United Kingdom. In sponsoring the application for entry clearance, she did not mention that she had children by her first husband who were still living in Somalia.

7. In 2006 the applicants' aunt moved from Somalia to Ethiopia, taking with her the eight children in her care.

8. In 2007 the applicants' mother divorced her second husband.

9. In 2008 two of the applicants' siblings applied for entry clearance to join their mother in the United Kingdom. Apparently those children were chosen to join her because one was the youngest and the other was in poor health. The application was initially refused but entry clearance was later granted following a successful appeal to the then Asylum and Immigration Tribunal. In allowing the appeal, the Tribunal accepted first, that the mother had effective sole responsibility for the children abroad; secondly, and in the alternative, that there were serious and compelling family or other reasons which made their continued exclusion from the United Kingdom undesirable; thirdly, that the mother and her children had enjoyed family life together as a unit before she had travelled to the United Kingdom to join her second husband; and fourthly, that the mother could not reasonably relocate to Ethiopia to care for her children as she would have no job and no means of survival there.

10. In or around this time the applicants' aunt left Ethiopia and returned to Somalia, leaving the eight children in the care of the eldest, who was then sixteen years old. The five applicants and their older sibling, who is not a party to the proceedings before this Court, applied for entry clearance to join their mother in the United Kingdom.

11. On 9 February 2009 the Secretary of State refused the application for entry clearance on the ground that the applicants and their older sibling did not meet the requirements of paragraphs 297 or 352D of the Immigration Rules HC395 (as amended) because they were not dependent on their mother's support and they were not the biological children of a recognised refugee. The Secretary of State also considered Article 8 of the Convention but concluded that although there was a limited interference with the applicants' rights under Article 8, the refusal of entry clearance had been proportionate and justified.

12. On 23 February 2010 the applicants' appeal against this decision was dismissed as the Immigration Judge found that they could not meet the requirements of the Immigration Rules. He further found that as contact between the applicants and their mother had been sporadic since 2004, family life did not exist "at the present time" and Article 8 was not, therefore, engaged. However, on 8 June 2010 permission to appeal was granted as the grounds of appeal raised arguable issues in relation to the manner in which the Immigration Judge had approached the Article 8 issue.

13. The appeal decision was promulgated on 17 September 2010. While the Immigration Judge had little doubt that the previous judge was correct to find that the applicants could not meet the requirements of the Immigration Rules, he found it to be equally clear that he had not adequately addressed the Article 8 issue. In particular, he had concentrated on whether family life existed "at the present time" when the correct test was whether it had existed at the date of the decision, namely 9 February 2009. Consequently, the Immigration Judge concluded that the previous judge had erred in law and set aside his decision. In reconsidering the Article 8 issue, the Immigration Judge accepted that family life had existed between the applicants and their mother at the date of the Secretary of State's decision and that the refusal of entry clearance had interfered with that family life. Nevertheless, he concluded that the interference had been proportionate because the applicants' mother had made a conscious decision to leave them in Somalia, knowing that the separation might be permanent, and at the date of the decision she had been living separately from them for more than four years.

14. The applicants sought leave to appeal on the ground, *inter alia*, that the Immigration Judge had failed to take into account the findings of the Immigration Judge in the first two children's appeal against the refusal of entry clearance in 2009.

15. On 3 December 2010 the Upper Tribunal refused the applicants' application for leave to appeal as it found that the Immigration Judge had considered all the relevant factors in the round and reached a conclusion which was rationally open to him. On 26 January 2011 permission to appeal was also refused by the Court of Appeal. However, on 23 June 2011 the Court of Appeal made an order by consent ordering that the applicants'

appeal should be remitted to the Immigration and Asylum Chamber of the Upper Tribunal.

16. The new Tribunal promulgated its decision on 26 January 2012. In assessing whether or not the refusal of entry clearance amounted to a disproportionate interference with the applicants' rights under Article 8 of the Convention, it accepted the conclusions of the Immigration Judge in the appeal of the applicant's two siblings against the refusal of entry clearance. The Tribunal also accepted that the best interests of the children had to be treated as a primary consideration, albeit not the primary consideration, in assessing proportionality and that it was in the applicants' best interests that they should be allowed to join their mother in the United Kingdom. Nevertheless, the general principle remained true that a foreign national who could not satisfy the requirements for entry clearance under the Immigration Rules (and the applicants had not disputed that this was the case) would not normally be able to show that his exclusion from the United Kingdom would constitute a disproportionate interference with his Article 8 rights unless he could show good reason why his case should be treated more favourably that the generality of such cases. Moreover, the Tribunal noted that the applicants' best interests could not be viewed in isolation and it was therefore relevant that their mother had decided to leave them in Somalia, knowing that the separation was likely to continue for the foreseeable future, and that she had allowed five years to pass before attempting to bring them to the United Kingdom, by which time they had long ceased to live together as a family unit with her.

17. The Tribunal concluded that:

> "The circumstances in which the appellants were living together in Addis Ababa at the date of the respondent's decision, and in which they are still living now, are undoubtedly harsh, to put it at its lowest. Indeed, they may fairly be characterised as harsh. But sadly they are conditions in which vast numbers of other individuals are compelled to live throughout the unhappier regions of the world. The United Kingdom does not have either the room or the resources to provide for all of them. There is no reason in logic why the appellants should be viewed differently from the vast numbers of other unfortunate individuals who would jump at the opportunity of a new and better life in the United Kingdom, but who cannot fulfil the requirements for entry laid down by the Secretary of State in the Immigration Rules and are therefore unable to avail themselves of that opportunity. On the facts of the appellants' case as presented before me, I am not persuaded that they have shown why they should be treated differently from the generality of foreign nationals in the same or similar position. In short, whilst I accept that their exclusion from the United Kingdom would constitute an interference with their Article 8 rights and those of the third parties affected by their exclusion, nevertheless that would not constitute a disproportionate interference when balanced against the larger public interest to which I have referred. Their appeals therefore fall to be dismissed."

18. In May 2012 the applicants' older sibling, who had been looking after them, left the family unit in Ethiopia and her current whereabouts are

unknown. Since then, the applicants have been cared for by the first applicant.

19. On 16 October 2012 the Court of Appeal refused permission to appeal as it found that the Immigration Judge had not failed to take into account any relevant factors.

B. Relevant domestic law

1. Leave to enter the United Kingdom as the child of a parent who had been granted refugee status

20. Paragraph 352D of the Immigration Rules contained the requirements for leave to enter as the child of a parent who had been granted refugee status in the United Kingdom. It provided that:

> "352D. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom in order to join or remain with the parent who is currently a refugee granted status as such under the immigration rules in the United Kingdom are that the applicant:
>
> (i) is the child of a parent who is currently a refugee granted status as such under the immigration rules in the United Kingdom; and
>
> (ii) is under the age of 18, and
>
> (iii) is not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit; and
>
> (iv) was part of the family unit of the person granted asylum at the time that the person granted asylum left the country of his habitual residence in order to seek asylum; and
>
> (v) would not be excluded from protection by virtue of article 1F of the United Nations Convention and Protocol relating to the Status of Refugees if he were to seek asylum in his own right; and
>
> (vi) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity."

2. Leave to enter as the child of a parent present and settled in the United Kingdom

21. At the relevant time paragraph 297 of the Immigration Rules contained the requirements for leave to enter as the child of a parent present and settled in the United Kingdom. It provided that:

> "297. The requirements to be met by a person seeking indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom are that he:
>
> (i) is seeking leave to enter to accompany or join a parent, parents or a relative in one of the following circumstances:
>
> (a) both parents are present and settled in the United Kingdom; or

(b) both parents are being admitted on the same occasion for settlement; or

(c) one parent is present and settled in the United Kingdom and the other is being admitted on the same occasion for settlement; or

(d) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and the other parent is dead; or

(e) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and has had sole responsibility for the child's upbringing; or

(f) one parent or a relative is present and settled in the United Kingdom or being admitted on the same occasion for settlement and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and

(ii) is under the age of 18; and

(iii) is not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit; and

(iv) can, and will, be accommodated adequately by the parent, parents or relative the child is seeking to join without recourse to public funds in accommodation which the parent, parents or relative the child is seeking to join, own or occupy exclusively; and

(v) can, and will, be maintained adequately by the parent, parents, or relative the child is seeking to join, without recourse to public funds; and

(vi) holds a valid United Kingdom entry clearance for entry in this capacity; and

(vii) does not fall for refusal under the general grounds for refusal."

3. Appeals against the refusal of entry clearance

22. By virtue of section 84(1)(c) of the Nationality, Immigration and Asylum Act 2002 an unsuccessful applicant for entry clearance may appeal against the refusal on the ground, *inter alia*, that "the decision is unlawful under section 6 of the Human Rights Act 1998 (c. 42) (public authority not to act contrary to the Human Rights Convention) as being incompatible with the appellant's Convention rights".

23. The Sponsor in the United Kingdom cannot appeal against that decision.

COMPLAINT

24. The applicants complain under Article 8 of the Convention that the respondent Government's refusal to grant them entry into the United Kingdom for the purposes of reuniting with their mother violated their right to respect for their family life.

THE LAW

25. The applicant relied on Article 8 of the Convention, which reads as follows:

> “1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. The Government’s objection under Article 1 of the Convention

26. The Government submitted that the application was incompatible *ratione personae* with the provisions of the Convention because the applicants did not fall “within [the] jurisdiction” of the respondent State within the meaning of Article 1 of the Convention.

27. However, in view of its findings at paragraphs 42 – 48 below, it is not necessary for the Court to determine this issue.

B. Manifestly ill-founded

28. In the Government’s further and alternative submission, the applicants’ complaint under Article 8 of the Convention is manifestly ill-founded. The applicants contested this argument.

1. The parties’ submissions

29. The Government contended that the State had a margin of appreciation in carrying out the balancing exercise required by that Article. The State typically exercised this margin of appreciation by adopting immigration laws which specified the requirements to be met by persons seeking leave to enter. Where the applicable provisions struck a balance that was within the margin of appreciation afforded to States, in principle it would not be a violation of Article 8 of the Convention for them to refuse leave to enter to an applicant who did not meet those domestic legal requirements. In this regard, the terms of paragraphs 352D and 297 of the Immigration Rules were not disproportionate to the legitimate aim of immigration control.

30. Although the Government accepted that there may, in practice, be cases where the refusal of leave to enter would breach an applicant’s rights under Article 8, they argued that this was not such a case, as the present applicants’ circumstances did not fall outside the generality of cases to which those provisions applied. The domestic tribunals had accepted that

family life existed between the applicants and their mother, that their exclusion from the United Kingdom interfered with that family life, that their mother had sole responsibility for the applicants' upbringing and that there were serious and compelling family or other considerations which made their exclusion from the United Kingdom undesirable, that the applicants' mother could not reasonably relocate to Ethiopia to care for them as she would have no job and no means of survival, and that it would be in the applicants' best interests to be allowed to join their mother in the United Kingdom. However, they concluded that the applicants did not qualify for leave to enter because they could not demonstrate that the accommodation and maintenance requirements in paragraph 297(iv) and (v) were met (see paragraph 17 above).

31. The Government argued that this decision was proportionate because the applicants' mother had voluntarily left them in Somalia to join her second husband in the United Kingdom, knowing that he would not countenance her children joining them. Furthermore, she had allowed five years to pass before attempting to bring them to the United Kingdom, and had previously deceived the United Kingdom immigration authorities with regard to the extent of her family in Somalia. The conditions in which the applicants were living, while unenviable, were no worse than those of the vast majority of "unfortunate individuals who would jump at the opportunity of a new and better life in the United Kingdom", and in any case it would still be open to the applicants to make fresh claims for entry clearance if, at a future date, they could satisfy the entry and maintenance requirements of the Immigration Rules.

32. The Government therefore contended that this case could be distinguished from those which the Court had found a violation. The domestic courts did not conclude that the applicants' mother had intended to leave them permanently simply on account of the fact that she had left them to live abroad; rather, the judge had made a finding of fact that, based on the evidence before it, when she moved to the United Kingdom she knew she would be separated from the applicants for the indefinite future (compare, for example, *Berisha v. Switzerland*, no. 948/12, § 54, 30 July 2013). Likewise, this was not a case in which the parent living in the Contracting State had applied for leave for the children to join him or her as soon as, or as soon after, the parent was in a position to do so (compare, for example, *Tuquabo-Tekle*, cited above, § 45).

33. Furthermore, the Government submitted that the applicants were currently aged between thirteen and twenty-one years old, and were therefore not as much in need of care as younger children would be. None of them had ever lived in the cultural and linguistic environment of the United Kingdom. Although the Government recognised that the applicants did not have relatives in Ethiopia, and that their mother could not be

expected to relocate there, it argued that these factors should not be decisive.

34. The applicants, on the other hand, submitted that the complaint was not manifestly ill-founded. With regard to the existence of family life, they argued that it was not reasonable for a State to refuse an application for entry clearance simply because a parent had decided to live apart from his or her child. In *Şen v. the Netherlands* (cited above) the Court had found a violation of Article 8 on the basis that there was a "major obstacle" to the family's return to Turkey, notwithstanding the fact that the parents had taken a deliberate decision to live apart from the child when the mother joined her husband in the Netherlands. Likewise, in *Tuquabo-Tekle v. the Netherlands* (cited above) the Court had emphasised that a decision by a parent to leave a child whilst settling abroad could not be assumed to amount to a decision to leave the child permanently or to abandon all hope of a future family reunion. In the present case the applicants' mother had enjoyed family life with them before she left Somalia and following her departure she remained their sole source of financial, emotional and psychological support.

35. In relation to proportionality, the applicants contended that it would be a relevant factor if the family's separation was due to conflict or violence in the country of origin. In their case, they had suffered from a number of problems which were not simply the vicissitudes of life, but which arose out of a legacy of displacement from an armed conflict and their consequent residence in a country where they had no legal right to remain and from where they would risk expulsion to Somalia.

36. The applicants further argued that their separation from their mother had not been a conscious decision but rather a necessity forced upon her by her second husband's refusal to support their admission; that the understanding between their mother and their aunt was that the arrangement for the applicants' care would be "temporary"; that the passage of five years before the application for entry clearance was due to the stance of the mother's second husband and her need to save sufficient funds for the applicants' care; that it was accepted by the domestic courts that it would be unreasonable for the mother to relocate abroad; and finally, that the applicants did not have alternative care arrangements in Ethiopia.

37. In conclusion, the applicants argued that in cases where family reunification or separation was in issue, it was well-established that international law required that the best interests of the child be treated as a primary consideration (see, for example, *M.P.E.V. and Others v. Switzerland*, no. 3910/13, 8 July 2014). It was clearly in their best interests to reside with their mother in the United Kingdom.

2. *The Court's assessment*

(a) General principles

38. The Court notes that the essential object of Article 8 is to protect the individual against arbitrary action by the public authorities. There may in addition be positive obligations inherent in effective "respect" for family life. However, the boundaries between the State's positive and negative obligations under this provision do not lend themselves to precise definition. The applicable principles are, nonetheless, similar. In both contexts regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole; and in both contexts the State enjoys a certain margin of appreciation (see *Ahmut v. the Netherlands*, 28 November 1996, § 63, Reports of Judgments and Decisions 1996-VI).

39. In order to establish the scope of the State's obligations, the Court must examine the facts of the case in the light of the applicable principles, which it has previously set out as follows (see *Gül v. Switzerland*, cited above § 38; *Ahmut v. the Netherlands*, cited above, § 67; and *Berisha v. Switzerland*, cited above, § 48):

(a) the extent of a State's obligation to admit to its territory relatives of settled immigrants will vary according to the particular circumstances of the persons involved and the general interest;

(b) as a matter of well-established international law and subject to its treaty obligations, a State has the right to control the entry of non-nationals into its territory;

(c) where immigration is concerned, Article 8 cannot be considered to impose on a State a general obligation to respect the choice by married couples of the country of their matrimonial residence and to authorise family reunification in its territory.

40. In this context it must be borne in mind that cases like the present one do not only concern immigration, but also family life, and that it involves aliens who already had a family life which they left behind in another country until they achieved settled status in the host country (contrast *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, 28 May 1985, § 68, Series A no. 94). In such cases, it must determine whether, in refusing to issue residence permits for the applicants, the Government can be said to have struck a fair balance between their interest in developing a family life in the respondent State on the one hand and the State's own interest in controlling immigration on the other. In conducting this assessment, the Court has first asked whether the parents irrevocably decided to leave their children in the country of origin, and thereby abandoned any idea of a future family reunion (see, for example, *Şen v. the Netherlands*, cited above, § 40). Secondly, it has asked whether allowing the children to enter the Contracting State would be the most

adequate means for them to develop their family life with the parents settled in that State. In answering this question, it has had regard to the existence of any "insurmountable obstacles" or "major impediments" to the parents' return to the country of origin (see *Tuquabo-Tekle*, cited above, § 48).

41. The Court has further held that there is a broad consensus, including in international law, in support of the idea that in all decisions concerning children, their best interests must be paramount (see *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 135, ECHR 2010). For that purpose, in cases regarding family reunification the Court pays particular attention to the circumstances of the minor children concerned, especially their age, their situation in their country of origin and the extent to which they are dependent on their parents (see *Tuquabo-Tekle*, cited above, § 44).

(b) Application of the general principles to the facts of the present case

42. Turning to the particular circumstances of the case, the first question to be addressed is whether family life existed between the applicants and their mother. In this regard, the Court notes that three of the applicants have now reached the age of majority. Moreover, as the applicants' mother is not a party to the present proceedings, the Court only has the applicants' word that she still wishes them to join her and, if admitted, that they would in fact enjoy family life with her. Nevertheless, as the Government do not appear to dispute that family life existed between the applicants and their mother and that the refusal of entry clearance interfered with it, the Court will proceed on the basis that there was such an interference in respect of all the applicants. Therefore, the sole question for the Court to decide in the present case is whether the Government can be said to have struck a fair balance between the applicants' interest in developing a family life in the respondent State on the one hand and the State's own interest in controlling immigration on the other.

43. It is clear from the Court's case-law that parents who leave children behind while they settle abroad cannot be assumed to have irrevocably decided that those children are to remain in the country of origin (or elsewhere) permanently and to have thereby abandoned any idea of a future family reunion (*Şen v. the Netherlands*, cited above, § 40). Rather, the Court will look carefully at the facts of the case in order to determine whether the parents always intended for the child to join them. In the present case, there is no evidence to suggest that the applicants' mother had any such intention. Contrary to what the applicants argue before this Court, there is nothing to suggest that she fled a situation of armed conflict. Rather, she appears to have made a conscious decision to leave her children in Somalia in order to join her new husband in the United Kingdom, knowing that he would not agree to the children joining them. Therefore, as long as she remained in a relationship with her second husband, she cannot have had any expectation that the applicants would join her new family unit. Furthermore, following

her separation from her second husband, the applicants' mother appears to have waited for two years before attempting to bring the applicants to the United Kingdom.

44. In the appeal in early 2009 by two of the applicants' siblings against the refusal of their entry clearance, the Asylum and Immigration Tribunal accepted, in relation to those two siblings, that their mother could not reasonably relocate to Ethiopia to care for her children as she would have no job and no means of survival there. This conclusion appears to have been accepted in 2012 by the Upper Tribunal after the applicants' own later appeal was remitted to it. However, in considering whether the applicants' mother could "reasonably relocate", the Tribunal applied a lower standard than the test of "insurmountable obstacles" or "major impediments" commonly applied by this Court. Applying its own test, the Court considers that while it would undoubtedly be difficult for the applicants' mother to relocate to Ethiopia, there is no evidence before it to suggest that there would be any "insurmountable obstacles" or "major impediments" to her doing so. Although she has three children in the United Kingdom, two are now adults (her oldest child by her first husband is twenty-two years old and her child by her second husband is nineteen). Her youngest child, who is twelve years old, spent the first six years of his life in Somalia before relocating to the United Kingdom in 2009. Therefore, while he is undoubtedly well-integrated into life in the respondent State, the Court does not consider that it would be unduly difficult for him to relocate to Ethiopia.

45. Moreover, the Tribunal does not appear to have considered whether the applicants' mother could return to Somalia and recommence family life with them there. Although the applicants' mother was married to a refugee, neither she nor any of her children (including the applicants) have been granted refugee status and the applicants have not sought to argue that they would be at risk of ill-treatment were they to return to Somalia. While the situation there is undoubtedly volatile, the applicants are from Mogadishu and in a number of recent judgments the Court has found that removals there would not breach Article 3 of the Convention (see *K.A.B. v. Sweden*, no. 886/11, 5 September 2013, which concerned the removal of a single man to Mogadishu, and *R.H. v. Sweden*, no. 4601/14, 10 September 2015, which concerned the removal of a single woman).

46. The domestic courts accepted that it would be in the applicants' best interests to be allowed to join their mother in the United Kingdom. However, while the Court has held that the best interests of the child is a "paramount" consideration, it cannot be a "trump card" which requires the admission of all children who would be better off living in a Contracting State (see, for example, *Berisha v. Switzerland*, cited above, in which the Court found no violation of Article 8 even though the domestic courts accepted that it would be in the children's best interests to remain in Switzerland). The present applicants' current situation is certainly

"unenviable", as the domestic courts found. However, they are no longer young children (they are currently twenty-one, twenty, nineteen, fourteen and thirteen years old) and the Court has previously rejected cases involving failed applications for family reunification and complaints under Article 8 where the children concerned have in the meantime reached an age where they were presumably not as much in need of care as young children and are increasingly able to fend for themselves (*Berisha v. Switzerland*, cited above, § 56). All of the applicants have grown up in the cultural or linguistic environment of their country of origin, and for the last nine years they have lived together as a family unit in Ethiopia with the older children caring for their younger siblings. None of the applicants has ever been to the United Kingdom, and they have not lived together with their mother for more than eleven years.

47. The foregoing considerations are sufficient to enable the Court to conclude that in refusing their application for entry clearance the domestic authorities cannot be regarded either as having failed to strike a fair balance between the interests of the applicants and the interest of the State in controlling immigration, or as having exceeded the margin of appreciation available to them under the Convention in the domain of immigration.

48. Accordingly, the Court considers the present application to be manifestly ill-founded and, as such, it must be rejected pursuant to Article 35 § 3(a) of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 31 March 2016.

André Wampach
Deputy Registrar

Mirjana Lazarova Trajkovska
President