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Press Release
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The United Nations rules that the expulsion of a torture victim to Italy under the Dublin Regulation violates Convention against Torture

We welcome the decision of the United Nations Committee against Torture finding that the expulsion of our client to Italy under the Dublin Regulation would violate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by depriving him of the necessary conditions for his rehabilitation as a torture survivor. The decision of the Committee acknowledges that reception conditions for asylum seekers in Europe vary widely and that the specific medical needs of highly traumatised individuals must therefore be taken into consideration in order to avoid violating the prohibition on ill treatment. The decision provides important guidance for national decisions makers in Europe on how to apply the Dublin Regulation in a manner consistent with the fundamental rights of the individuals concerned thus avoiding unnecessary human tragedy.

Our case involves an Eritrean national who was imprisoned in Eritrea for 5 years on politically motivated charges, kept in solitary confinement for extended periods of time and repeatedly tortured during interrogation. He requested asylum in Switzerland in September 2015. On arrival, he was in a highly traumatised state and in urgent need of medical attention. He was immediately followed-up at the specialized trauma clinic for victims of torture of the Geneva University Hospital.¹ Several detailed medical reports describing the physical and psychological consequences of his torture were submitted to the Swiss migration authorities. These reports unambiguously established his status as a torture survivor.

Ignoring his specific medical needs, the Swiss authorities ordered our client expelled to Italy under the Dublin Regulation.² The decision of the State Secretariat for Migration was twice

¹ Consultation pour victimes de torture et de guerre (CTG), Hôpitaux Universitaires de Genève.

² The « Dublin Regulation » stipulates that it is the first country the asylum seeker has contact with that is responsible for deciding their application for international protection, see REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013. The Dublin Regulation applies to Switzerland by virtue of an association agreement.

confirmed on appeal by the Federal Administrative Court. In April 2016, the CSDM challenged the expulsion before the Committee against Torture in the case of *A.N. v. Switzerland*, Communication No. 742/2016 on the grounds that it would violate his rights to rehabilitation under Article 14 of the Convention because of the lack of access to specialized medical treatment in Italy, and that it would therefore constitute ill treatment in violation of Articles 3 and 16 of the Convention.

In its decision, the Committee found that the Swiss authorities had “failed to sufficiently and individually assess the complainant’s personal experience as a victim of torture and the foreseeable consequences of forcibly returning him to Italy.” According to the Committee, those foreseeable consequences included the real risk that our client would be deprived of necessary medical treatment and exposed to street destitution, which amounted to a breach of Article 14 of the Convention. The fact that our client would be separated from his brother who is a resident of Switzerland, and therefore be deprived of the stabilizing social context necessary for the successful treatment of his post-traumatic stress disorder (PTSD) was also considered a significant factor in reaching this conclusion.

In light of the above analysis, the Committee held that our client’s expulsion would amount to ill treatment constituting a breach of Articles 3 and 16 of the Convention and engaging Switzerland’s *non-refoulement* obligations. Our client will now have the possibility of having his asylum claim decided in Switzerland.

In light of this decision, we call on the Swiss migration authorities to review their practice under the Dublin Regulation to ensure that **all pending and future cases of highly vulnerable asylum seekers** are decided in a manner consistent with this new jurisprudence. We emphasise that in this case the Committee has held that victims of serious trauma have the right to rehabilitation under Article 14 of the Convention and that expulsions that interfere with this right are illegal and must not be executed.

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