



St. Gallen, 3 October 2018

## **Press Release**

regarding judgment E-2412/2014 of 25 September 2018

### **Decision to reject asylum application of man with links to PKK ruled fair**

**The Federal Administrative Court has upheld the decision by the State Secretariat for Migration to refuse the asylum application of a Turkish national of Kurdish ethnicity on the grounds that he was unworthy of asylum. As a suspected member of “Komalên Ciwan”, a clandestine sub-organisation of the Kurdish Workers’ Party (PKK), the man in question has been deemed to endanger Switzerland’s internal or external security.**

A Turkish national of Kurdish ethnicity submitted an asylum application in Switzerland in 2012. The former Federal Office for Migration (FOM), now the State Secretariat for Migration (SEM), recognised the man in question as a refugee in 2014 but rejected his asylum application. Recognising his refugee status without granting him asylum led to him being granted temporary leave to remain because deportation was considered to be unlawful. The man appealed to the Federal Administrative Court (FAC) against the FOM’s decision to refuse him asylum.

#### **The SEM’s considerations**

The SEM had based its decision on information from the Federal Intelligence Service, which had established a risk to Switzerland’s internal or external security. According to the Intelligence Service, the man was suspected of being a member of the clandestine organisation “Komalên Ciwan”. In December 2012, the man in question has attended a Komalên Ciwan meeting in the Netherlands, where the Dutch police arrested him and transferred him to Switzerland following an extensive hearing. Although the SEM recognised the man as a refugee due to the threat of persecution in Turkey, it deemed him unworthy of asylum on the grounds of his suspected activities in Komalên Ciwan and rejected his application.

#### **The man’s arguments**

For his part, the man in question claimed that the FOM could not prove any specific acts, stating that, although he actively supported Kurdish interests, he was simply a PKK sympathiser. He said that he only attended approved, peaceful events held by Kurdish cultural organisations. It was true that he had attended the conference in the Netherlands, but this too was merely a cultural event. He declared that he was neither a member of the PKK nor of Komalên Ciwan.

## **Landmark judgment of the Federal Administrative Court**

In a landmark judgment<sup>1</sup> intended for publication in the list of FAC decisions, the Court rejected the Turkish national's appeal. It confirmed that the appellant could not be accused of any criminal actions. Merely participating in PKK demonstrations and being committed to the Kurdish cause would not be sufficient grounds for concluding unworthiness for asylum either. In this case, however, evidence was provided that the man in question has been in contact with a clandestine organisation of the PKK, whose activities include, in particular, recruiting high-ranking members and fighters for the PKK to pursue the aim of supporting the hierarchical structures or militant arms of the party.

If there is actual contact between a person involved and a radical group which directly or indirectly commits or supports terrorist or violent extremist acts, and if the person cannot distance themselves credibly and recognisably from the group's ideology, aims and resources, this type of support suggests that an unlawful act designed to endanger the internal or external security of Switzerland can genuinely be suspected. The Federal Administrative Court therefore upheld the refusal of asylum, confirming that the man was unworthy of asylum.

This judgment is final and can therefore not be appealed to the Federal Supreme Court.

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## **About the Federal Administrative Court**

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 357 employees (307.65 FTE) and its 76 judges (68.2 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 7,500 judgments every year.

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<sup>1</sup> This judgment was coordinated by all judges from divisions IV and V and holds not only for this case but for many other proceedings as well.