



Media relations
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Press Release

regarding judgment F-1451/2022 of 27 March 2024

No humanitarian visa for an Afghan widow

To qualify for a humanitarian visa, the person concerned must be facing an immediate, specific and serious threat to life and limb. At the same time, the individual risk must be higher than that of the rest of the population in the home country or country of origin.

An Afghan widow applied to the Swiss Embassy in Pakistan for a humanitarian visa for herself, her two daughters and her underage son. She appealed the negative decision of the State Secretariat for Migration (SEM) to the Federal Administrative Court.

In a landmark ruling, the FAC upholds the decision of the SEM according to which humanitarian visas cannot be granted to an applicant merely because there is no male head of the family. The Court does not disregard the fact that the situation for women and girls in Afghanistan has constantly deteriorated since the Taliban came to power in August 2021. However, all women and girls in Afghanistan are similarly affected – not the appellant individually and alone. Even considering the current political regime in Afghanistan, the simple fact that a person is female does not qualify as an immediate, specific and serious threat within the meaning of the Ordinance on Entry and the Granting of Visas, which is decisive in the case at hand.

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

Delimitation as against the asylum procedure

The possibility of applying for asylum to a Swiss diplomatic mission abroad was revoked in 2012. In its stead, the instrument of the humanitarian visa was created to protect individuals facing an immediate, specific and serious threat to life and limb. The entry prerequisites for this purpose were more restrictive than had previously been the case for what was known as the "embassy asylum". As a legal construction, the humanitarian visa is not designed to cater to a large number of applicants in the context of regional crisis situations but to individual cases of persons especially at risk. The latter must be in a special emergency situation and at higher risk than the rest of the population in their home country or country of origin. Only such higher risk can justify the exceptional granting of an entry visa on humanitarian grounds.

The granting of a humanitarian visa is subject to different prerequisites than the recognition of refugee status. The practice in the matter of asylum-granting is not directly transposable to the examination of an application for an entry visa on humanitarian grounds.

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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 375 employees (314.7 FTE) and its 73 judges (65 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative 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 6,500 judgments every year.