



St. Gallen, 15 December 2022

Press Release

regarding judgment F-2885/2020 of 6 December 2022

The Court confirms a 20-year ban on entry

An Italian national was repeatedly convicted of sexual abuse against minors. The Federal Administrative Court confirms the 20-year ban on entry ordered against him.

In March 2020, the State Secretariat for Migration (SEM) issued a 20-year ban on entry into Switzerland and Liechtenstein against an Italian national.

Repeated serious offences

The State Secretariat considered that the ban was justified by the seriousness of the offences committed by the person concerned. Between 2003 and 2005, the appellant had been convicted twice by the Italian courts of repeated sexual abuse against children under the age of sixteen and, on another occasion, of unauthorised possession of weapons and ammunition. In 2016, he was convicted in Ticino to a custodial sentence of seven years, notably for repeated acts of coercion and sexual abuse, committed both in Switzerland and abroad, against a thirteen-year-old boy, in some cases with the administration of a sedative-hypnotic drug. At the same time, he was prohibited from engaging in any professional or extra-professional activity involving regular contact with minors for a duration of ten years.

Safeguarding public order and security

In a landmark ruling which marks a change in practice, the Federal Administrative Court (FAC) holds that, in order to issue a ban on entry of up to 20 years, it is not necessary for the person concerned to have been previously removed from Switzerland. It is essential, however, that the case be characterised by extraordinary circumstances justifying a ban of such duration. This all the more so in cases of recidivism, or where there is a risk of recurrence or repeated offence.

In the case at hand, the extra-ordinary circumstances established by the Court relate to the young age of the victims, the personality and *modus operandi* of the person concerned, and the fact that he is a repeat offender who has committed the same kind of offences in Italy and Switzerland. Moreover, so far, there is no treatment suggesting that the offender would be capable of controlling his sexual impulses, hence a compounded risk of recidivism. From the proportionality perspective, the Court cannot find any personal, professional or family-related grounds to justify shortening the 20-year ban on entry. For these reasons, the Court rejects the appeal.

This judgment may 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 365 employees (305.6 FTE) and its 72 judges (64.5 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.