



Media relations
P.O. Box, 9023 St. Gallen

St. Gallen, 16 February 2026

Media Release

on Landmark Judgment D-4601/2025 of 09 February 2026

The Federal Administrative Court clarifies the principle of subsidiarity in relation to temporary protection for persons from Ukraine.

In a landmark judgment¹, the Court clarifies that applications for temporary protection in Switzerland may be refused if the persons seeking protection already have, or have had, a valid alternative protection status in an EU/EFTA member state. No formal readmission agreement with said country is necessary for this purpose.

A Ukrainian national entered Switzerland in early April 2025 and filed an application for temporary protection. In March 2022, after the start of the war, she had already obtained temporary protection in Italy, valid until 4 March 2023, and had lived there for several months. Thereafter, she returned to Ukraine and later travelled to Switzerland. The State Secretariat for Migration (SEM) rejected her application for temporary protection and ordered her removal from Switzerland as well as the enforcement of the removal. In the proceedings before the Federal Administrative Court (FAC), the appellant argued that she no longer had a valid protection status in Italy, and that the SEM should have obtained assurance of readmission from Italy before taking its decision.

In a landmark judgment of 9 February 2026, the FAC established that, under the principle of subsidiarity, Ukrainian nationals who were living in Ukraine prior to 24 February 2022 are not entitled to protection in Switzerland if a valid alternative protection status is available to them in an EU/EFTA member state.

Criteria for “valid alternative protection”

In the case at hand, the FAC deems that valid alternative protection exists. It notes that Italy had granted the appellant a temporary protection status under EU law equivalent to the Swiss “S” protection status. The fact that the earlier permit had expired after the appellant had left Italy of her own accord does not, in the Court’s opinion, alter the existence of valid alternative protection. Since Italy is still obliged to grant temporary protection to Ukrainians under the (extended until 4 March 2027) EU regulation, it can be assumed that, if the appellant returns to Italy, her expired protection status will be reinstated or she will be able to

¹ This judgment was coordinated by the full bench judges of Divisions IV and V. The legal assessment goes beyond the present case and applies generally to a large number of cases.

successfully apply for protection in that country again.

The Federal Administrative Court expressly states that exclusion from the “S” protection status does not require any prior assurance of readmission by the third country if valid alternative protection exists and the person concerned can travel to that country legally, which is confirmed in this specific case.

This Judgment is final and may 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 395 employees (334 FTE) and its 78 judges (70 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.