



St. Gallen, 17 January 2020

Press Release

regarding judgment E-962/2019 of 17 December 2019

On 15 January 2020, the chamber presidents of divisions IV, V and VI agreed to publish this judgment as a so-called reference judgment.

Stricter criteria for Dublin transfers to Italy

The Federal administrative Court recently ruled that the guarantees provided by the Italian authorities were not specific enough, as families requiring transfer from Switzerland to Italy no longer have access to the second-line reception centres under the new legislation. Judgment E-962/2019 confirms and substantiates this case-law: the Italian authorities are required to furnish even more specific guarantees concerning reception conditions in each individual case. The Swiss asylum authorities are now obliged to obtain individual assurances guaranteeing the requisite medical care and accommodation for seriously ill asylum seekers who will be reliant on seamless medical care from the moment they arrive in Italy.

Legislative Decree 113/2018 on public security and immigration entered into force in Italy on 5 October 2018. Better known as the Salvini decree after the man behind it, former Minister of the Interior Matteo Salvini, it became law at the end of November 2018 and has a wide-ranging impact on how asylum seekers in Italy are accommodated.

Asylum seekers transferred to Italy in Dublin cases are now no longer entitled to be admitted to a reception centre classified under the SPRAR (Sistema di protezione per richiedenti asilo e rifugiati – Protection System for Asylum Seekers and Refugees). As well as integration services, the idea behind these smaller “second-line” centres also encompasses measures for caring for particularly vulnerable asylum seekers, especially families with children and people with severe health problems. However, the Salvini decree restricts Dublin returnees to finding accommodation in the large first-line initial reception centres or in temporary emergency centres.

No systemic weaknesses

In its judgment E-962/2019, the Federal Administrative Court (FAC) has concluded that the entry into force of the new law means that the Italian asylum system now presents asylum seekers with additional obstacles that make it harder for them to begin proceedings immediately and access support services. Standards also vary greatly from region to region. Conditions in the centres have deteriorated across the board, particularly for vulnerable and traumatised people.

Nevertheless, the court believes that access to asylum proceedings is guaranteed in Italy as a basic principle, even if there can be delays. Basic care during asylum proceedings is ensured despite conditions at the individual sites varying considerably. The FAC has reached the conclusion that the Italian asylum system has no systemic weaknesses, including following the Salvini decree, meaning that transfers under the Dublin procedure are still permissible as a basic principle.

Guarantees for transferring families and the seriously ill

However, the court has opted to impose restrictions in the case of families and seriously ill asylum seekers, for whom Dublin transfers to Italy will only be permitted again if the Italian authorities give individual guarantees of adequate care and accommodation in advance.

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 355 employees (305.5 FTE) and its 76 judges (68.4 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.