



St. Gallen, 22 October 2021

## **Press Release**

**regarding judgment F-6330/2020 of 18 October 2021**

### **Dublin procedure: families may once again be transferred to Italy**

**Following Italy's reversal of the "Salvini Decree", Switzerland may once again transfer families with underage children to Italy under the provisions of the Dublin system. This was decided by the Federal Administrative Court in a reference ruling.**

Legislative Decree 113/2018 on public security and immigration, better known as the "Salvini Decree", entered into force in Italy at the end of 2018. The Decree had a wide-ranging impact on how asylum seekers were accommodated in Italy. Dublin returnees were placed in first-line reception centres or in temporary facilities that were mostly overcrowded and could not handle the special needs of particularly vulnerable asylum seekers, notably families with children and people with severe health problems, who were refused access to the second-line reception centres offering better care.

#### **Dublin transfers temporarily restricted**

In its reference ruling E-962/2019, the Federal Administrative Court (FAC) decided at the end of 2019 that Dublin transfers to Italy for families and seriously ill asylum seekers are only permissible if the Italian authorities give individual guarantees of adequate care and accommodation in advance.

#### **Vulnerable persons enjoy priority status again**

In December 2020, Italy enacted Legislative Decree 130/2020 which largely reversed the provisions of the Salvini Decree. As a result, after the registration process, asylum seekers are admitted to the SAI (Sistema di accoglienza e integrazione – system for the reception and integration of asylum seekers) which is once again open to all asylum seekers. Vulnerable persons who have been assured a special form of care are granted priority in the transfer from first-line reception centres to the SAI system.

#### **Decision of the SEM upheld**

Considering the new statutory framework, the FAC holds that Italy's recognition of the principle of family unity and the assurance of suitable family accommodation may be deemed sufficient assurances in accordance with the case law of the FAC and the European Court of Human Rights (ECtHR). Therefore, Switzerland may once again transfer families with underage children

to Italy. The Court thus upholds the decision of the State Secretariat for Migration (SEM) against a single mother and her son who had filed an appeal with the FAC.

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 353 employees (297.3 FTE) and its 73 judges (65.15 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 7,200 judgments every year.