



Joint Public Statement

5 November 2014

European Court prevents Switzerland from returning asylum-seeking family to Italy without reception guarantees

The AIRE Centre (Advice on Individual Rights in Europe), ECRE (European Council on Refugees and Exiles) and Amnesty International welcome the [European Court of Human Rights' judgment in the case of Tarakhel v Switzerland](#), in which the organizations had intervened jointly with the assistance of lawyers from across Europe in February 2014.

The Tarakhel family, an Afghan family with young children, made their way to Switzerland from Italy and claimed asylum there. The European Court of Human Rights (ECtHR) held yesterday that returning the family to Italy without guarantees that they would benefit from appropriate conditions would violate human rights as enshrined in the European Convention of Human Rights.

The Court ruled that returning the family to Italy would breach Article 3 of the European Convention on Human Rights (ECHR) which prohibits inhuman and degrading treatment, if this were done without Switzerland having first obtained specific individual guarantees that the Italian authorities would take charge of the applicants in a manner adapted to the age of the children and that the family would be kept together.

The ECtHR reiterated that before returning people under the Dublin Regulation, States have to obtain individual guarantees that the fundamental rights of asylum seekers will be respected. The Court ruled that safety in another European Member State cannot be assumed.

The Court stated that in the present case in view of the current situation as regards the reception system for asylum seekers in Italy, the possibility that a significant number of asylum seekers removed to that country may be left without accommodation or accommodated in overcrowded facilities without any privacy, or even in insalubrious or violent conditions, is not unfounded.

The AIRE Centre (Advice on Individual Rights in Europe), together with ECRE (European Council on Refugees and Exiles) and Amnesty International, assisted by lawyers from across Europe, intervened in the litigation. The interveners note *"Yesterday's decision is a definite step forward as it reiterates asylum seekers cannot be automatically returned to another EU country on the assumption that all EU Member States respect fundamental rights. The Court clarifies that where there are substantial grounds for believing that the individuals face a real risk of ill-treatment, the authorities must conduct a thorough examination of the individuals' particular situation before returning anyone under the Dublin Regulation to ensure that their fundamental rights will be respected. Guarantees specific to any particularly vulnerable individuals - such as families with young children - must be*

obtained so as to ensure those individuals will personally benefit from appropriate material conditions. This duty goes beyond assessing the general situation.”

Background information

The European Union’s Dublin Regulation provides for the return of asylum seekers from one Member State to the country which is deemed to be responsible for processing their claims for international protection. The European Court of Human Rights and the EU Court of Justice had already held in 2011 that the inadequate conditions in Greece precluded returning asylum seekers to Greece.

European Database of Asylum Law (EDAL), [Case summary on ECtHR - Tarakhel v. Switzerland, Application no. 29217/12](#), 5 November 2014.

Italian Council for Refugees (CIR), Asylum Information Database (AIDA) [National Report Italy](#), updated on April 2014.