



China: persons subject to a removal order cannot leave Switzerland without identification

Bern-Wabern, 10.12.2020 - The technical agreement signed by the FDJP and the Chinese migration authority in 2015 sets out the procedures regarding the identification of persons subject to a removal order suspected of being from China. Like the other 60 or so agreements concluded by Switzerland in this area, the agreement is in line with the legal mandate which requires SEM, together with the cantons, to ensure that people who have to leave Switzerland can actually be removed. Without identification by the staff of the Chinese authorities, the removal cannot be carried out and these persons, who are not threatened on return, remain without a right of residence in Switzerland. Numerous misleading statements have been made about this agreement, which is no longer in force.

The identification of persons subject to a removal order, whose asylum application has been rejected or who have breached the Foreign Nationals and Integration Act, is an integral part of the enforcement of a removal order. If the person concerned does not possess valid travel documents, the country of origin must issue substitute travel documents so that they can return to that country. The prerequisite is that the authorities of the country of origin recognise the person as a citizen of their country. To be able to conduct this identification, the State Secretariat for Migration SEM, in accordance with the Foreign Nationals and Integration Act and the Asylum Act, may invite delegations from these states of origin to hold an interview in the presence of SEM staff. Such interviews take place in a controlled environment and do not resemble an 'interrogation' in any respect.

Interviews are a standard international instrument

These interviews form part of preparations to enforce a removal order and have been conducted for many years in Switzerland and in other European countries. The procedure with regard to many states of origin is defined in readmission agreements. In

the case of China, a technical agreement is in place between the FDJP and the Chinese migration authorities. Since being signed at Switzerland's behest in December 2015, it has only been applied on one occasion, when two Chinese officials stayed in Switzerland for several days to interview a total of 13 people. The agreement is listed in the FDFA's collection of international agreements and can be obtained on request at any time. It is in no way a secret document. The agreement expired on 7 December of this year. Under the Ordinance on the Removal and Expulsion of Foreign Nationals, foreign delegations can be invited to conduct interviews even if no such agreement is in place. As there is no particular urgency to renew the agreement, no such talks have taken place to date.

Persons at risk are not interviewed

Prior to the interviews, the embassy staff or officials from the country of origin who have travelled to Switzerland are merely provided with the information on the person concerned that they need for identification purposes. They are not provided with information about prior asylum proceedings or other grounds that have resulted in the removal order. Those interviewed are individuals who do not face persecution on return to their country of origin. Persons who can credibly demonstrate that they are subject to political persecution are granted protection by Switzerland; in this case, their removal is not permitted. This applies in particular to all persons of Tibetan ethnicity for whom the enforcement of removal orders to China is explicitly excluded on the basis of a landmark decision of the Federal Administrative Court. They are therefore not interviewed by the Chinese authorities to clarify their identity.

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