

Zurich, 22 October 2021

Press Release:

Violence in Federal Asylum Centres - Lawyers are highly alerted (Reaction to the "Oberholzer" Investigation Report by the State Secretariat for Migration)

The lawyers Marcel Bosonnet and Lea Hungerbühler (together the "**Lawyers**") represent numerous victims of violence by security staff in federal asylum centres throughout Switzerland. With interest they have taken note of the report on the investigation of allegations in the field of security in federal asylum centres (the "**Report**") by Dr. Niklaus Oberholzer. Contrary to the elaborations in scope of the press release of the State Secretariat for Migration (SEM) titled "No indications of systematic violence in the federal asylum centres", the Report must be classified as alarming. It evaluates the SEM's prevention of incidents of violence and the processing of the same as extremely poor.

Some of the findings of the Report are shared by the Lawyers, but in their opinion, some of them are inaccurately presented. It is also striking that, significantly, neither the victims nor other asylum-seekers living in the centres nor the lawyers representing them were consulted for the Report.

It should also be emphasised - and this is also derived from the Report on closer examination - that the initiation of a criminal investigation is by no means synonymous with the granting of legal protection. Obstacles are being placed in the way of victims and lawyers that are highly questionable from a human rights perspective:

- The SEM aims for the **rapid deportation of** victims with a negative or no-entry decision. Following the deportation, the public prosecutor's offices attempt to **suspend the criminal proceedings** with reference to "proportionality", even though the SEM previously claims that proceedings can also be conducted after the deportation has taken place.
- The employees of the security service are qualified as "civil servants" in the criminal proceedings, so that a complicated **authorisation procedure is** necessary for the proceedings to be opened at all.
- Due to the **difficult access to medical care** in the federal asylum centres, it is sometimes not possible for victims to obtain a medical Report on the injuries caused by the violence, which further complicates the evidence. Access to medical care outside the federal asylum centres is not given, and access within the centre is at least indirectly regulated by the SEM and thus not independent.
- Although the federal asylum centres are increasingly monitored by video (cf. Report on this in May 2021), the **video recordings** of the relevant periods of time during which a victim experienced violence at the hands of security staff do **not** seem to be **available (anymore)** for some inexplicable reason. The SEM claims that it

wants to provide more security in the federal asylum centres by increasing video surveillance. However, this does not seem to apply to the security of the residents.

- Contrary to what is stated in the Report, it is inaccurate to speak of only three incidents. The Lawyers are aware of numerous other cases in which, for example, the deportation took place so quickly that it was no longer possible to file a criminal complaint, or in which the **police refused to accept the criminal complaint**. Moreover, some of the cases represented by the Lawyers were not examined in the Report. The Report must therefore be qualified as incomplete in this respect.
- The SEM and the other federal employees in the federal asylum centres appear to be **insufficiently fulfilling the obligation to file a criminal charge**, which means that the offence of assisting offenders is likely to be fulfilled on a regular basis.

The Lawyers support the demands set out in the Report. In addition, they demand the following:

- The **SEM** is to be obliged to **cooperate** in the event of incidents of violence and to secure the **video footage and make it available** to the prosecuting authorities.
- The SEM as well as the mandated legal representation in accordance with the revised Asylum Act - even after resignation of the mandate - must immediately contact the **victim assistance** in case of indications of an incident of violence and ensure that communication with the victim assistance is possible (e.g. also in case of territorial restrictions, payment of the train ticket, etc.).
- The SEM must consistently **comply with its duty to file a criminal charge**.
- In the case of victims of violent incidents, the SEM must **suspend the execution of the deportation order** until the conclusion of the proceedings in order not to make the conclusion of the criminal proceedings impossible or excessively difficult.
- The new **Reporting and complaints office** to be created must have the resources and competence to effectively support potential victims in criminal proceedings, so as not to degenerate into an illusory solution.
- The **obligation of the SEM and the other employees to file a Report** was to be fulfilled consistently.

Overall, the Lawyers are extremely concerned about the commentary by SEM playing down the incidents of violence. The level of violence against asylum seekers, who are often already severely traumatised, has reached an unacceptable level, especially in the new federal structures, which is impressively reflected in the Report. The SEM is now called to take a clear stand against violence, to assume responsibility, to come to terms with such incidents and, if necessary, to draw (personnel) consequences. Violence against asylum seekers in federal asylum centres must be prevented by the SEM, not played down.

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