

## CAT: Deportation of an Eritrean woman facing military service violates Article 3

On the 30<sup>th</sup> of January 2023, The Committee against Torture (CAT) [published](#) its communication A.Y. v Switzerland (CAT/C/74/D/887/2018). The case concerned A.Y., an Eritrean woman, who left her country due to fear to be rounded up for military services. Her asylum claim was rejected by the Swiss Secretariat for Migration and the Court on credibility grounds. The CAT decided that A.Y.'s deportation would violate Article 3 of the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#).

The Committee first stated that Switzerland failed to afford A.Y. the benefit of the doubt and comprehensively assess her claim. Swiss authorities considered her initial interview as representative for her entire claim and dismissed additional details as fabricated. This initial interview was however very short, and the questions and time given for responses were insufficient.

Second, the CAT decided that Swiss authorities did not provide objective information on Eritrea to address the applicant's potential risk of torture upon return. The Committee stated that Switzerland's country information does not reflect Eritrea's reality. Switzerland further referred to Denmark and the United Kingdom as countries sharing its findings, but the CAT noted that these states are heavily criticised for the objectivity of their sources. The Committee then mentioned that all information points out that individuals illegally leaving Eritrea will be sentenced. Switzerland indicated that the refusal of a state to engage with fact-finding visits is a reason to dismiss the findings of the report and that information from individuals who have fled persecution is less reliable. However, the Committee highlighted that this interpretation would have a dissuasive effect on states' engagement with their human rights obligations and reduce transparency and accountability. The CAT emphasised that sources from civil society and citizens in exile are more likely to represent reliable and uncensored first-hand accounts. Moreover, the Committee linked A.Y.'s situation to recent findings of the Committee on the Elimination of the Discrimination on Women and the Special Rapporteur on Eritrea. Based on all this, the CAT declared that A.Y.'s faces a risk of being subjected to torture if returned to Eritrea.

Source: ELENA Weekly Legal Update - 10 February 2023