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## **Switzerland-China secret deal: Did it affect religion-based refugees?**

***An NGO published a confidential document hinting at the disturbing possibility that Chinese State Security agents directly interfere in asylum cases.***

*by Rosita Šorytė*



*The Embassy of China, Bern, Switzerland.*

Bitter Winter (14.12.2020) - <https://bit.ly/3mmDjnG> - On December 9, 2020, the Spanish NGO Safeguard Defenders published the confidential text of an agreement between Switzerland and China dated December 8, 2015. That the agreement existed was known from an article published on *NZZ am Sonntag* on August 23, 2020, which led to considerable political controversy, but Safeguard Defenders has published the text for the first time. Its authenticity has not been disputed.

The deal is part of a broader category of so-called “readmission agreements,” which are commons between democratic countries. They provide for reciprocal cooperation between the immigration authorities of two countries, when an unauthorized immigrant coming from one of them is identified in the other. Once his or her identity and nationality have been ascertained, the two countries cooperate to take the immigrant back home.

The agreement with China, however, is anomalous for three different reasons. First, it is not reciprocal, which can be explained with the fact that perhaps not many Swiss try to illegally immigrate to China.

Second, it authorizes teams of two experts from the Chinese Ministry of Public Security to travel to Switzerland confidentially, with their identities kept secret and their travel expenses paid by Swiss taxpayers, to cooperate with Swiss immigration authorities. It is true that the Ministry of Public Security in China is in charge, inter alia, of immigration. But it is also true that it is a ministry of police, also dealing with the repression of dissidents and banned religious groups.

Third, the Chinese “experts” from the Ministry of Public Security are authorized to interview the Chinese “with irregular stay in Switzerland” on Swiss soil, advise the Swiss authorities on whether they should be sent back to China, and share the information they collect with the Chinese Embassy in Bern. The agreement states that personal data collected in the process should be kept “confidential,” and not used for purposes other than those stated in the agreement, but one can easily imagine how safe is information about Chinese who escaped from China in the hands of Beijing’s Embassy.

A key question is whether the Chinese Public Security agents intervene only in the cases of economic immigrants, or also in those concerning refugees who seek asylum in Switzerland for reasons of political or religious persecution. After the *NZZ am Sonntag* started investigating the matter, this question was officially answered. Swiss authorities told the newspaper that “asylum seekers” are included in the scope of the agreement, and indeed four of them were sent back to China in 2016 after having been interviewed by the Chinese Public Security agents. They were keen to add that “Tibetan and Uighur asylum seekers are not affected by the agreement and would not be sent back to China due to the threat of persecution they face.”

**Arrangement between**

**the State Secretariat for Migration of the  
Federal Department of Justice and Police of the  
Swiss Confederation**

**and the**

**Exit and Entry Administration of the  
Ministry of Public Security of the  
People's Republic of China**

**on**

**the identification of alleged Chinese citizens with  
irregular stay in Switzerland**

This is good for Tibetans and Uyghurs, but there is an important omission. In Western Europe in general, in recent years the majority of religion-based refugee claims did not come from Tibetans and Uyghurs. They came from Christians persecuted in China, most of them from members of a Christian new religious movement, The Church of Almighty God. Chinese embassies have been active in spreading fake news about this group, and actively intervene to prevent its members from obtaining asylum in democratic countries. The book by Massimo Introvigne *Inside The Church of Almighty God: The Most Persecuted Religious Movement in China*, published this year by Oxford University Press, tells the story of Wang Xiumei, a Church of Almighty God asylum seeker in Switzerland, who received a deportation order from the Swiss authorities. Wang agreed to go back to China spontaneously, but took the precaution of not returning to her home in Linshu County, Shandong. Instead, she rented a room in the housing facility of a construction company in the same county. Yet at the end, the police knocked on her door and arrested her as a member of a *xie jiao*, a banned religious movement. On February 9, 2018, the Linshu County People's Court sentenced Wang to three and a half years in jail under Article 300 of the Chinese Criminal Code, which punishes those active in a *xie jiao*.

We do not know in which cases of which refugees the Chinese agents intervened, and whether the case of Wang Xiumei was included. Yet, we know that under the agreement with Switzerland, Chinese Public Security agents were involved in cases of asylum seekers other than Tibetans and Uyghurs, and we know that China continuously tries to prevent members of The Church of Almighty God from obtaining asylum abroad.

The agreement between China and Switzerland was due for renewal on December 8, 2020. It is unclear whether it has been secretly renewed, after the protests of politicians and NGOs, although the head of the Swiss State Secretariat for Migration (SEM), Mario Gattiker, stated in August that "such arrangements were in the interest of Switzerland, and that Bern—not Beijing—was pushing to renew the agreement."

One also wonders whether secret agreements parallel to the one signed with Switzerland exist with other countries, without having been leaked to independent media or NGOs. That Chinese Public Security agents may roam free in democratic countries, interview asylum seekers, and work with local authorities to send victims back to their executioners is clearly intolerable. Wherever it happens, it should be stopped.

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## **Court suspends Geneva worship ban, religious gatherings resume**

ADF International (04.12.2020) - <https://bit.ly/33SUG9p> - Geneva's total ban on religious services and events has been suspended by the Swiss Constitutional Chamber of the Canton of Geneva. The court has yet to decide whether the ban is a violation of the right to freedom of religion after a group of concerned citizens filed a legal challenge against it. While the suspension does not serve as a final decision, it indicates that the ban is not proportionate and means that religious services and gatherings are now permitted until a final judgment is handed down. The Chamber indicated that the likelihood of the case ultimately succeeding is "high or very high."

"The suspension of the ban until the court makes a final decision is a significant step in the right direction. This ban is a serious violation of the fundamental rights Switzerland is committed to protect in a number of international human rights agreements. Religious freedom is a fundamental human right and governments seeking to restrict it carry the burden of proving the restriction is truly necessary and that a less restrictive approach would not work. Favouring commercial establishments over religious services is not only discriminatory but ignores the robust protection that exists in national and international law for religious freedom," said Jennifer Lea, Legal Counsel for ADF International, a global human rights group with offices in Geneva that supported the case.

### ***Ban is threat to religious freedom***

Several religious communities have shown their support for the lawsuit challenging Geneva's total ban on religious services and events. The regulation is part of Geneva's COVID-19 measures. It bans all religious gatherings except small funerals and weddings. While religious services are banned, other public gatherings are allowed to take place such as demonstrations and professional choir practices.

The ban is the only and first of its kind in Switzerland and most of Europe. Similar blanket bans on religious services have been overturned in Germany and in France while in other countries governments and religious groups have worked together to find workable approaches. The legal challenge filed in Geneva has won public support from Jewish and Christian communities.

"Restrictions on fundamental rights must always be proportionate and proven to be truly necessary. Given that other public gatherings are still permitted, we do not see the proportionality of this restriction – it targets religious groups in a discriminatory way. That is why we decided to challenge it in court. We are hopeful that the courts will ultimately recognize this as a violation of fundamental rights and that a solution will be found that protects the rights of all citizens of Switzerland and sets a good benchmark for the rest of Europe," said Dr. Samuel Sommaruga, on whose behalf the lawsuit was filed.

Steve Alder, the Geneva-based lawyer who filed the case said, "Switzerland has a good track record in protecting the religious freedom of its citizens. It is a poster child of democracy and human rights. That makes it all the more worrying to see a total ban on all religious gatherings and events in such a drastic form. It is one of the broadest bans of its kind in Switzerland and most of Europe where similar bans have been successfully challenged. Enforcing it is a violation of the right to freedom of religion as protected in the Swiss Constitution and by international human rights standards. It disproportionately targets the activities of religious groups over commercial activities. With multiple religious groups in Geneva voicing their concerns over the disproportionality of the ban, we hope that the authorities will ultimately agree on a solution that protects everyone's right to practise their religion in line with international law. The suspension of the ban is a welcome step in this direction."

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## **Swiss lawmakers vote against abolishing the crime of blasphemy**

By Peter Kenny

Ecumenical News (08.11.2020) - <https://bit.ly/3l8HNhc> - Switzerland's Federal Assembly has rejected a motion by a lawmaker to abolish the crime of blasphemy, which will remain on the law books but does not carry the massive penalties of some countries such as Pakistan where it can lead to the death sentence.

Breaking the law in Switzerland carries a fine.

The proposal to abolish blasphemy's offense was put forward by in the lower house of the national parliament by Beat Flach, a member of the Liberal Greens Party, on Nov. 6 in the parliament but was defeated 115 votes to 48.

Freedom of expression "does not apply without limit," said Justice and Police minister Karin Keller-Sutter, the national broadcaster, RTS reported.

In neighboring France, French President Emmanuel Macron has repeatedly defended freedom of expression in recent weeks, the right to caricature, and "the freedom to believe and not to believe."

His defense of the French notion of secularity came after the assassination of a professor who had shown caricatures from Mahomet to his students in the Paris region, triggering numerous anti-French demonstrations in Muslim countries.

For the Federal Council, which is similar to a national cabinet made up of all the main national political parties, the protection of freedom of expression is an expression of freedom of conscience and belief, which is explicitly guaranteed by the Federal Constitution, she said.

Article 261 of the Swiss Penal Code protects the peaceful "living together" and all religions and the right to respect for religious convictions.

That article says that "Any person who publicly and maliciously insults or mocks the religious convictions of others, and in particular their belief in God, or maliciously desecrates objects of religious veneration... is liable to a monetary penalty."

It guarantees religious minorities criminal protection against persecution.

"You shouldn't punish people for making fun of a faith," said Flach. "We must give a clear and strong signal in favor of freedom of expression," he pleaded.

The Swiss law does not directly punish words that insult divinity or the power of God, but it can act against those "flouting the convictions of others in matters of belief, in particular, belief in God".

"In other words, religious convictions cannot be criticized to the same extent as other philosophical opinions," asserted Flach, recalling that other countries have already abolished such an offense, including "Catholic Ireland."

In Switzerland, the article relating to blasphemy does not seek to protect religious beliefs or God from insults but focuses on protecting others' feelings.

"This helps to maintain religious peace," Martino Mona, professor of criminal law and the philosophy of law at the University of Bern, reported the Swissinfo website.

Switzerland has a long tradition of religious wars and conflicts, which is why the blasphemy ban was needed, says Mona.

"Countries that have a stronger tradition of religious tolerance and diversity... don't typically have such bans," she explained.

In European countries such as Germany, Italy, Spain, Greece, Austria, Poland, and Russia, make blasphemy an offense. But it is not outlawed in France, Great Britain, and the Netherlands.

Recent decades and an influx of immigrants have brought other religions to Switzerland, including Muslims, who account for about 5.1 percent of the 8.56 million people, Hinduism (0.6 percent), and Buddhism (0.5 percent).

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