



PRESS RELEASE

MI v Switzerland – the European Court of Human Rights judgment ruling gay man from Iran cannot be deported from Switzerland – African Rainbow Family

FOR IMMEDIATE RELEASE

On 12 November 2024, the European Court of Human Rights ('ECtHR') published its judgment in the case of a gay man challenging deportation from Switzerland to Iran ([M.I v Switzerland Application no.56390/21](#)).

The ECtHR's judgment (unanimously) declared that the complaint under [Article 3](#) of the Convention is admissible and that, in view of the domestic courts' failure to sufficiently assess the risk of ill-treatment for the applicant as a homosexual person in Iran, or whether State protection against ill-treatment from non-State actors was available in Iran, his return to Iran without a fresh assessment of those aspects of his case would breach Article 3 of the Convention.

The judgment can be read here: ([M.I v Switzerland Application no. 56390/21](#)).

The ECtHR granted [African Rainbow Family](#) alongside our partner, [Stonewall](#) permission to intervene in this case, *M.I v Switzerland Application no. 56390/21*. We instructed [Dr. S. Chelvan](#), Head of Immigration and Public Law at [33 Bedford Row](#), and [Jacqueline McKenzie](#), Legal Partner at [Leigh Day](#). Our full Written Submission of 21 October 2022, alongside that of our partner intervener - Stonewall - can be found [here](#).

We, [African Rainbow Family](#) (ARF), the leading UK expert by experience grassroots charity campaigning and advocating for racial justice and the human rights of LGBTIQ+ refugees and people seeking asylum of African heritage and the Global Majority, are delighted with the outcome of the *MI v Switzerland* judgment ruling. As Court-granted Interveners in this case, we feel that a sense of justice has been met within the given decision – not only in the context of this specific case, but in our understanding that all 46 Council of Europe Member States must adhere to this outcome when determining protection claims from gay, lesbian, and bisexual applicants seeking sanctuary going forward.

In the African Rainbow Family's [full submission](#) of 21 October 2022, we argued:

"that the Court must take into account the reality that a homosexual man returned to a state such as Iran must effectively prove that he is heterosexual in order to live discreetly" and that "Failure to fit this heterosexual profile would mean that return would give rise to a risk contrary to Article 3 of the Convention." See paragraph 41.

The ECtHR held in response to our written submissions as the interveners that, whether or not the applicant's sexual orientation is currently known to the Iranian authorities, family members or the population, **it could be discovered subsequently** if he were to be removed to Iran (Paragraph. 50). The Court, as a result, has aligned with our assertion against the Swiss authorities' assessment that, it is unlikely that the applicant's sexual orientation would come to the knowledge of the Iranian authorities or population, amounts to a breach of the applicant's Article 3 rights.

The African Rainbow Family is particularly pleased that the European Court of Human Rights (ECtHR) has now overturned the Government of Switzerland's Federal Administrative Court (FAC) ruling which stated that **"it was unlikely that the applicant's sexual identity would be discovered if he continued to live discreetly"**. Thus, the ECtHR recognising that requiring gay men to live discreetly in their country of origin to avoid harm is psychologically damaging and unacceptable. This decision affirms the ECtHR's commitment to protecting the rights and mental well-being of individuals facing persecution based on sexual orientation, setting a positive precedent for human rights and dignity that we tirelessly campaign and advocate for.

The African Rainbow Family's founder, and CEO, Aderonke Apata says:

I believe that this landmark decision sets a precedent for decisions made around LGBTIQ+ asylum cases across Europe, including the United Kingdom and, on a global scale. This ruling effectively sees the end of discretion and concealment test in LGBTIQ+ cases across Europe. Aderonke Apata continues.

We at African Rainbow Family commend the work and passion of our legal team at 33 Bedford Row, and Leigh Day in their ongoing commitments to the legal proceedings surrounding this case. We also want to acknowledge the hard work and solidarity of our partner, Stonewall in this case as a co-Convener. This is a win for all advocates, campaigners and activists, as well as all LGBTIQ+ people seeking asylum across Europe.

We also wish to thank Dr. S. Chelvan for their kind acknowledgement of the African Rainbow Family's human rights work and contributions to the alleviation of discriminatory, unjust refusals of refugee status for LGBTIQ+ people seeking asylum. Dr Chelvan remarked his thoughts with the following words:

"-your charity has spear-headed refugee lived experience in leadership and structure at the core of your organisation - reflected in ARF's success in driving policy and legal change."

Dr. S. Chelvan, 11th November 2024.

Read summary of African Rainbow Family's intervention submission [here](#).

End.

(12/11/2024)

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