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CEDAW and Challenges to Safe Country Removals

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K.J. v. Switzerland

CEDAW no. 169/2021

4 July 2025



Sana Atassi, Smooth Balance (2019)



Z.E. and A.E. v. Switzerland

CEDAW No. 171/2021

4 July 2025

Shirin Neshat, Unveiling (1993)

C.O.E. v. Switzerland

CEDAW no. 172/2021

2 July 2025



Jennifer Mandolare, Worthy © https://survivorsartproject.com/



Duaa Zahra, Dunya, © https://survivorsartproject.com/

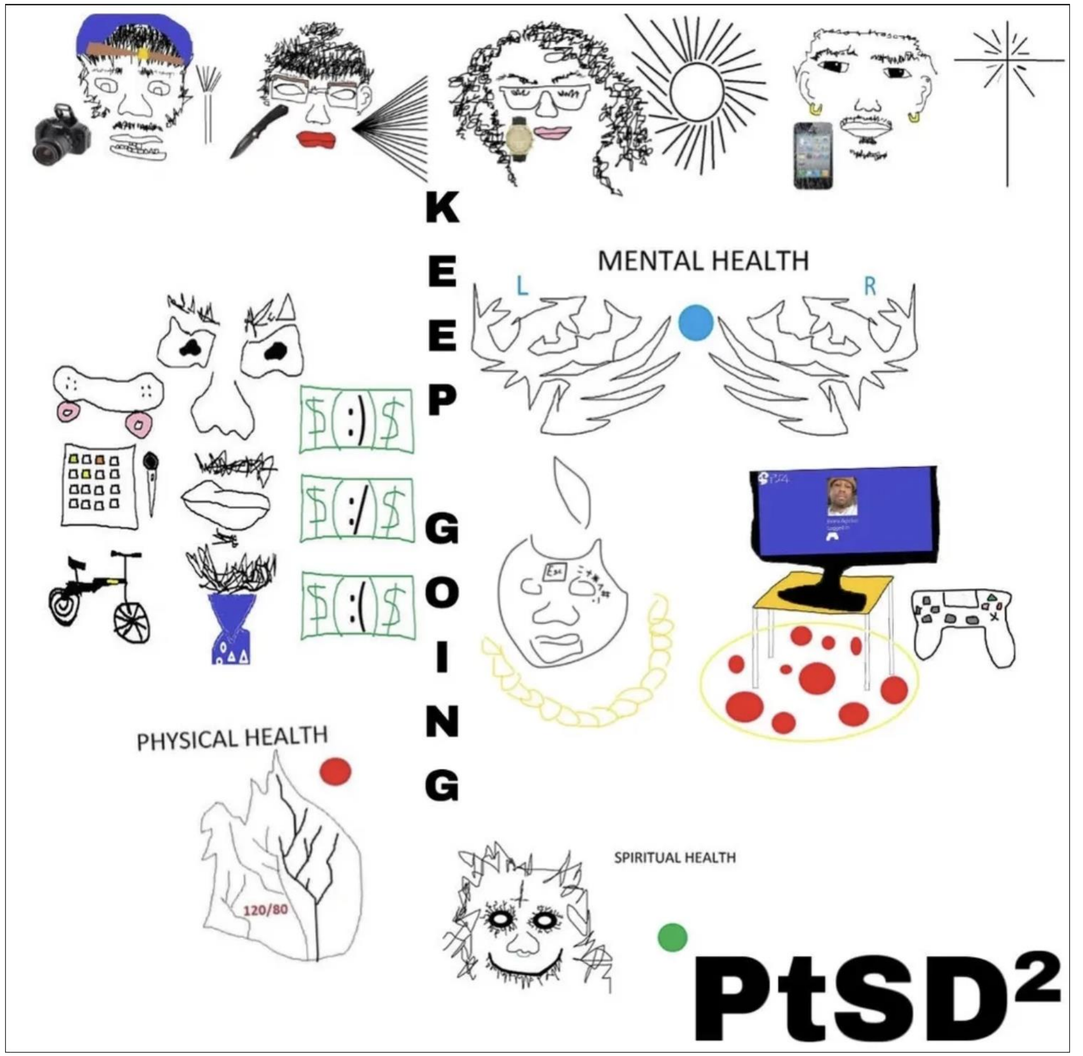
KEY POINTS

1. Need for an «individualized, trauma-informed, gender-based» case assessment

2. Right to health / recovery from SGBV preventing removal

3. Rights of trafficking victims preventing removal

1 The «Individualized, Trauma-informed, Gender-based» Case Assessment



Evanx Aguiluz, PTSD Squared, © https://survivorsartproject.com/



*«it was incumbent upon the State Party to undertake an **individualized assessment** of the real, personal and foreseeable risk that the author would face as an **unaccompanied woman victim of severe gender-based violence** suffering from **post-traumatic stress disorder and depression**.»*

K.J. v. Switzerland, §§ 7.7 and 9(b)(i)

«given the author's status as a recognized refugee and survivor of gender-based violence and ***the time often required in order for victims to be able to speak about such violence****, it was not sufficient for the State Party to dismiss her claim that she had been subjected to gender-based violence in Greece merely because she had brought it later in the proceedings.»*

K.J. v. Switzerland, § 7.7





«it was incumbent upon the State Party to undertake an ***individualized, trauma-informed and gender-based assessment*** *of the real, personal and foreseeable risk that Z.E. would face, as a* ***woman victim of gender-based violence suffering suicidal ideation****.»*

Z.E. and A.E. v. Switzerland, §§ 8.7 and 11(b)

*«…whether there was any **irregularity and arbitrariness** in the decision-making process regarding Z.E.'s asylum application to the extent that the State Party authorities failed to properly assess the risk of serious gender-based violence if she was returned to Greece under the Dublin III Regulation. The Committee notes Z.E.'s statement that, although she **was interviewed by a woman, the interpreter was a man**.»*

Z.E. and A.E. v. Switzerland, § 8.6





«it was incumbent upon the State Party to undertake an ***individualized assessment of the real, personal and foreseeable risk*** *that the author would face in Italy,* ***as a survivor of trafficking in persons, forced prostitution and severe gender-based violence*** *who suffers from suicidal ideation as a consequence of such violence and the fear of returning to that country.»*

C.O.E. v. Switzerland, §§ 7.6 and 9(b)

2 The Right to Recovery from SGBV Prevents Removal



Duaa Zahra, World, © https://survivorsartproject.com/



«The author emphasizes her right to rehabilitation as a survivor of multiple incidents of sexual and gender-based violence….

…the State Party has not examined in an individualized and sufficiently thorough manner the foreseeable consequences for ***the author's mental health if she is forcibly removed*** *from a country where she is currently in a stable therapy setting.»*

→ Violation also of Art. 12 CEDAW (health)

K.J. v. Switzerland, §§ 5.8, 7.8 and 12

«In Greece, Z.E., a survivor of serious sexual and gender-based violence, would, under hardly any circumstances, have access to the rehabilitation services that she urgently requires and currently has in the State Party…

…that the State Party did not appear to accord ***due weight to Z.E.'s vulnerable status as a refugee and victim of gender-based violence with suicidal ideation****.»*

→ Violation also of Art. 12 CEDAW (health)

Z.E. and A.E. v. Switzerland, §§ 5.12, 8.8 and 9





«…Returning her to Italy would cause such distress that the consequences for her health would be severe or even fatal….

…takes note of …the difficulty of obtaining access to accommodation and to the specialized medical and psychiatric care that she needs in Italy will make it impossible for her, ***as a victim of trafficking in persons, to achieve a full recovery****…*

…the State Party has not sought assurances that she would have access to the specialized medical treatment that she needs as a survivor of trafficking and severe sexual and gender-based violence..»

→ Violation also of Art. 6 (trafficking)

C.O.E. v. Switzerland, §§ 5.10, 6.5, 7.6, 7.7 and 8

3 The Rights of Trafficking Victims Prevent Removal



Alicia Marie Lambert, Hang on Baby Girl,

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*«…moving her to Italy …may be **retraumatizing even if she has access to specialized psychiatric treatment**, since that is the country in which she was a **victim of trafficking** in persons and other severe forms of gender-based violence, and where she was subjected to exploitation of prostitution, rape, physical violence and threats to her life..»*

→ Risk of revictimisation (Art. 6)

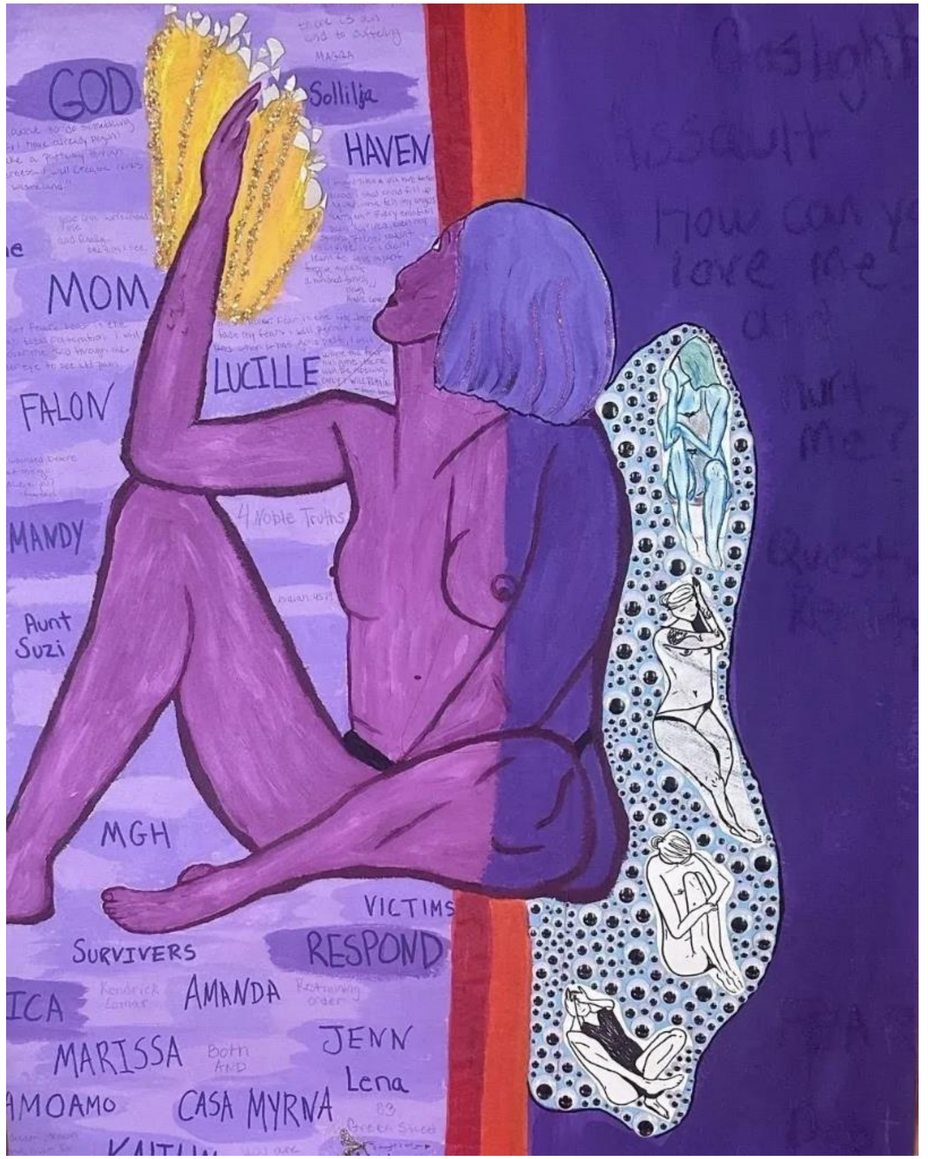
C.O.E. v. Switzerland, §§ 6.4 and 6.5

Outlook

- Importance of procedural flaws, lack of gender-based, trauma-informed, individualized assessment is key

- Focus on case-specific rights: e.g. Art. 6 (trafficking), Art. 9 (statelessness), Art. 10 (education), Art. 11 (employment), Art. 12 (health), Art. 16 (marriage)

- Only well-substantiated cases



Alicia Marie Lambert, And Finally, The Sun I See

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THANK YOU FOR YOUR ATTENTION!

RIGHTS IN SWITZERLAND
AND EUROPE

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