

3.4.1. Collection of diaspora tax

The Swedish Migration Court's reliance on the Security Council resolution concerning Eritrea's diaspora tax collection follows the same logic as the CJEU, grounding the exclusion assessment in an explicit UN determination that the conduct in question contravenes the purposes and principles of the organisation. This is illustrated in *Applicant* v *Swedish Migration Agency* (14 June 2024), wherein the Swedish Migration Court ruled that Eritrea's collection of diaspora tax from Eritreans living abroad using extortion, threats of violence, fraud and other illegal means fall within the ambit of Article 12(2)(c). The court observed that the UN Security Council's resolution concerning the diaspora tax, which was in force from 5 December 2011 to 14 November 2018, clearly supported the view that the Eritrean state used illegal means in the collection of the diaspora tax and obliged Member States to act against those guilty of such acts.

An international dimension was established, as the applicant worked for an Eritrean consular mission, which was directly subordinate to the Eritrean regime and whose activities were attributable to international cooperation. It considered it to be irrelevant that the resolution had been appealed, as the resolution was in force for 7 years when the applicant served at the Eritrean mission. Relying on COI, it also noted that it was not clear whether the resolution was repealed because the information about illegal collection was incorrect or the violations at Eritrean missions had ceased, and therefore the repealing of the resolution did not lead to a different assessment of the applicant’s actions.

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