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## Alliance Against Racial Profiling

We are taking also Mohamed Wa Baile's administrative case to the Federal Court.

Why did we decide to do this?

The court has covered up the racism of the police.

The criminal legal system is still not willing to call institutional racism by its name, and in the recent judgment leaves open the question of whether there was racial discrimination.

The Swiss courts and the authorities must finally recognize racism!

### **Strategic Litigation: "Mohamed Wa Baile v. Switzerland"**

A central element of the work of the alliance is the strategic litigation, "Mohamed Wa Baile v. Switzerland". In this strategic litigation, the focus is not only on the injustice that Mohamed Wa Baile experienced, but also on the fundamental problem of racist police controls. So it is not only about justice for Mohamed Wa Baile, but about society, politicians and police recognizing the problem of structural racism in their policies and practices and opposing them.

### **What is this case about?**

In February 2015, Mohamed Wa Baile refused to identify himself during a police control at Zurich's main train station due to the racist nature of the control. With the support of the

Alliance and many other collectives such as Augenauf, Autonome Schule Zurich, Collectif Afro-Swiss, and many more, the case was taken to court. The case was linked to the goals of exposing injustice and mobilizing resistance.

The proceedings were legally lost in the Federal Court. On March 7, 2018, the Federal Court upheld the conviction of Wa Baile by the Zurich High Court. The Federal Court considers that it was unlawful for Mohamed Wa Baile to refuse to submit to inspection. That is why we decided to go to the European Court of Human Rights. The Court recently asked Switzerland to respond to Mohamed Wa Baile's complaint by February 2021.

We expect that it will now take at least two years until the European Court of Human Rights will make a decision on the case. This gives us time to draw international attention to the proceedings, which are important for people across Europe.

### **There is a second case**

In parallel to the (criminal) proceedings currently pending before the European Court of Human Rights, Mohamed Wa Baile has initiated a second administrative case. This is about the same incident. In this administrative case, however, it is the police who are on trial.

And as I'm sure many of you are aware, the Zurich Administrative Court has ruled in favor of Mohamed Wa Baile. Their reasoning stands: The mere "averting of the gaze" is not behavior that justifies a police control.

**Still, the court did not address the racist basis of the controls, which is why we also want to take this case further to the Federal Supreme Court.**

This judgment shows that the Swiss criminal legal system is still not willing to call institutional racism by its name: it leaves the question of whether there was racial profiling unresolved. Although the Administrative Court states that Mohamed Wa Baile behaved absolutely unsuspectingly, it does not draw a compelling conclusion. It is no coincidence that Mohamed Wa Baile was controlled, even if he behaved like all other commuters. It is his racialization as a Black person that always led to this control. The courts and the authorities must finally recognize structural racism. If there are indications of racial profiling, flimsy reasons are not enough: the police must explain why the respective control was objectively necessary. This is the only way to stop institutional racism.

The Coordination Group of the Alliance against Racial Profiling