



St. Gallen, 25 September 2013

## **FAC confirms freezing and forfeiture of Duvalier assets**

### **C-1371/2010 and C-2528/2011:**

**In its decision of 23 September 2013, the Federal Administrative Court (FAC) ruled against former Haitian President Jean-Claude Duvalier and his fellow complainants, who had challenged the freezing of their assets ordered by the Federal Council in 2002.**

**In its decision of 24 September 2013, the FAC also upheld the asset forfeiture proceedings launched by the Federal Department of Finance (FDF) on behalf of the Swiss Confederation on 29 April 2011.**

**Barring an appeal of these decisions to the Federal Supreme Court, the way is now clear for the restitution procedure of these seized assets to be launched.**

During his term of office, former Haitian President Jean-Claude Duvalier and his entourage had secreted a portion of their assets to Switzerland. By the end of 2010, the total was still over CHF 5 million. These assets have been frozen in Switzerland since 2002, following a decision by the Federal Council. Jean-Claude Duvalier and his fellow complainants responded by challenging this decision before the FAC. In its decision of 23 September 2013, the FAC ruled against the complainants stating that the Federal Council's decision was necessary to preserve Swiss interests. The order to freeze assets has remained effective since 2002 even after the Restitution of Illicit Assets Act (RIAA, SR 196.1) came into force on 1 February 2011.

After the assets of Jean-Claude Duvalier and his fellow complainants were frozen, the Federal Department of Finance (FDF) initiated corresponding asset forfeiture proceedings on 29 April 2011. This step was needed in order to begin the restitution process. In its decision of 24 September 2013, the FAC confirmed that these asset forfeiture proceedings were valid because the assets in question had been obtained illicitly. Specifically, the FAC felt that Jean-Claude Duvalier and his entourage did not demonstrate that the increase in their assets had resulted from activities unrelated to their role as public officials. Moreover, the level of corruption of the Haitian state was notoriously high during the period in which they had held public office. It was therefore concluded that the conditions determining the illicit origin of the assets in question were met.

Both of these decisions may be appealed before the Federal Supreme Court.

### **The Swiss Federal Administrative Court**

The Federal Administrative Court renders judgment in cases of appeal against decrees issued by Swiss federal authorities. In certain matters the court is also authorized to examine decisions

rendered by cantonal authorities and issue judgments on complaints filed against cantonal decisions. Where the Federal Administrative Court is lower instance court, its judgments can be appealed before the Federal Supreme Court. Based in St. Gallen, the Federal Administrative Court accommodates five divisions and a General Secretariat. Approximately 75 judges and 320 members of staff constitute the largest Swiss federal court.

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