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Media relations  
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## **Press Release**

**regarding judgment A-1510/2020 of 7 July 2020**

### **Administrative assistance to France: UBS's status as a party revoked**

**The Swiss Federal Tax Administration has rightly revoked UBS's status as a party to the ongoing proceedings regarding a request for administrative assistance from France. This is the conclusion that the Federal Administrative Court has come to and it rejects the appeal of UBS.**

In its latest judgment on France's request for administrative assistance of 11 May 2016, the Swiss Federal Administrative Court (FAC) addresses the question of whether the bank UBS Switzerland AG (hereinafter: UBS) still has the status of a party to the ongoing proceedings. In the request, the French tax authority (DGFP; Direction Générale des Finances Publiques) asked for the transmission of data regarding over 40,000 UBS bank accounts.

#### **History of the case so far**

In October 2016, the FAC<sup>1</sup> granted UBS party status in the administrative assistance proceedings in question. In February 2018, the Swiss Federal Tax Administration (SFTA) issued eight final decisions as "pilot proceedings" providing administrative assistance. The same year, in July, the FAC<sup>2</sup> affirmed the appeal of UBS against these decisions insofar as it declared it admissible. The SFTA then successfully appealed against this judgment: In July 2019, the Swiss Federal Supreme Court (FSC)<sup>3</sup> found France's "list request" to be admissible, approved the provision of administrative assistance to the DGFP and set aside the judgment of the FAC of July 2018. Against this background, in February 2020 the SFTA revoked UBS's party status for all individual proceedings for which no final decisions had yet been issued. UBS appealed this decision to the FAC.

#### **Lack of interest worthy of protection**

In its current decision, the FAC finds that UBS has undergone all the stages of legal proceedings. UBS has had the opportunity to present its stance and have its objections fully examined. In its judgment of 26 July 2019, the FSC already considered UBS's fears in detail but deemed them to be unfounded. This

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<sup>1</sup> Judgment A-4974/2016 of 25 October 2016

<sup>2</sup> Judgment A-1488/2018 of 30 July 2018

<sup>3</sup> Judgment 2C\_653/2018 of 26 July 2019

judgment is final and legally binding. Therefore, the outcome of further proceedings in the event of a new appeal by the bank is predetermined. Consequently, the interest of UBS to participate in future proceedings is not worthy of (any further) protection.

### **Criminal proceedings in France**

UBS fears that the French tax authority may use the data to be transmitted as evidence in the ongoing criminal proceeding against the bank in France. UBS refers to a judgment made by the competent French court which has not yet been considered by the FSC. The French court found that the data provided within the scope of administrative assistance in 2015 was used unlawfully in the criminal proceedings against UBS. However, it is not evident to the FAC how this could undermine France's assurance given in 2017, which clearly refers to future instances of administrative assistance. The FSC has already addressed in detail the assurance given in July 2017 and deemed it to be adequate. Therefore, the French judgment does not change the situation in such a way as to produce a different legal result. Due to the predetermined outcome, there is no longer interest of UBS in participating in further proceedings that is worthy of protection.

Thus on 12 February 2020, the SFTA rightly revoked UBS's status as a party to the individual proceedings that have not yet been decided. The FAC therefore rejects UBS's appeal.

The decision can be appealed before the Swiss Federal Court within the restrictions of Art. 84a of the Swiss Federal Supreme Court Act of 17 June 2005 (i.e. if the legal question at stake is of fundamental importance or if the case is particularly significant for other reasons, a decision to be made by the Swiss Federal Court).

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### **About the Federal Administrative Court**

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 355 employees (300.8 FTE) and its 74 judges (66.25 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 7,500 judgments every year.