



Media relations
P.O. Box, 9023 St. Gallen

St. Gallen, 22 April 2025

Media Release

regarding judgment B-2399/2021 of 11 April 2025

The Court upholds the lawfulness of an FIS information gathering measure

In its first judgment on the subject matter, the Federal Administrative Court rejects an appeal against an information gathering measure requiring authorisation, within the meaning of the Intelligence Service Act, ordered by the Federal Intelligence Service.

Relying on the Intelligence Service Act of 25 September 2015, the Federal Intelligence Service (FIS) may order information gathering measures requiring authorisation, which are carried out covertly and of which the monitored persons are not made aware. The requisite authorisation is issued by Division I of the Federal Administrative Court (FAC); the Head of the Federal Department of Defence, Civil Protection and Sport (DDPS) must then also give clearance. Upon conclusion of an intelligence gathering operation involving such measures, the FIS must inform the person being monitored, who may lodge an appeal with Division II of the FAC.

Jihadism-related suspicions

In 2015, as reported in the press at the time, the Grande Mosquée du Petit-Saconnex was suspected of radicalisation and of supporting terrorist organisations. As part of an operation seeking to determine what roles certain persons played within the mosque, the FIS ordered information gathering measures requiring authorisation against the head of security of the mosque. The measure consisted in retroactively gathering secondary data from telecommunications with a view to obtaining information about with whom, when, and from where the monitored person was communicating, but not about the content of the telecommunication.

Justified information gathering measure

In its judgment, the Federal Administrative Court examines whether the requirements for such a measure were satisfied and especially whether there is a specific threat to internal or external security. In this respect, the Court holds that there is no need at this juncture to irrefutably prove the existence of the threat since the very purpose of the FIS is to identify threats early. Nevertheless, the existence of the threat must be based on an adequate body of evidence. In this case, the FAC considers that when the measure was ordered, the FIS had sufficient grounds to believe that such a threat existed. Moreover, it notes that the

fact that the suspicions were not ultimately confirmed does not mean that the measure should be considered unjustified. The Court finds that all the requirements for the information gathering measure were satisfied and rejects the appeal.

This judgment may be appealed to the Federal Supreme 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 395 employees (334 FTE) and its 78 judges (70 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative 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 6,500 judgments every year.