



Media relations
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Press Release

regarding judgments A-6908/2017 and A-7102/2017 of 27 August 2019

SFAO deemed to have violated the right to a fair hearing

The Swiss Federal Audit Office failed to include two affected people in an administrative investigation into the sureties for the Swiss Maritime Fleet and to grant them the right to a fair hearing. The Swiss Federal Administrative Court (FAC) has instructed the Swiss Department for Economic Affairs to remove all sections from the final report that refer to the two complainants.

In 2016, the Swiss Federal Audit Office (SFAO) had conducted an administrative investigation in the Swiss Federal Office for National Economic Supply on behalf of the Swiss Federal Department of Economic Affairs, Education and Research (EAER). It compiled its findings in the final report about the granting and managing of sureties for the Swiss Maritime Fleet and transmitted it to the EAER. Several people then asked the EAER to hand over this report on the basis of the Swiss Freedom of Information Act.

At the start of 2017, the EAER informed the people mentioned in the report about the investigation as well as the requests to view the final report. Two of the people in question contested the publication of the report and challenged a corresponding ruling before the Swiss Federal Administrative Court FAC in late 2017.

Right to a fair hearing violated

In its judgements, the FAC found that the complainants were substantially affected by the investigation. Their conduct and the exercising of their office were scrutinised, among other things. The report accused them of various misdeeds and held them responsible for irregularities that were found. It would have been perfectly possible for the SFAO to also include the two affected people in the investigation, thereby granting them the right to a fair hearing. Since the SFAO failed to do so, it has violated their right to a fair hearing, as laid down in the constitution and has severely infringed their personal rights.

Owing to the extent to which they were closely involved, any right to a fair hearing granted later on will not give the investigation subjects sufficient legal protection. The FAC has therefore instructed the SFAO to remove all personal information from the final report that refers to the complainants. The report may be published after this information has been deleted.

These judgments 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 355 employees (305.5 FTE) and its 76 judges (68.4 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.