



St. Gallen, 29 April 2021

Press Release

regarding judgment A-4494/2020 of 20 April 2021

Risk of damage for Switzerland with regard to access to official documents

Swiss Export Risk Insurance has rightly denied a journalist access to official documents on the basis of an exemption in the Freedom of Information Act. The Federal Administrative Court made the decision.

In February 2020, a journalist from the Swiss television station SRF asked Swiss Export Risk Insurance (SERV) for access to an unredacted list of all projects applied for and approved at SERV by the company “Crypto AG” for the period from 2007 up to and including 2018, and also older data from the predecessor institution Export Risk Guarantee if required, as well as from the companies “Crypto International AG” and a third party company. Her request was made based on the Federal Act on Freedom of Information in the Administration (Freedom of Information Act).

With its ruling of 9 July 2020, SERV refused access to the documents requested. The refusal was based primarily on the exemption provisions concerning the endangerment of foreign policy interests or international relations, the threat of disadvantage due to the disclosure of business secrets and the protection of privacy. On 9 September 2020, the journalist appealed this ruling by SERV to the Federal Administrative Court and requested that the ruling be revoked and that she be granted access to the requested documents.

A serious risk

After reviewing the files and examining the submissions, the Federal Administrative Court decided to dismiss the appeal on the basis of an exception to the Freedom of Information Act as lists drawn up fall within the temporal scope of the Freedom of Information Act from 1 July 2006. The court has concluded that the lower authority has transparently demonstrated the risk of damage to Switzerland's international relations if access is granted. The foreign policy aspects of the decision can only be reviewed by the court with restraint. In the appeal proceedings, SERV referred to diplomatic tensions that had already occurred and specifically explained how access to the documents could affect Switzerland's international relations.

Since it must be assumed that there is a serious risk that publishing the listed information could harm Switzerland's foreign policy interests and international relations, refusing access to the disputed lists is justified.

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 353 employees (297.3 FTE) and its 73 judges (65.15 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 7200 judgments every year.