



St. Gallen, 22 April 2026

Media Release

regarding judgment A-4286/2022 of 20 April 2026

Facial recognition: limited access to official documents

The association Digital Society applied for access to two official documents relating to the use of facial recognition software. The Federal Administrative Court decided that the Federal Intelligence Service must disclose individual chapters of one of these documents.

The association Digital Society (Verein Digitale Gesellschaft) had applied to the Federal Intelligence Service (FIS) for access to two official documents relating to the use of facial recognition software. The software in question is a search engine which captures an individual's key features and searches through previously stored data for new insights. The FIS rejected the application. The applicants appealed this decision to the Federal Administrative Court (FAC).

Statutory basis for software use

The use of facial recognition software involves the processing of biometric data. Processing biometric data constitutes a serious infringement of the data subject's fundamental rights and therefore requires the existence of a sufficiently specific statutory basis. Whether the use of facial recognition software by FIS is covered by such a basis, and whether this basis provides adequate protection against unlawful data processing was left open in the case at hand.

Exception to freedom of information

The Intelligence Service Act exceptionally excludes official documents relating to information gathering from the freedom-of-information principle. In its judgment, the FAC establishes that the notion of information gathering must be broadly construed. Apart from the collection of data, it encompasses all further data processing by the FIS. Moreover, the legislator intended that the exception to freedom of information should apply regardless of the lawfulness of data processing.

Application for access by Digital Society

The documents covered by the application for access contain information about the operative and technical information-gathering capabilities of the FIS. To this extent, they are exempt from the freedom-of-information principle. However, one of the requested documents contains additional information on the statutory basis for the use of facial recognition software. This information does not relate to intelligence gathering and cannot be used to draw any conclusions in this regard. In respect of this information, the document is subject to freedom of information,

and access must be granted. The FAC therefore partially upholds the appeal. The appeal is otherwise dismissed.

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 79 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 7,000 judgments every year.