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Media relations  
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## **Press Release**

**regarding judgments B-3515/2020 and B-4393/2020 of 2 December 2020**

### **“Crypto Affair”: export licence applications to remain suspended**

**Various individual export licence applications for encryption modules and devices will remain suspended until the Office of the Attorney General has completed its investigations into the matter. The Federal Administrative Court dismisses the appeals from Crypto International AG and TCG Legacy AG in Liquidation without entering into the substance of the case.**

In December 2019, the State Secretariat for Economic Affairs (SECO) suspended general export licences for encryption devices and filed a criminal complaint with the Office of the Attorney General against unknown person(s) for violations of the Goods Control Act in February 2020.

In June 2020, the Federal Council suspended various individual export licence applications submitted in January and February 2020 by Crypto International AG and TCG Legacy AG – formerly Crypto Group AG and now in liquidation – until the investigations by the Office of the Attorney General are completed. The Federal Council instructed SECO to inform the companies concerned accordingly. In July 2020, SECO issued rulings suspending the individual export licence applications. Another export licence application submitted by TCG Legacy AG *after* the Federal Council's decision was also temporarily suspended by the lower instance. The two companies lodged an appeal before the Federal Administrative Court (FAC) against the suspension decisions.

#### **Suspension decision remains in force**

The FAC dismisses the two appeals without entering into the substance of the case as far as the suspension of individual export licence applications submitted to the Federal Council in June 2020 is concerned. The court has concluded that the suspension decision is an “act of government” (“acte de gouvernement”) based primarily on political considerations remaining in the responsibility of the government, which is why it is beyond judicial challenge. The FAC has also determined that international law does not grant any right to judicial review either, as the contested suspension decisions neither conclude the proceedings nor are intended to prejudice the main issue.

As the court dismisses the appeals concerning the individual export licence applications submitted to the Federal Council in June 2020 without entering into

the substance of the case, the respective suspension decision remains in force. The examination of these individual export applications remains suspended until the Office of the Attorney General reaches its decision.

The court has come to a different conclusion regarding the individual export licence application filed after the decision of the Federal Council. As there is nothing in this decision to suggest that it would also cover future applications, the FAC has upheld the appeal and quashed the suspension decision in question.

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 (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 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 7,500 judgments every year.