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

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## **Press Release**

### **regarding judgment A-4782/2023 of 22 April 2024**

## **Sexual harassment not established**

**A federal employee was dismissed with immediate effect for sexual harassment. The Federal Administrative Court ruled that the evidentiary threshold had not been met and partially accepted the employee's appeal.**

A federal employee was dismissed without notice for serious cause following an internal investigation that found him to have sexually harassed a co-worker. The latter had reported groping and verbal abuse. The terminated employee appealed his dismissal to the Federal Administrative Court. He disputes the existence of a serious ground for immediate dismissal, and maintains that he is the victim of a conspiracy. Demanding CHF 65,000 by way of compensation, he does not ask to be reinstated.

### **Evidentiary threshold for “serious grounds” not met**

The Court confirmed that in principle sexual harassment constitutes a serious ground for immediate dismissal. Contrary to certain rules applicable in specific areas, there is no alleviated standard of proof in the case of immediate dismissal based on sexual harassment allegations. More specifically, it is not sufficient to establish that the allegations are plausible. The threshold to be met is higher: the authorities must not have any serious doubts as to the truth of the allegations.

Accordingly, the Court made an overall assessment of the evidence. Considering the inconsistencies, vague accounts, and doubtful chronology, the Court determined that the above-mentioned evidentiary threshold had not been met. Consequently, the serious ground for dismissal had not been proven. The immediate dismissal was therefore not justified.

### **Lower compensation than requested**

If serious grounds for dismissal are not established, compensation must be paid to the terminated employee. The Court awarded the plaintiff a salary compensation for the employment duration up until the end of the ordinary notice period. Moreover, the plaintiff was granted compensation in the amount of three months' salary. The Court thus reduced the compensation claimed by the plaintiff, taking into account his conduct which had not always been above reproach.

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 375 employees (314.7 FTE) and its 73 judges (65 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.