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Media relations  
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## **Press Release**

**regarding judgment A-4488/2021 of 7 August 2023**

### **Lucerne transport company must repay subsidies**

**Lucerne transport company VBL must reimburse a total of CHF 211,054 from the federal subsidies it received since 2012. This is the decision reached by the Federal Administrative Court.**

From 2010 onwards, the transport company verkehrsbetriebe luzern AG (vbl) entered into annual service level agreements for its regional passenger transport services with purchasers Verkehrsverbund Luzern (VVL; Lucerne transport association) and the Federal Office of Transport (FOT). It did so in its capacity as a subsidiary of the holding company Verkehrsbetriebe Luzern AG (VBL).

In the controlling-report for the 2017 season, vbl disclosed that it had paid VBL an imputed interest rate of around 3% for the use of its vehicles. In 2021, the FOT claimed that these imputed interest rates led to the transport company receiving excessive subsidies between 2010 and 2017. Accordingly, the FOT ordered the repayment of CHF 242,737. VBL lodged an appeal against this decision with the Federal Administrative Court (FAC).

The FOT took the view that the imputed interest rates were not absolutely necessary and were therefore unfounded and inadmissible. Only interest actually accrued and return on equity approved by the purchasers could be taken into account. It was deemed that the imputed interest rates charged within the group had led to a breach of the rules on the appropriation of profits. VBL, on the other hand, did not see this as an illegal action and considered the interest payments as a contribution to the entrepreneurial risk of the City of Lucerne (as owner).

The FAC determines that the return on equity was not approved either for vbl or VBL. Thus, the interest charged to vbl was unlawful insofar as it exceeded the interest actually accrued by VBL. The corresponding costs charged by the parent company of the subsidiary are not absolutely necessary expenses under the Subsidies Act (art. 14 para. 1 SubA). The FOT was justified in demanding the return of the excessive subsidies received as a result.

However, the appeal is allowed for the years 2010 (statute of limitations) and 2011 (legitimate expectation). In all other respects, the FAC dismisses the appeal and orders the VBL to repay a total of CHF 211,054 for federal subsidies unjustifiably received between 2012 and 2017.

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 351 employees (296.1 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.