

The Swiss sector and the dispute over tax and labour law

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The binational structure has been a source of legal disputes for decades. The 1949 Convention regulated the construction and operation of the airport but did not exhaustively determine which law applies to companies located in the Swiss sector. Since the airport lies on French territory, French law applies in principle. Swiss law applies only where the convention expressly provides for it, especially in matters of customs and police.¹ For decades the companies in the Swiss sector, among them airlines, maintenance firms and logistics companies, nevertheless operated under Swiss law in practice.

The question of labour law became acute in the 2000s, when employees of companies in the Swiss sector brought claims before French labour courts. The French courts held that French labour law applied, which exposed the companies to the French rules on working time, dismissal protection and social charges.² The uncertainty threatened the business model of companies such as maintenance and aircraft completion firms. France and Switzerland negotiated an arrangement under which companies in the Swiss sector could apply Swiss labour law under defined conditions, combined with protection for employees.³

A parallel dispute concerned taxation. The French tax administration sought to apply French corporate tax to companies in the Swiss sector and to extend French taxes on air transport to flights from the Swiss sector. The uncertainty affected investment decisions and led to fears that companies would leave the airport.⁴ After lengthy negotiations, the two governments reached an agreement in 2017 that confirmed the application of Swiss tax law to companies in the Swiss sector for corporate income tax. France, in return, received a share of revenue from certain airport-related taxes.⁵ The agreement restored legal certainty for the companies concerned and removed one of the major obstacles to the airport's development.

These disputes show the importance of legal certainty for an international airport. They also illustrate the general difficulty of applying two legal systems on one territory. The 1949 Convention was drafted in a period of close Franco-Swiss cooperation and contained gaps that the parties filled through practice. When the courts or tax authorities questioned that practice, only a formal intergovernmental agreement could restore certainty.

1 Notes

1. On the legal regime applicable in the Swiss sector of the EuroAirport and the principle of French territorial sovereignty under the 1949 Convention, see the literature on the convention and the reports of the Federal Council to the Federal Assembly on the EuroAirport. To be verified. ↩
2. On the decisions of the French labour courts and the Cour de cassation concerning the application of French labour law to employees of companies in the Swiss sector of the EuroAirport, see the case law of the Cour de cassation (chambre sociale) from about 2009 onwards and the reports of the Federal Council. Case references to be verified. ↩
3. On the Franco-Swiss arrangement on labour law in the Swiss sector of the EuroAirport, concluded in about 2012, and its conditions, see the communications of the Federal Department of Foreign Affairs and the French Ministry of Labour. Date and content to be verified. ↩
4. On the tax dispute concerning companies in the Swiss sector of the EuroAirport and the threat of application of French corporate tax from about 2014 onwards, see the reports of the Federal Council and the contemporary press (e.g. Neue Zürcher Zeitung, Basler Zeitung). To be verified. ↩
5. On the Franco-Swiss agreement of 2017 on the tax regime of the EuroAirport, which confirms the application of Swiss corporate tax to companies in the Swiss sector and regulates the airport taxes, see the joint communiqué of the two governments and the subsequent implementing instruments. Date and content to be verified. ↩

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