

Group requests and administrative assistance

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The adoption of the OECD standard opened the way to requests for administrative assistance that became ever more numerous and ever broader. Foreign tax authorities first submitted individual requests, aimed at identified taxpayers. They then formulated group requests, aimed at categories of taxpayers defined by behavioural criteria, for example account holders who had not responded to their bank's request to prove their tax compliance.¹

Some requests concerned lists of accounts of considerable size. A French request relating to tens of thousands of accounts at a major Swiss bank gave rise to lengthy proceedings, decided by the Federal Supreme Court.² These proceedings raised delicate questions: sufficient identification of the persons concerned, the principle of speciality, the use of the information obtained, and the protection of the data of persons not concerned.

For Geneva institutions, these procedures require a rigorous organisation: identification of the accounts concerned, notification of the clients, collection of the documents, and transmission to the Federal Tax Administration, which conducts the procedure. The clients concerned may assert their rights before the Swiss courts, which has given rise to an abundant body of case law.

1 Notes

1. ATF 143 II 136 (judgment of 12 September 2016): admissibility of a Dutch group request based on a pattern of behaviour, without naming the taxpayers; see Centre de droit bancaire et financier (Liégeois, 12 December 2019, cdbf.ch), which recalls this case law in connection with the French request relating to UBS accounts. ↩

2. Federal Supreme Court, judgment 2C_653/2018 of 26 July 2019, published as ATF 146 II 150, commented on at the Centre de droit bancaire et financier (Liégeois, 12 December 2019, cdbf.ch): French request concerning some 40,000 UBS accounts (list A of 1,130 accounts, 97 % of whose holders were domiciled in France, with a sample of 183 accounts examined); France had provided on 11 July 2017 an assurance that the principle of speciality would be respected. ↩

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