

External employees in the federal administration

Summary of the report of the Parliamentary Control of the Administration for the attention of the Council of States Control Committee

of 10 April 2014

Overview

In the federal administration, external employees often carry out functions similar to those of internal staff employed under public law. In January 2012 the Control Committee of the Council of States (CC-S) commissioned the Parliamentary Control of the Administration (CPA) to conduct an analysis of the extent, legal status, transparency and appropriateness of using external employees in the federal administration. Having analysed the quantitative data on external positions throughout the Confederation, the CPA conducted a comprehensive study of the use of external employees in nine administrative units in all seven departments. It collected data on more than 900 contracts and conducted interviews with almost 120 people, including 27 external employees, 35 members of directorates, legal services and acquisitions services and 48 federal administration staff directly involved in recruiting external employees. The CPA also analysed relevant documentation, where available.

The results from the nine administrative units are representative of the problems and issues in using external employees. Although it is not possible to determine the extent of the phenomenon in the whole of the federal administration, a good estimate of spending and numbers of external employees can be made from the nine units studied.

A widespread phenomenon, especially in IT

In 2012, expenditure on external staff amounted to more than 137 million Swiss francs for the nine administrative units analysed. These expenses related to IT (CHF 114 million) and some other areas (scientific, administrative) (CHF 23 million). The use of external employees corresponds to approximately 500 full-time employees (11 % of total full-time equivalents) in the nine units studied. On average, the annual cost of an external employee is about 40-50 % higher than that of an internal employee. However, these cost differences vary considerably from case to case.

Questionable practices from a legal point of view

Only a quarter of the contracts are named in such a way so as to correctly reflect the employment relationship. This approximate way of defining the employment relationship suggests that in some cases the provisions relating to employment contracts or service contracts are not being respected.

The high number of contracts awarded by mutual agreement casts doubt on whether the goals set by legislation on the awarding of public contracts to promote competition and the economic use of public funds are in fact being complied with. Although the

law provides for exceptions to the tendering process, on average exceptions are made in 30 % of the cases.

As most external employees are employed by a company, engaging outside employees does not pose any problems in terms of social insurance. The independent status of a few externals in some offices is questionable, given the regularity and the high number of commissions involved.

The legal provisions regarding security staff checks are not applied uniformly. Only those administrative units working in IT are aware of the potential risks and state that they conduct systematic controls for both internal and external staff. These units also exercise a restrictive policy on data access and implement other security measures (demanding an extract from the register of convictions, for example), in particular as in most cases freelancers are already working in these offices before the result of the security check is known. Although this situation is legally compliant, it nonetheless raises the question as to the usefulness of a security check whose result is not known until after the external collaborator begins their employment (sometimes several months later).

Lack of transparency

There are different degrees of internal transparency in the nine administrative units studied. The problems connected to the employment of externals are generally known within individual units; however, in more than half of the units studied, it proved very difficult to identify this type of employee.

There is little or no external transparency vis-à-vis the parliament and the rest of the administration regarding how many externals are employed and how much they cost. Given the facts that some offices employ large numbers of externals and that uneconomic choices are sometimes made as a result of fixed personnel budgets, the lack of financial transparency needs to be stressed. Parliament needs to be aware of all the costs of internal and external staff in order to be able to manage federal finances properly. The CC-S therefore requested back in 2007 that costs relating to service contracts for external staff should be made available. The Federal Council, however, rejected this recommendation.

Recruitment of externals inappropriate in many cases

Whilst the majority of administrative units state that they recruit external employees only when specific expertise is temporarily required or to cope with considerable workloads, the actual practice looks rather different. In fact, a great many externals are employed in administrative units for long periods and carry out activities which are actually core tasks of the office. Half of the 137 million Swiss francs spent for external employees in 2012 concerned cases found to be inappropriate as a result of the high costs, regularity and/or dependence or security risks involved.

Lack of oversight

Outsourcing certain activities, reintegrating other activities by creating internal positions or employing externals in order to cope with peaks in workload are all options which need to be considered according to the costs, risks and requirements involved. The administration needs room for manoeuvre, but the decision as to how to acquire skills and expertise should be based on a medium- to long-term strategy, which the government and several administrative units do not currently have.

There is often no clear distinction between the tasks which should always and solely be carried out internally and those which are suitable for being carried out externally, either by recruiting external staff or by outsourcing certain tasks entirely. Exceptions to this include the work currently being done on an external basis at the Federal Office of Information Technology, Systems and Telecommunication and at the Armed Forces Command Support Organisation and the work that has already been carried out at the Federal Office of Public Health.

Furthermore, as greater attention is paid (by parliament, the Federal Council, departments and directorates of administrative units) to expenditure on staff than on goods and services, this can result in uneconomic practices which are also sensitive from the point of view of security and dependence on external employees.

In the current climate there is considerable pressure on staff expenditure and the number of tasks taken on by the administration is growing, and so it is understandable that the federal offices should take on external employees. However, considering the extent of the phenomenon and the costs and risks involved, it must be stated that there is too little oversight by the departments and Federal Council in this area.

The full report is available in German and French; the Italian version should be ready around January 2015: www.parlament.ch > Bodies and Council Members > Committees > Parliamentary Control of the Administration PCA