

# 2017 Annual Report of the Parliamentary Control of the Administration

## Appendix to the 2017 Annual Report by the Federal Assembly Control Committees and Control Delegation

of 30 January 2018

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### The activities of the PCA in 2017 at a glance

*In 2017 the Parliamentary Control of the Administration (PCA) published two evaluations and completed a further two. It also continued one evaluation, launched two new ones and dealt with two minor assignments. Furthermore, the PCA submitted topic proposals for the 2018 annual programme of the Federal Assembly Control Committees (CCs) and drew up the framework upon which it processes its evaluations and the follow-up monitoring by the CCs.*

#### **Completed investigations**

*In recent years, free trade agreements (FTAs) have gained considerably in importance. Their aim is to boost foreign trade and improve access to foreign markets for Swiss businesses. However, the **impact of free trade agreements** often remains unclear. For one thing, their effects may be difficult to measure, as foreign trade developments are influenced by a number of political and economic factors. What is more, it is often unclear how the Federal Council and Federal Administration assess the impacts of such agreements, or upon what basis they do so. The CCs thus commissioned the PCA to conduct an evaluation of this issue. The evaluation report was published in July 2017. It concluded that the Confederation only has limited systematic information on the impact of FTAs. The standard analyses to assess their expected impact focus on trade in goods. More recent FTAs, however, also include trade in services, are designed to promote foreign investment and contain provisions on facilitated access to public procurement markets and on promoting sustainable development. Once an FTA comes into effect, the Administration does not conduct any systematic monitoring of its impact. Joint committees are created with the FTA partner states to oversee and monitor the implementation of the agreements; however, their activities lack transparency. Reporting on the impact of the FTAs in the Federal Council dispatches and reports is also highly standardised and not geared specifically towards the individual FTAs.*

*An increasing number of Swiss cities and communes are introducing **electronic vote counting (e-counting)**. Votes are still cast on ballot papers, but these are then scanned and counted by customised software. Questions are being raised in a number of quarters regarding the security and scope for manipulation of this procedure. The Federal Council is required by law to approve the use of electronic vote counting. The PCA was commissioned by the CCs to evaluate whether responsibilities are appropriately assigned and whether federal requirements in the*

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approval process are adequate; and also, to assess the accuracy of electronic vote counting. The evaluation concludes that the federal requirements for e-counting are insufficient and largely inadequate. At the same time, the Confederation has limited audit possibilities. Applications from the cantons are systematically assessed by the Political Rights Section at the Federal Chancellery (FCh), but the FCh does not fully exploit the scope available to demand high security standards. An examination showed that electronic and manual counting systems are equally accurate, but that ballot papers should still be checked systematically before being counted electronically.

Asylum seekers who have their application for asylum rejected must leave Switzerland. If there are signs that an unsuccessful asylum seeker might try to avoid the enforcement of the removal, the cantonal authorities may order their administrative detention – detention pending deportation. The Confederation contributes to the costs of detention. It is questionable whether the cantons use **administrative detention in the asylum sector** appropriately. The CCs therefore commissioned the PCA to conduct an evaluation of the effectiveness and appropriateness of administrative detention and of the role of the Confederation. The PCA presented the results to the CC-N FDJP/FCh sub-committee in November 2017. The sub-committee is currently considering its conclusions and recommendations on the basis of these results.

Economic sanctions are sovereign measures applied to impose international law. When it joined the UN in 2002, Switzerland committed itself to participating in any sanctions imposed by the UN. In the case of EU sanctions, the Federal Council weighs up the various foreign policy aspects, foreign economic policy aspects and legal criteria when deciding whether to adopt the sanctions. In order to participate in international sanctions, it issues sanctions ordinances based on the Embargo Act. The Federal Administration plays a key role in preparing and applying these ordinances. Parliament is not involved. The PCA was therefore commissioned by the CCs to review the role of the Federal Administration in the preparation and application of sanctions ordinances. The PCA presented its report on the **Confederation's role in economic sanctions** to the CC-S FDF/EAER sub-committee in November 2017. The sub-committee is currently considering its conclusions and recommendations on the basis of this report.

### **Ongoing investigations**

The population development scenarios drawn up by the Federal Statistical Office (FSO) provide the Confederation and cantons with an essential planning basis in a range of policy sectors and are also of value to the economy. In the past, actual population development in Switzerland outstripped even the strong-growth scenario after only a few years, calling into doubt the quality of the prognostications. The FSO also regularly publishes cantonal population scenarios besides the national ones. Canton-specific aspects do not play a large role in the processing of the statistics. Some cantons therefore develop their own population scenarios based on more specific hypotheses. Consequently, the CCs tasked the PCA with evaluating the **appropriateness and quality of the FSO's population scenarios**. The PCA report is

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due to be presented to the relevant CC-S FDHA/DETEC sub-committee in the first quarter of 2018.

The Federal Council and the Federal Administration are required to provide information to Parliament, the cantons and the public (Art. 10 of the Government and Administration Organisation Act). However, the **Confederation's public relations activities** frequently come in for criticism. Firstly, there are very few general administrative requirements for the government departments and offices. While the FCh is tasked with coordinating the Confederation's public relations activities, the departments and offices are relatively autonomous with regard to their information policy. Secondly, questions are occasionally raised about the appropriateness of the structural organisation, the content and the financial resources spent on the Confederation's public relations activities. In January 2017 the CCs thus tasked the PCA with evaluating the Confederation's public relations activities. The PCA will present its report to the relevant CC-N FDHA/DETEC sub-committee in early 2019.

When investigating felonies and misdemeanours, the prosecution authorities and police can request a DNA analysis to identify persons and to compare with samples found at the crime scene. The number of **DNA analyses conducted in criminal proceedings** has risen dramatically in recent years. According to the Federal Supreme Court, however, a DNA analysis encroaches on fundamental rights, and must therefore be proportionate. Some criticise that the police in some cantons now gather this identification data far too readily, and that DNA analyses are now requested practically on a routine basis; such practices are disproportionate and not in line with the statutory bases. The CCs therefore tasked the PCA with evaluating the appropriateness of the practice of conducting DNA analyses in criminal proceedings, and the Confederation's supervisory function assumed by the Federal Office of Police (fedpol). The PCA will present the results of its evaluation to the CC-S FDJP/FCh sub-committee in early 2019.

In 2013 the CC-N published the PCA's evaluation of **the procedure for appointing senior management** by the Federal Council and its own inspection report containing several recommendations to the Federal Council. In a follow-up to this inspection the CC-N gave the PCA the minor assignment to review whether the measures to improve the procedure for appointing senior management had been implemented. As there were very few new office directors and state secretaries in 2017, the minor assignment was extended to 2018. The PCA will be able to present its report to the CC-N FDF/EAER sub-committee in the second quarter of 2018 at the earliest.

Following the evaluation by the PCA on **external employees in the Federal Administration**, which exposed the various problems and challenges in this area, in 2014 the CC-S approved a report for the Federal Council containing six recommendations regarding better regulation of the use of external employees. In the follow-up process now launched, the CC-S has commissioned the PCA with establishing the extent to which the government departments and offices have in fact changed their practices with regard to employing external staff in the light of various measures taken by the Federal Council. The PCA is due to present its report to the relevant committee of the CC-S in June 2018.

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### *New evaluations in 2018*

*When approving their annual programme on 30 January 2018, the CCs tasked the PCA with conducting two new evaluations on **administrative and disciplinary investigations in the Federal Administration** and the **application of adopted motions and postulates**. They also set the **biodiversity action plan** as a reserve topic for an investigation.*

The full annual report is available in French and German; the Italian version should be ready around March 2018 ([www.parliament.ch](http://www.parliament.ch)).