

2018 Annual Report of the Parliamentary Control of the Administration

Appendix to the 2018 Annual Report by the Federal Assembly Control Committees and Control Delegation

of 28 January 2018

The activities of the PCA in 2018 at a glance

In 2018 the Parliamentary Control of the Administration (PCA) published three evaluations and completed one minor assignment. It also continued two evaluations, launched two new ones and dealt with a further minor assignment. Furthermore, the PCA submitted topic proposals for the 2019 annual programme of the Federal Assembly Control Committees (CCs) and provided support to the committees in processing evaluations and the follow-up to these.

Completed investigations

*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 removal from the country, the cantonal authorities may order that they be placed in administrative detention. The Confederation contributes to the costs of detention. The CCs commissioned the PCA to evaluate the effectiveness and appropriateness of **administrative detention** and assess the role of the Confederation. In its report, published in 2018, the PCA came to the conclusion that the system of administrative detention satisfactorily achieves the aim of ensuring the removal of persons whose asylum application has been rejected. 12,227 of the 61,677 asylum seekers who received a negative asylum decision between 2011 and 2014 were placed in administrative detention. In Dublin cases, nearly all of these detentions resulted in the person's removal, and in the case of removal to the country of origin, in two thirds of the cases. Overall, administrative detention is used appropriately, although there are considerable differences between the cantons regarding the frequency and timing of ordering administrative detention, its duration, and the detention of minors. This raises questions regarding legality. The federal government has until now been reluctant to harmonise the enforcement system, but there are now more signs of a move towards greater oversight at federal level. The evaluation also showed that the State Secretariat for Migration's data management is inefficient and liable to error.*

*Economic sanctions are measures taken to enforce international law. As a member of the UN, Switzerland is required to enforce sanctions imposed by the UN Security Council. In the case of EU sanctions, the Federal Council decides whether or not to adopt them after weighing up the interests involved. On behalf of the Council of States Control Committee (CC-S), the PCA evaluated the **Confederation's role in the***

application of economic sanctions. Its evaluation, published in autumn 2018, concludes that the government's sanctions policy strategy is transparent. The Federal Administration also adequately prepares the sanction ordinances with which the Federal Council enforces the sanction measures in Switzerland. However, weaknesses were identified in the enforcement and monitoring of sanctions and in the directing of sanctions policy. The State Secretariat for Economic Affairs, for example, does not make full use of its monitoring powers, nor are the sanction measures systematically monitored. There is no comprehensive approach to dealing with recurring issues in the application of sanctions, and so no improvements are made to managing sanctions policy. This said, no systematic violations of sanctions by Swiss companies could be detected in the analyses carried out in the evaluation. However, some isolated problematic cases were identified which the government authorities were unable to explain to the PCA.

*The national and cantonal population development scenarios drawn up by the Federal Statistical Office (FSO) provide an essential planning basis for federal and cantonal policy as well as for the private sector. In the past, actual population growth in Switzerland has outstripped the FSO's strong growth scenario after only a few years. As a result, the CCs commissioned the PCA to evaluate the **fitness for purpose and quality of the FSO population scenarios**. The PCA's evaluation report, published in 2018, finds that the FSO's population development scenarios are essentially fit for purpose. Any deviations in the scenarios are on a similar scale to those in comparable countries, and the process of drawing up the scenarios is appropriate. The FSO section responsible for the scenarios has the necessary freedom to draw up the scenarios in a professionally independent manner. There are, however, some reservations regarding the cantonal scenarios published by the FSO. Very few cantons use these FSO scenarios, since they are believed to be too imprecise and lack detailed structure. This is not only due to the methodological difficulties in drawing up the scenarios; it is felt that the cantons are not sufficiently involved in the process.*

*In 2013, the National Council Control Committee (CC-N) published the PCA's evaluation of the Federal Council's **procedure for electing senior management** and its own inspection report containing several recommendations to the Federal Council. In its follow-up to this inspection, the CC-N commissioned the PCA to conduct a minor assignment to ascertain whether the measures taken to improve the senior management election procedure had been implemented. The PCA presented its results to the CC-N FDF/EAER sub-committee on 8 November 2018. The sub-committee is currently in the process of deriving conclusions and recommendations from the report.*

Ongoing investigations

*The Federal Council and the Federal Administration are required to ensure that Parliament, the cantons and the general public receive adequate information (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 with regard to information policy. While the Federal Chancellery (FCh) is tasked with coordinating the Confederation's public relations*

activities, the departments and offices are relatively autonomous. 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 the fact that the police in certain 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 instructed the PCA to evaluate the appropriateness of the practice of conducting DNA analyses in criminal proceedings, and to assess 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.

If there is suspected misconduct in any part of the Federal Administration, the competent authority may order an investigation into the situation. An administrative investigation examines aspects that relate to the correct functioning of the service in question. A disciplinary investigation, on the other hand, examines whether an individual has breached their obligations under labour law. Recent investigations have highlighted a range of problems. Both procedures raised questions about the legal requirements to be complied with and how to reconcile the public interest with protection of the persons concerned. In addition, there were issues concerning the competence and independence of the bodies carrying out the investigations. The CCs therefore instructed the PCA to evaluate **administrative and disciplinary investigations in the Federal Administration**. The PCA will present the results of its evaluation to the CC-N FDFA/DDPS sub-committee in mid-2019.

Motions and postulates presented in parliament are a key instrument in relations between the legislative and executive bodies. A motion instructs the Federal Council to submit a bill or measure, while a postulate requires the Federal Council to investigate a particular issue and submit a report. Questions have arisen about how the government **responds to motions and postulates adopted by Parliament**, in particular whether it responds to them appropriately and within a suitable timeframe, and about the follow-up by the departments and the FCh. In January 2018 the CCs thus commissioned the PCA to assess how the government responds to adopted motions and postulates. The PCA will present the results of its evaluation to the CC-S FDJP/FCh sub-committee in the second quarter of 2019.

Based on an evaluation by the PCA of the use of **external employees in the Federal Administration**, in 2014 the CC-S approved a report containing six recommendations to the Federal Council regarding better regulation of the use of external employees. In the follow-up to this investigation, the CC-S gave the PCA a minor assignment to assess the extent to which government departments and offices have in fact altered

their practices in response to various measures taken by the Federal Council. The PCA is due to present its report to the CC-S FDF/EAER sub-committee in the first half of 2019.

New evaluations in 2019

*In view of the many ongoing investigations to be completed in the current legislature, the CCs have asked the PCA to carry out only one new evaluation when adopting their annual programme on 28 January 2019, on the **assignment of cases among the Federal Courts of Justice**. The CCs have also identified **quality control of invalidity insurance medical reports** as a reserve topic for an investigation.*

The full annual report is available in French, German and Italian (www.parliament.ch).