

# Audit of implementation of the 2016 courts organisation project

## Federal Administrative Court

### Key facts

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The Federal Administrative Court (FAC) deals with more than 7,000 items of business annually, mainly complaints from the Federal Administration's area of responsibility. There are currently 76 judges and around 356 other staff working at the court. In the field of case law, the court is organised into six sections, each of which is assigned different matters. The FAC budget for 2018 was around CHF 87 million.

With the 2016 courts organisation project (GO 2016), the FAC aimed to review and optimise its organisation. The main thrust of the project was to improve the management of the departments and achieve a fairer distribution of the business burden between the departments. The aim of the Swiss Federal Audit Office's (SFAO) audit was to assess the achievement of GO 2016 targets. The SFAO concludes that the GO 2016 project was geared to an existing need for action, but that its impact was rather limited.

#### **Management of the departments has improved, but remains a challenge**

The responsibilities of the department president for the administrative and organisational management of the department were clarified in GO 2016 and defined in the business regulations. The project also divided the two chambers of the former department III into two smaller, independent departments, thus optimising their manageability.

However, the management of the departments remains a challenge even since GO 2016. Effective management instruments for exercising their responsibilities, which are also intended to ensure the efficient fulfilment of tasks, are still scarcely available to the presidents of the departments, which can have a negative impact.

The SFAO therefore recommends strengthening the role of the department presidency within the existing scope for action. One measure could be to define performance indicators for judges, taking into account departmental objectives.

#### **FAC should control distribution of business burden more actively**

A trigger for GO 2016 was the high level of outstanding issues of one department. A certain improvement in the situation was achieved by reallocating human resources and materials between the departments. The extension of responsibility for certain asylum cases to an additional department has also led to a moderate increase in the flexibility of the court.

From the SFAO's point of view, the current situation with regard to the distribution of the business burden among the departments does not yet correspond to the needs of the court. In view of the significant fluctuations in the number of submissions, it is important that conditions are created at the FAC so that distribution can be more easily controlled within the court if necessary. The EquiTAF project, which had not yet been completed at

the time of the audit, is intended to improve the information basis for distributing the business burden. In addition, the SFAO considers it important to improve the information basis on pending FAC proceedings, for example by systematically recording the length of time during which proceedings are suspended.

### **FAC currently having more trouble coping with business burden**

Various indicators show that the FAC is currently having more difficulty than in the past in coping with its business burden. Within four years, the number of pending cases has increased by more than 40% and by mid-2018 had reached almost 5,800 cases. In addition, the average duration of proceedings has increased. In the area of asylum law, it is becoming increasingly difficult to meet the deadlines set. GO 2016 has thus so far not made any noticeable contribution to the FAC being able to cope better with the business burden.

The situation is likely to be partly related to the nature and complexity of the incoming and pending cases in court. In view of the current situation, the SFAO believes that efficiency issues should be given high priority at the FAC.

**Original text in German**