

# Audit of pension payments for magistrates

## Federal Chancellery, Federal Supreme Court

### Key facts

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The Federal Act on the remuneration and occupational retirement benefits of members of the Federal Council, judges of the Federal Supreme Court (FSC), and the Federal Chancellor and Vice-Chancellor (referred to as magistrates) and the corresponding ordinance govern the remuneration during and after the term of office of these magistrates.

At the request of the Finance Delegation (FinDel), the Swiss Federal Audit Office (SFAO) examined the pensions of the magistrates for the first time. The aim of the audit was to assess whether the pensions were calculated and paid correctly and in accordance with the law. The audit outcome was positive. The system is based on both clear entitlement rules and the personal responsibility of the pension recipients. Total costs amount to around CHF 15 million per year. The system is simple and efficient and requires only minor corrections. For example, the SFAO recommends that the Federal Chancellery (FCh), in cooperation with the FSC, take appropriate measures to exclude retroactive claims to retirement and survivors' pensions or to limit them to a strict period of time.

#### **Around a hundred former magistrates are entitled to federal benefits**

A pension is equivalent to 50% of the remuneration of an incumbent magistrate. Entitlement to the full pension exists when the legally prescribed years of office have been served. After the death of a former magistrate, the surviving dependants are legally entitled to a survivors' pension, which, for the surviving spouse, is equivalent to 30% of the salary of an incumbent magistrate.

About a hundred former magistrates or their survivors are entitled to federal benefits. Three quarters of them are former judges of the FSC, while the remaining quarter are former members of the FC or former Federal Chancellors.

#### **Clear legal basis defines beneficiaries and their entitlements, thereby providing transparency**

The resignation of a magistrate triggers an established process at the FCh and the FSC. The determination of the entitlement and the calculation of the pension amount are correct and correspond to the provisions in the ordinance. Payments are made through the PUBLICA pension system. PUBLICA is reimbursed by the FCh and the FSC using the standardised accounts payable processes. The forms used and the communication to the magistrates should be more precise.

Pensions are reduced if they exceed the salary of an active magistrate when combined with earned income and compensation for loss of earned income. The audit found that this calculation is recognised by all. Equal treatment among magistrates can thus be ensured. The system ensures that, already before being selected but also during their term of office, magistrates have certainty about adequate financial security when they leave office. This significantly bolsters the independence of the magistrates.

Additional income is reported by pension recipients through a process of self-declaration. Information on this obligation to report earnings should be further enhanced. The SFAO recommends that the FSC better coordinate the division of responsibilities between itself and PUBLICA in this regard. Otherwise, the procedure is sound and appropriate. It is not necessary to have permanent stringent checks such as obtaining tax returns. However, it makes sense to request evidence in cases where there is uncertainty, as is already the case today.

No duplications and unnecessary work were found. Any further simplifications would jeopardise the already minimal checks.

**Original text in German**