

Projections in Federal Council dispatches

Evaluation of the prospective impact assessments conducted for legislative projects

Key facts

The Swiss Federal Audit Office (SFAO) has examined a sample of 50 Federal Council dispatches. The objective was to assess how the federal offices predict the consequences of legislative projects (laws and financial appropriations). The federal offices have various impact assessment tools at their disposal for this purpose. These tools should enable them to select the best variant and the most appropriate measure and also to provide the public and parliamentarians with dependable, transparent information.

This is not always so, however. One high-profile example of this is the Corporate Tax Reform II of 2008, where the Federal Council dispatch grossly underestimated the loss in tax receipts. That particular error was a key driver for commissioning this SFAO evaluation. The evaluation has found that the impact assessment tools available are under-used and, where they are used, the reliability of their results is questionable.

The quality is inadequate

The initial observation was that the wide range of instruments available to the federal offices only complicates their work. They do not always know which level of depth to apply or which instrument to use. In regard to staff training, since 2004 only 44% of the Federal Administration units have enrolled staff concerned by these assessment tools in courses offered by the Federal Office of Justice. Furthermore, the quality control of impact assessments was found to be inadequate in several respects.

Of the sample examined, up to 30% of dispatches fall below the various standards defined by the SFAO as the minimum quality required for Federal Council dispatches. One-fifth of these dispatches fail to meet the minimum threshold regarding the effects on the Confederation and the economy. In regard to the consequences for the cantons, the rate of unsatisfactory dispatches is closer to 30%. Moreover, since 2012, the impacts on both society and the environment are supposed to be taken into account. Only one-third of the Federal Council dispatches issued after 2013 meet the minimum level in regard to these two aspects.

More disturbingly, there are too many dispatches for which an impact assessment (simple or extensive) should have been carried out but was not. There was no impact assessment for 29 of the 50 dispatches. Six of these cases are particularly serious, as they are classified as major dispatches that should have been subject to extensive assessment. Furthermore, the consequences and alternative solutions are considered at too late a stage. These should already be addressed at the conceptual phase.

Projections are unreliable and reflections are incomplete

The SFAO checked the accuracy of the projections made in three dispatches. The first concerns the introduction of the *Cassis de Dijon* principle with the revision of the Federal Law on Technical Barriers to Trade. Alignment with this principle helped to prevent the emergence of new trade barriers. However, the consumer savings of two billion Swiss francs promised in the Federal Council dispatch

could not be proven. The State Secretariat for Economic Affairs (SECO) should have adapted the findings of the impact assessment after the consultation procedure, when the draft law was modified and application of the principle for foods was submitted for approval. It should also have better anticipated the actual scope of application of the *Cassis de Dijon* principle and the reputational risks associated with this principle. Furthermore, there was clearly strong political pressure to publish the figure of two billion, despite the lack of a reliable basis.

Another example is the Federal Council dispatch regarding the law on tax relief for families with children. The estimated loss in tax receipts following introduction of the deduction for childcare is incorrect. The Federal Tax Administration (FTA), responsible for this estimate, predicted a deficit of 360 million Swiss francs a year. In 2012, new estimates projected a loss in earnings of 60 million. Moreover, the child deduction introduced with the tax scale for parents is a new type of deduction, as it is deducted from the tax payable rather than the taxable income. This gave rise to certain adjustment costs for the cantons, some of which were underestimated. The positive effects that the reform of family taxation was supposed to have on the economy (activity rate of mothers, birth rate, household income) are difficult to prove and are too tenuous to have any impact on economic growth.

The last case studied is the reform in aviation legislation. The Federal Office of Civil Aviation (FOCA) did not adequately examine the adverse impacts on regional and cantonal airports. It did not outline the potential consequences if the Confederation's contribution failed to offset the deficit incurred by Category II airfields (regional airports of Bern-Belp, La Chaux-de-Fonds, Grenchen, Lugano-Agno, Sion and St. Gallen-Altenrhein) once the cross-subsidies came to an end and if the cantons did not intervene. The positive effects were probably also overestimated.

Parliamentarians' expectations met, but lack of trust in the projections

The federal offices draw up the dispatches in respect of their main addressees, i.e. the parliamentarians. This is evident in the fact that the financial consequences are generally more fully developed than other types of consequences. However, certain parliamentarians now doubt the reliability of projections in the dispatches. It is clearly a sensitive situation for federal offices seeking to defend a project by way of a dispatch: they are supposed to present the measures transparently and objectively, but the results of the impact assessment may not be favourable to their project. This explains to some extent the mixed results for the dispatches studied, but it does not justify failure to comply with the relevant directives.

Need for better quality control of the estimated consequences

In light of the above, the SFAO believes that certain measures should be taken to improve the quality of the estimated consequences of legislative projects. Regarding its dispatches to Parliament, the Federal Council should improve identification of those projects requiring an extensive impact assessment. It should also establish a system of quality control for assessments conducted by the federal offices. The Federal Chancellery, by virtue of its independence from the federal offices handling legislative projects and its legal mandate in the legislative process, should take responsibility for this control process and should provide the federal offices with a coordinated manual for assessing the impact of legislative projects.

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