

Follow-up audit of key recommendations

Federal Administrative Court

Key facts

The Swiss Federal Audit Office (SFAO) checked the implementation of its recommendations to the Federal Administrative Court (FAC), made in the SFAO's 2019 report on the implementation of the 2016 courts organisation project.¹ The FAC had launched the project with the aim of improving the management of the divisions, and achieving a more balanced distribution of caseloads between the divisions.

At that time, the SFAO concluded that the FAC's organisation project addressed an existing need, but that its impact was limited. This is because the framework conditions for management topics of the Court diverge from those for a federal office, owing to judicial independence, whose scope is also interpreted differently within the FAC. For instance, the heads of division have no power to issue orders to the judges within their division.

The SFAO made four recommendations to the FAC, three of which the Court accepted. The follow-up audit revealed that certain improvements have been achieved. With regard to the limits on powers to issue orders and administrative management, which the FAC considers to be fixed, the SFAO sees no prospect of further improvement on what has already been achieved. Two recommendations were closed. One recommendation on introducing a new core application for case law at the FAC remains open, as there is an opportunity for efficiency gains in this area.

Additional indicators support caseload management

The FAC faces a fluctuating caseload. One important reason for this is its responsibilities with regard to the asylum system. It is therefore important that staff resources can be flexibly deployed across divisions. The FAC had already set the key foundations for resource management before the SFAO's audit, with its EquiTAF project. The Court is increasingly using this additional room for manoeuvre to provide assistance across the divisions. The pool of court clerks has also been expanded from five to eight members. These court clerks are deployed in various divisions for limited assignments, including during periods of very high workload.

The FAC has integrated various indicators on pending proceedings into its controlling. Some of these also concern the level of judges. Example: the number and processing of so-called "old cases" (proceedings which have been pending at the Court for more than two years). The SFAO considers information on pending cases as important for the efficient management of the Court. It noted that the period for which cases are pending at the Court has not yet been remedied.

¹ Audit report 18123, available on the SFAO website.

Use the new application for case management as an opportunity

In its report, the SFAO recommended that there be a greater transfer of tried and tested practices from one division to others, as a way of increasing efficiency. This only works to a limited extent. Different legal specialisations and divisional autonomy are limiting the transfer.

The FAC is in the process of replacing the existing core application for case law. In this connection, it has implemented various measures. For example, it has logged the divisions' existing processes. This replacement process offers the opportunity to review and improve responsibilities and processes. For this reason, the recommendation remains open. The unquestioning transfer of existing processes to the new application should be avoided.

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