

Bundesverwaltungsgericht  
Tribunal administratif fédéral  
Tribunale amministrativo federale  
Tribunal administrativ federal



# The Federal Administrative Court



**Federal Administrative Court**  
Schwarztorstrasse 59  
P.O. Box, CH-3000 Berne 14  
Tel. +41 (0)58 705 26 26  
Fax +41 (0)58 705 29 80  
info@bvger.admin.ch  
www.bvger.ch

# My vision of the Federal Administrative Court

As project leader and subsequently as President of the provisional Board of Directors, I have had the opportunity to help set up the new Federal Administrative Court. This has been a very exciting, intense, often tiring but always satisfying and instructive time: It has been a true privilege to work together with so many dedicated people to create, step by step, a brand-new and independent court institution. The challenge now facing our new team is whether we can succeed in achieving our goals, many of which were argued over long and intensively before a consensus finally emerged. I am thinking in particular of:

## The judgments

Only rapid judgments are good judgments. Long-drawn-out cases create neither legal certainty nor legal clarity. Judicial decisions must be arrived at through fair, impartial and transparent procedures. Judgments must be short, to the point and written in plain language. They must be logical, cogent, self-contained and of course correct on the merits. Only then will they be understood and accepted even by the losing side in a dispute.

## The judges

For legal disputes to be decided dispassionately, impartially, objectively and free from extraneous and spurious considerations, judges must be highly trained, experienced and independent. The job demands an understanding of human nature, open-mindedness, dedication, decisiveness, the courage to make unpopular decisions and the ability to put aside one's own views and preconceptions. It is essential for the judge to be adept at dealing with legal rules as well as with people – both inside and outside the courtroom.

## Team spirit

The task of the court cannot be performed efficiently without the help of the clerks and all the other court staff. Many functions previously undertaken by judges have now been delegated: Court clerks assist the elected judges in legal analysis and in weighing arguments. In order for this arrangement to operate successfully there needs to be a sense of teamwork and a culture of mutual respect.

## Court business

The efficiency and effectiveness of a court is just as important as the quality and clarity of its judgments. A large number of dedicated staff are needed in order for a court to operate to best effect. They are responsible for an ever more complex infrastructure and are crucial to the speedy resolution of cases. They enable the court to work economically and within its budget. In order for this to happen, they require the active and committed support of the court's Board of Directors, which must engage in open and transparent communication with them.

## Justice

"You are in the right and you are in the wrong." This is what the Federal Administrative Court will be saying to litigants over 10,000 times a year. I hope that in doing so, it will be able to meet the high expectations of legislators and the public and thus to serve the needs of those who come before it. I hope that the new court will become a model of open and accessible justice and thereby contribute to reinforcing public confidence in the law.



Dr. Christoph Bandli  
President of the Federal  
Administrative Court

The Constitution  
and the law  
show us the way.



# Better Judicial Protection of Rights – Greater Legal Certainty

**As of 1 January 2007, Switzerland has a new federal court – the Federal Administrative Court. The establishment of a separate and independent court to hear cases brought against decisions of federal agencies and, to some extent, those of cantonal agencies constitutes a major addition to the Swiss justice system. It is now possible for members of the public to go to a court for redress in almost any case in which they are dissatisfied with a decision of the Federal Government or any of its departments.**

## Greater access to justice

With the establishment of the Federal Administrative Court, all but a very few complaints against decisions by federal and cantonal agencies will henceforth be heard and determined by an independent court of law. The right of access to a court and the principle that the Federal Supreme Court should be a court of final appeal only, which has long been a reality in relation to the cantons, are thereby given full effect at the federal level. The Federal Administrative Court will thus be making an important contribution to promoting certainty and predictability of the law and equality before the law in Switzerland.

## Completion of judicial reforms

The 35 different federal appeal commissions and complaints boards that previously heard appeals against decisions by federal authorities have been amalgamated into the new Federal Administrative Court. The new institution will not only have greater autonomy but also greater prestige.

The establishment of an administrative court for federal matters owes its origin to proposals for a complete overhaul of the justice system which were approved by the Swiss people and cantons in a referendum in March 2000. With the establishment of this court, all the key elements of this ambitious reform process have now been implemented, with the exception of the proposals to introduce uniform federal laws of criminal and civil procedure.

## An independent court

The first stage of the reform process to be implemented following the referendum was the establishment of the Federal Criminal Court in Bellinzona. This has been operating since the beginning of April 2004. The Federal Criminal Court is an independent criminal court which tries cases prosecuted by the federal criminal investigation authorities and hears appeals in the area of international mutual judicial assistance.

There are now three federal courts in Switzerland: The Federal Supreme Court, the Federal Criminal Court and the Federal Administrative Court. The Federal Administrative Court is the largest of the three, with currently 72 judges sharing 64 posts.

## Transparent legal system

As well as reviewing decisions of federal authorities and cantonal administrations, the Federal Administrative Court is also a new court of first instance for cases which would previously have gone directly to the Federal Supreme Court. This new arrangement brings the system into line with standard procedures in the administration of justice at the federal level and thereby enhances the clarity and transparency of the Swiss legal system. It is also expected that the new arrangement will substantially reduce the caseload of the Federal Supreme Court in Lausanne.

## **Easing the burden on the Federal Supreme Court**

In most areas of the law, decisions of the Federal Administrative Court are subject to a right of appeal to the Federal Supreme Court. The areas in which the Federal Administrative Court acts as a court of final instance, mainly cases concerning the law of asylum and aliens, however account for more than 50% of the total in terms of numbers of cases. In addition, cases that have already been adjudicated by an independent court of law are less likely to be brought before the Federal Supreme Court in future. Thereby the new court in the Swiss judiciary will contribute to reducing the burden on Switzerland's Supreme Court.

## **Future in Sankt Gallen**

The Federal Administrative Court is temporarily located at three sites in the Bern area. The 72 judges and the 300 or so other staff are based either in Bern itself or in Zollikofen. The Federal Administrative Court is scheduled to move in 2010 to its future permanent seat in a new building to be constructed in the centre of Sankt Gallen. This will offer modern and custom-built premises which will lend architectural emphasis to the significance of the new institution.

## **Efficient jurisprudence**

The Federal Administrative Court not only fills a void in the Swiss judicial system, it also provides the basis for a more up-to-date and efficient jurisprudence, which will be measured by the quality of the judgments it hands down.

It is expected that the Federal Administrative Court will have over 10,000 cases a year to decide. Some of these will be cases of particular public interest and importance. Accordingly, good communications will be one of the central tasks of Switzerland's newest federal court. The main communication task will be to provide details of its judgments. The Federal Administrative Court intends to make its decisions promptly and readily available to all interested parties and will publish them on the Internet shortly after they are handed down. Special care will be taken to remove personal references in order to safeguard privacy.

## **Open information policy**

The media establish an important link between the Court and the public. A public relations office has been set up in the General Secretariat to deal with the media. Journalists regularly covering the work of the Court can apply for accreditation in order to receive preferential access to information on activities at the Federal Administrative Court.

In its Public Information Regulations, the Federal Administrative Court has laid down the broad lines of its communication strategy and stated its "open and transparent information policy". An internal communication policy has also been put in place. This is intended to help to position the Court as an independent and efficient organization and to make it an attractive employer.

Those seeking justice  
can be certain  
that we examine all cases  
in detail and  
without prejudice.



# Functions and services

**The Federal Administrative Court is the general administrative court of the Swiss Confederation. Its main function is the treatment of appeals against decisions of the federal administration. Apart from in a few exceptional instances, it takes over from the internal appeals processes previously operated by public bodies. The decisions of federal and also of cantonal bodies will now be adjudicated before the first instance by a separate and independent court. This reform is intended primarily for the benefit of citizens seeking redress against official bodies. It represents an important step towards greater certainty and predictability of law and equality before the law in Switzerland and closes a gap in the system of administration of justice.**

## One federal court for each language region

Following a five-year preparatory period, the Federal Administrative Court, with its full-time staff of approximately 330, began operating at three temporary sites in and around Bern at the beginning of 2007. The Court is set to move to its permanent seat in its own custom-built premises in Sankt Gallen in eastern Swit-

zerland in 2010. Each of the linguistic regions of Switzerland will then host one of the three federal courts: The French-speaking part has the Federal Supreme Court in Lausanne, the Italian-speaking part the Federal Criminal Court in Bellinzona, and the German-speaking part the Federal Administrative Court. In addition, the former Federal Insurance Court, which as from 2007 forms part of the Federal Supreme Court, is located in Lucerne.

## Five divisions

The Federal Administrative Court is expected to handle more than 10,000 cases a year, making it the largest of the federal courts. In order to cope with such a heavy workload, it needs to have an efficient structure. Following in-depth consultations and consideration of various alternatives, the Federal Parliament's Judicial Committee opted for a five-division structure. The different areas of the law were allocated among these five divisions as follows: Division I is responsible for infrastructure, financial and employment matters, Division II for economic matters, education and competition, Division III for appeals in matters of aliens, health and social security, as well as in

## Legal sources

### Constitution, acts, ordinances

- Federal Constitution of the Swiss Confederation of 18 April 1999; Federal Constitution [SR 101]
- Federal Act of 17 June 2005 on the Federal Administrative Court; Administrative Court Act [ACA; SR 173.32]
- Federal Act of 18 March 2005 on the Establishment of the Federal Administrative Court [SR 173.30]
- Federal Act of 21 June 2002 on the Seat of the Federal Criminal Court and of the Federal Administrative Court [SR 173.72]
- Federal Act of 20 December 1968 on Administrative Procedure; Administrative Procedure Act [APA; SR 172.021]
- Federal Act of 4 December 1947 on Federal Civil Procedure [SR 273]
- Federal Act of 13 December 2002 on the Federal Assembly (Parliament Act) [ParlA; SR 171.10]
- Federal Act of 24 March 2000 on the Personnel of the Swiss Confederation; Federal Personnel Act [SR 172.220.1]
- Ordinance of the Federal Assembly of 13 December 2002 on the Employment and Remuneration of Judges of the Federal Criminal Court and the Federal Administrative Court (Judges Ordinance) [SR 173.711.2]
- Ordinance of 26 September 2003 on the Employment of Staff of the Federal Criminal Court and of the Federal Administrative Court [SR 172.220.117]

### Internal regulations

- Internal Regulations of the Federal Administrative Court [VGR; SR 173.320.1]
- Information Regulations of the Federal Administrative Court [SR 173.320.4]
- Regulations on Costs and Fees in the Federal Administrative Court [SR 173.320.2]
- Regulations on Administrative Fees in the Federal Administrative Court [SR 173.320.3]



arts and heritage matters. Divisions IV and V deal with asylum law cases.

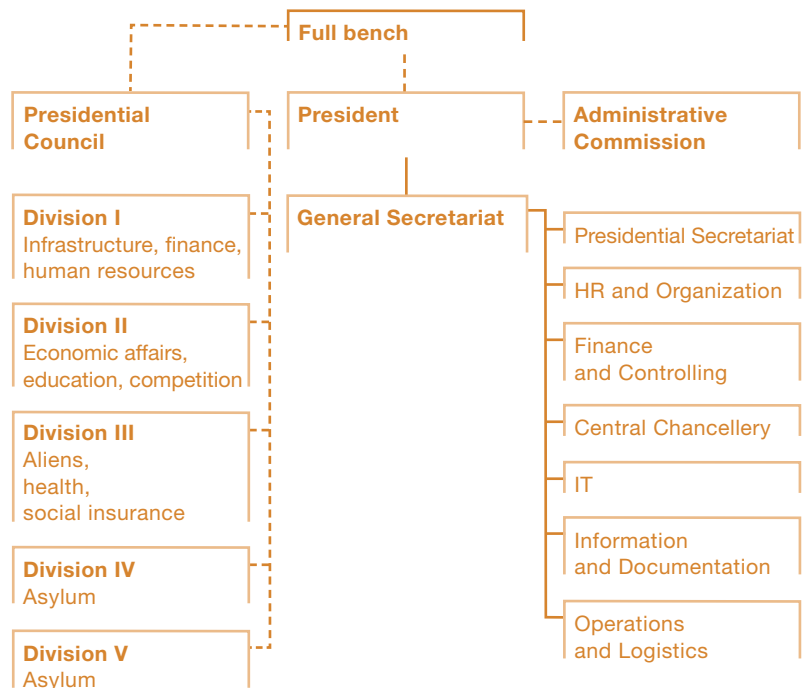
### Efficient structure

The choice of a structure consisting of relatively large units was deliberate. This is intended to allow a high degree of flexibility in the allocation of cases with the view to achieving an even distribution of the workload among the Court's various divisions. It is also intended to promote uniformity of procedures and facilitate efficient and lean management. An important consideration in the choice of such a structure was the fact that the 35 pre-existing federal appeals commissions and complaints boards were all highly independent and very different from one another in terms of size, procedures and cultures. Unifying these disparate bodies into one will, hopefully, make for consistent and uniform decision-making.

### Lean organization

The organizational hierarchy of the Federal Administrative Court has deliberately been kept simple. The plenary assembly or full bench, consisting of the 72 judges appointed by the Federal Parliament at the beginning of October 2005, is the Court's highest body. It acts as a type of legislative assembly and, inter alia, adopts the Court's regulations, approves the report of activities, appoints the members of the divisions and elects their presidents. It performs these functions at the behest of the Administrative Commission, which is responsible for general organizational and administrative procedures in the Court.

## Structure of the Federal Administrative Court



The full bench also has a right of nomination for the offices of President and Vice-President of the Federal Administrative Court. These officers are appointed by the Federal Parliament for a two-year term at the proposal of the Judicial Committee. The President presides over meetings of the full bench and the Administrative Commission and represents the Court in its dealings with third parties.

### Independence and autonomy

One of the key objectives of the reform of the judicial system was to ensure a right of access to an independent court. The independence of the Federal Administrative Court in the exercise of its judicial activities has been enshrined in the constitution and in federal statute: It is subject only to the law. It also has control of its own internal organizational structures and administration.

## Supervision and review

The basic rules governing the conduct of business in the Federal Administrative Court were laid down at a very early stage by the provisional Court Directorate. These include the Procedural and Information Regulations, as well as a series of provisions relating to staff. Ultimate supervisory power over the Federal Administrative Court, as over the Federal Criminal Court and the Federal Supreme Court, is exercised by the Federal Parliament. The power of administrative supervision, i.e. oversight of the management of the Federal Administrative Court in the narrowest sense, lies with the Federal Supreme Court in Lausanne.

## Broad spectrum – controversial issues

The numerous cases which the Federal Administrative Court is called upon to adjudicate span a broad range of legal fields. These include complex and often socially and politically controversial issues such as major infrastructure projects for rail, road or air transport or for the telecommunication and energy sectors, as well as legal disputes in relation to the environment, competition, education, social insurance, health care and asylum matters. Accordingly, the independence as well as the skills and expertise of the judges and the judicial assistants working for the Federal Administrative Court is of major importance.

## Composition of the Court

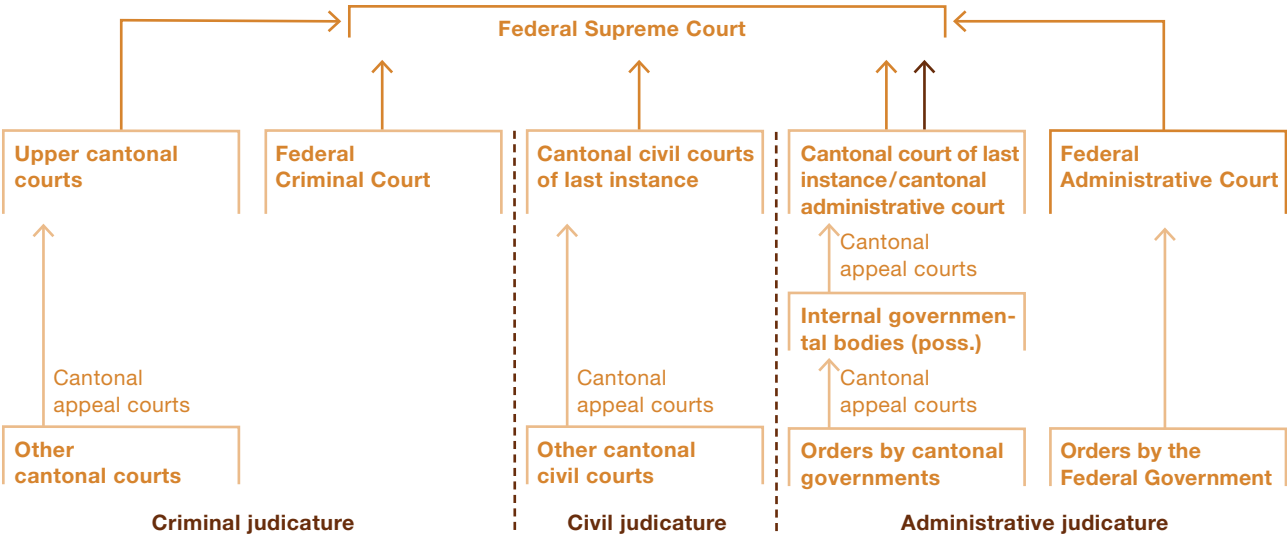
In the meticulous selection process for the Federal Administrative Court judges, according to the report of the Judicial Committee both the personal and professional qualities of the candidates were taken into account. The composition of the Court seeks to achieve a proper balance in terms of gender, language and political parties. Of the elected judges, 72% are German-speaking, 23.65% French-speaking, and 4.35% Italian-speaking. Over a quarter of the posts – 26.4% – are filled by women. Two-thirds of the judges were full members of the old appeals commissions and complaints boards. Over 80% of the other members of staff, most of whom are judicial assistants, are also former employees of those bodies. They therefore bring with them a great deal of relevant knowledge and expertise.

The Presidential Council of the Federal Administrative Court, which consists of the presidents of the Court's five divisions, plays an important role in ensuring the quality of judicial decision-making. It is responsible for the consistency of judgments, for coordinating the work of the different divisions and thereby ensuring uniformity in the administration of justice.

## Communication of decisions

It is not enough for judgment to be given, it must also be promulgated and publicized. The manner in which judgments are communicated is set out in the Information Regulations. According to this regulation, all substantive judgments and the most important procedural decisions are to be published in a database that is accessible free of charge. Leading judgments are also published in print and electronic versions of the official collection of the judgments of the Federal Administrative Court. The privacy of the individual is a primary concern whenever material is made public and judgments are carefully edited prior to publication to ensure that no identities are revealed.

### The Federal Administrative Court in the Swiss judicial system



### A trustworthy source

In its Information Regulations, the Federal Administrative Court commits itself to an open and transparent information policy. The regulations also provide that the Court will operate a media office and provide accreditation to journalists. According to the Court's communication policy, the primary objective of internal communications is to promote an atmosphere of openness, transparency and mutual trust within the Court. It should also help staff to identify with the Court and enhance its attractiveness as a workplace. In the case of external communications, the policy focus is on being regarded as a trustworthy source of information and on publicizing the Court and its activities.

### Modern court management

Areas of responsibility and work processes have been clearly defined in order to ensure a professional, cost-efficient and transparent work environment. The Federal Administrative Court's electronic case management system, which handles case allocation, the listing of cases and the preparation of hearings, enables the workload to be managed and the performance to be evaluated.

Although this type of controlling system is somewhat contrary to the judges' traditional sense of autonomy, it is undoubtedly here to stay. In its annual reports, the Federal Administrative Court will be providing not only detailed information on key developments in case law, but also statistics on the Court's activities during the reporting year.

Every court is ultimately judged on how well its judgments are accepted by those seeking justice and the wider public. The information produced by the Federal Administrative Court on its activities is intended to help achieve that purpose.

- Standard appeal
- Subsidiary administrative appeal

Ultimately there is only one measure. Defining it, requires not only knowledge, but also ethics and morals.



# General Secretariat

**The General Secretariat, headed by the Secretary General, handles administrative matters for the Court, including scientific services. It is the Court's central staff unit and, together with the Presidential Secretariat, provides supporting services to the President, the Presidential Council, the Administrative Commission and the Court as a whole. The Secretary General ex officio participates in an advisory capacity in the meetings of the aforementioned bodies and is responsible for keeping the minutes.**

The Presidential Secretariat coordinates the meetings of the adjudicating bodies; on behalf of the President or the Secretary General it specifically also handles matters and legal issues that do not fall within the competence of the individual divisions. It is responsible for preparing and executing the decisions reached by the adjudicating bodies. Finally the Presidential Secretariat is charged with information and public relations work in accordance with the Information Regulations.

## Centralized administrative tasks

The General Secretariat ensures that administrative tasks are handled in a standard and centralized manner. In performing these tasks it also relieves the burden on the divisions. For example, it issues directives and standard regulations on file management, archiving and the registry system. Furthermore, it is responsible for all matters relating to real estate management and, with it, the safety and security of persons and buildings at the three locations in Bern. These tasks are performed by the Central Chancellery and Operations and Logistics departments.

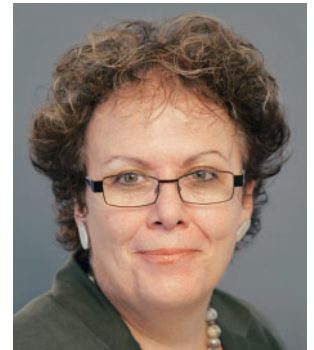
A modern court requires appropriate IT systems to manage cases, record preliminary rulings and judgments, as well as for office communications, managing the website and other functions. The IT department is charged with providing and supporting these tools.

## Relieving the burden on the divisions

The Human Resources and Organization department ensures that the staff of the Court – over 330 employees in total, including judges, clerks and Chancellery and General Secretariat staff – are cared for.

The Finance and Controlling department monitors ongoing financial transactions and is responsible for producing the annual financial statements. It also works alongside the credit officers to draw up the budget and the financial plan. Cost advances and the legal costs charged by the Court are managed centrally, thereby relieving the divisions of administrative tasks.

The responsibility of the Information and Documentation department includes supporting the divisions with investigations which require specialists to be brought in. This involves providing specific documents and examining particular issues, most of which are country-specific. Along with the Editorial Commission, the department is responsible for publishing the judgments of the Federal Administrative Court, and also runs libraries at the court's locations in Bern and Zollikofen.



Prisca Leu  
Secretary General

# Division I

The jurisdiction of Division I covers cases involving state liability and recourse, federal staff and data protection. This also includes matters relating to the Swiss Federal Institutes of Technology, physical education and sports, the military, national and civil protection and war materials. As far as government levies are concerned, the fields of law it handles include customs and excise, duties, taxes and alcohol. The conservation of habitats and national heritage, footpaths and hiking trails, land use planning and expropriation orders also fall within the jurisdiction of Division I, as do infrastructure projects, the law relating to water and waterways, the national motorway network, energy, traffic and transport, environmental and water protection, postal services and telecommunications, radio and television, forests and hunting. Furthermore, the First Division oversees the management of the appraisal commissions in expropriation cases as well as the chairpersons of these commissions. As a general rule, Division I does not decide in the last instance, i.e., its decisions are subject to appeal before the Federal Supreme Court.

Federal Criminal Court complaints concerning the conditions of employment of its judges and other staff may be asserted before the Federal Administrative Court and are allocated to the First Division. In return, proceedings relating to the staff of the Federal Administrative Court are heard by the Federal Criminal Court.

One thing common to all of the divisions of the Federal Administrative Court is that appeals may be submitted in any of Switzerland's official languages and are also ruled on in the language chosen. This means that each division has staff fluent in all official languages in order to meet the rights of Switzerland's citizens.

## President Division I

Lorenz Kneubühler, BE, G, 2007

## Judges Division I

Florence Aubry Girardin, JU, F, 2007

Christoph Bandli, GR, G, 2007

Michael Beusch, SG and ZH, G, 2007

Kathrin Dietrich, LU, G, 2007

Beat Forster, AG, G, 2007

Jürg Kölliker, SO, G, 2007

Pierre Leu, BS, F, 2007

Markus Metz, GR, G, 2007

Pascal Mollard, FR and VD, F, 2007

André Moser, BE, G, 2007

Claudia Pasqualetto Péquignot, BE and JU, F, 2007

Daniel Riedo, FR, G, 2007

Marianne Ryter Sauvant, BE, G, 2007

Thomas Stadelmann, LU, G, 2007

Salome Zimmermann, GL and ZH, G, 2007

# Division II

**The Second Division is in charge of cases primarily concerning economic, competition and education matters. This includes public procurement, the supervision of foundations and company and commercial register law. Intellectual property, cartel law and price monitoring are further areas handled by Division II, as are professional training, the promotion of universities, the Pro Helvetia foundation and the promotion of research. It also deals with cases relating to animal protection, national economic supply, risk capital companies and labour legislation.**

Promotion of low-priced housing, of housing development and of owner-occupation also falls within the Division's competence, which furthermore includes agriculture and promotion of mountain regions, animal epidemics, construction materials, tourism and promotion of investments. Other areas handled by Division II are proceedings relating to lotteries, gambling and casinos (providing the case does not concern official levies), the accreditation and notification of testing, conformity assessment, registration and approval bodies and precious metals testing, not to mention legislation on explosives, foreign trade and civilian service. Finally, Division II rules on cases concerning the National Bank, the supervision of banks and stock exchanges, money laundering and the supervision of private insurance companies.

Submissions resulting from administrative or international legal assistance proceedings may be lodged in any of the areas of law that are covered by the Court's various divisions. Decisions will be taken by the division which is responsible for the area of law concerned. If such cases are found to involve a question of fundamental nature, they will be coordinated by the Presidential Council to ensure that the Court's rulings are both consistent and conclusive.

## President Division II

Bernard Maitre, JU, F, 2007

## Judges Division II

Maria Amgwerd, SZ, G, 2007

David Aschmann, ZH, G, 2007

Jean-Luc Baechler, FR, F, 2007

Stephan Breitenmoser, BS, G, 2007

Francesco Brentani, TI, G, 2007

Ronald Flury, SO, G, 2007

Hans-Jacob Heitz, TG and ZH, G, 2007

Vera Marantelli, BE and TI, G, 2007

Claude Morvant, VD, F, 2007

Eva Schneeberger, BE, G, 2007

Frank Seethaler, TG, G, 2007

Marc Steiner, BS, G, 2007

Hans Urech, AG, G, 2007

Philippe Weissenberger, BS, G, 2007

# Division III

**The Third Division hears cases which primarily concern aliens law, social insurance and health. It is allocated cases pertaining to citizenship and the recognition of stateless persons. Under the terms of Switzerland's asylum act, appeals may be lodged against action taken in connection with the operation of reception centres, as well as security services, billing via security accounts and care and provision under the asylum act.**

The activities of Division III also include handling disputes on the issue of Swiss passports abroad and travel documents for foreign individuals. Additionally allocated to the Third Division are appeals relating to archival storage, adoption agency activities, the partition of seized assets, the Federal Government's activities in connection with the execution of sentences and measures and the federal higher school-leaving certificate (Maturität) examinations. Its competence also covers rulings from the areas of law which concern the arts and the conservation of monuments, weapons law and medical training, as well as narcotics, chemicals, radiation protection, infertility treatment, and foodstuffs, as well as the combating of illnesses and epidemics.

The Third Division also handles appeals concerning the legal aspects of old-age and disability insurance for persons living abroad, occupational old-age, survivors' and disability insurance, collective benefits from old-age and disability insurance, from health, accident and unemployment insurance and provision under federal legislation on Swiss citizens living abroad. Finally, the Third Division hears all cases which cannot be allocated to another division.

As is true of all other divisions, it is possible in Division III to conduct proceedings in such a way that cases that are related in terms of fact or of the persons concerned can be coordinated sensibly and heard together. If an appeal that has been lodged concerns areas of law which are allocated to different divisions, it will generally be allocated to the division handling those areas which are most significant to the case at the time the action is lodged.

## President Division III

Alberto Meuli, GR, G/I, 2007

## Judges Division III

Eduard Achermann, LU and NW, G, 2007

Elena Avenati-Carpani, VD, I, 2007

Ruth Beutler, BE, G, 2007

Johannes Frölicher, SO, G, 2007

Antonio Imoberdorf, VS, G, 2007

Stefan Mesmer, BL, G, 2007

Francesco Parrino, TI, I, 2007

Michael Peterli, SG and TG, G, 2007

Franziska Schneider, GR and SG, G, 2007

Andreas Trommer, SH, G, 2007

Bernard Vaudan, VD, F, 2007

Blaise Vuille, BE, F, 2007



# Divisions IV and V

**Divisions IV and V are allocated all those cases relating to asylum law which do not fall within the jurisdiction of Division III. In addition to ruling on appeals against decisions by the Federal Office for Migration concerning expulsion and the denial of asylum, they are thus also responsible for appeals regarding the withdrawal of a temporary admission granted in the context of asylum proceedings, or regarding the preliminary denial of entry into Switzerland and assignment of a temporary stay at the airport.**

In addition to their work in this closely defined field of law, these two divisions are characterized by the final and absolute nature of their judgments, which are not subject to appeal before the Federal Supreme Court. In these two respects Divisions IV and V clearly differ from the other divisions of the Federal Administrative Court. A further peculiarity is provided for in the revised asylum act, which states that material judgments may be passed by a sole judge in individual circumstances; these provisions come into

effect on 1 January 2008. They raise particular issues of a legal nature which must be clarified by both divisions in the interests of legal certainty.

The Court anticipates that the Divisions IV and V will handle a large number of cases compared with the other divisions. Experience over many years has shown that there are a large number of actions in the asylum area, which is why, when the Federal Administrative Court was being set up, two divisions were set aside to handle appeals. Cases are divided equally between the two divisions using the “cab rank” system.

## President Division IV

Claudia Cotting-Schalch, FR and SH, F, 2007

## Judges Division IV

Gérald Bovier, VS, F, 2007

Robert Galliker, LU, G, 2007

Fulvio Haefeli, BS, G, 2007

Madeleine Hirsig-Vouilloz, BE, GE and VS, F, 2007

Walter Lang, SO, G, 2007

Gérard Scherrer, SH, F, 2007

Daniel Schmid, BE, G, 2007

Hans Schürch, BE, G, 2007

Nina Spälti Giannakitsas, TG, G, 2007

Bendicht Tellenbach, BE, G, 2007

Vito Valenti, TI, I, 2007

Thomas Wespi, LU, G, 2007

Martin Zoller, BL, G, 2007

## President Division V

Walter Stöckli, BE and ZH, G, 2007

## Judges Division V

François Badoud, FR, F, 2007

Maurice Brodard, FR, F, 2007

Jenny de Coulon Scuntaro, NE and VD, F, 2007

Jean-Daniel Dubey, FR, F, 2007

Kurt Gysi, BE, G, 2007

Bruno Huber, LU, G, 2007

Therese Kojic-Siegenthaler, BE, G, 2007

Markus König, BE, G, 2007

Christa Luterbacher, SO, G, 2007

Jean-Pierre Monnet, VS, F, 2007

Regula Schenker Senn, BE and SO, G, 2007

Marianne Teuscher, BE, G, 2007

Beat Weber, AG, G, 2007

We don't want  
to judge –  
but rather to create  
transparency  
and show  
how we reach  
our decisions.



# Judges

Name, Division, place of birth/home canton, language, year of appointment



**Eduard Achermann**  
Division III  
LU and NW, G, 2007



**Maria Amgwerd**  
Division II  
SZ, G, 2007



**David Aschmann**  
Division II  
ZH, G, 2007



**Florence Aubry Girardin**  
Division I  
JU, F, 2007



**Elena Avenati-Carpani**  
Division III  
VD, I, 2007



**François Badoud**  
Division V  
FR, F, 2007



**Jean-Luc Baechler**  
Division II  
FR, F, 2007



**Christoph Bandli**  
Division I  
GR, G, 2007



**Michael Beusch**  
Division I  
SG and ZH, G, 2007



**Ruth Beutler**  
Division III  
BE, G, 2007



**Gérald Bovier**  
Division IV  
VS, F, 2007



**Stephan Breitenmoser**  
Division II  
BS, G, 2007



**Francesco Brentani**  
 Division II  
 TI, G, 2007



**Maurice Brodard**  
 Division V  
 FR, F, 2007



**Claudia Cotting-Schalch**  
 Division IV  
 FR and SH, F, 2007



**Jenny de Coulon Scuntaro**  
 Division V  
 NE and VD, F, 2007



**Kathrin Dietrich**  
 Division I  
 LU, G, 2007



**Jean-Daniel Dubey**  
 Division V  
 FR, F, 2007



**Ronald Flury**  
 Division II  
 SO, G, 2007



**Beat Forster**  
 Division I  
 AG, G, 2007



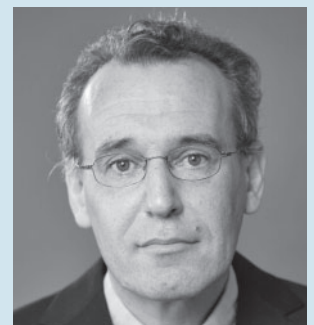
**Johannes Frölicher**  
 Division III  
 SO, G, 2007



**Robert Galliker**  
 Division IV  
 LU, G, 2007



**Kurt Gysi**  
 Division V  
 BE, G, 2007



**Fulvio Haefeli**  
 Division IV  
 BS, G, 2007



**Hans-Jacob Heitz**  
Division II  
TG and ZH, G, 2007



**Madeleine Hirsig-Vouilloz**  
Division IV  
BE, GE and VS, F, 2007



**Bruno Huber**  
Division V  
LU, G, 2007



**Antonio Imoberdorf**  
Division III  
VS, G, 2007



**Lorenz Kneubühler**  
Division I  
BE, G, 2007



**Therese  
Kojic-Siegenthaler**  
Division V, BE, G, 2007



**Jürg Kölliker**  
Division I  
SO, G, 2007



**Markus König**  
Division V  
BE, G, 2007



**Walter Lang**  
Division IV  
SO, G, 2007



**Pierre Leu**  
Division I  
BS, F, 2007



**Christa Luterbacher**  
Division V  
SO, G, 2007



**Bernard Maitre**  
Division II  
JU, F, 2007



**Vera Marantelli**  
 Division II  
 BE and TI, G, 2007



**Stefan Mesmer**  
 Division III  
 BL, G, 2007



**Markus Metz**  
 Division I  
 GR, G, 2007



**Alberto Meuli**  
 Division III  
 GR, G/I, 2007



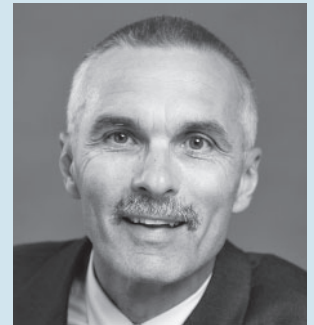
**Pascal Mollard**  
 Division I  
 FR and VD, F, 2007



**Jean-Pierre Monnet**  
 Division V  
 VS, F, 2007



**Claude Morvant**  
 Division II  
 VD, F, 2007



**André Moser**  
 Division I  
 BE, G, 2007



**Francesco Parrino**  
 Division III  
 TI, I, 2007



**Claudia Pasqualetto  
 Péquignot**, Division I  
 BE and JU, F, 2007



**Michael Peterli**  
 Division III  
 SG and TG, G, 2007



**Daniel Riedo**  
 Division I  
 FR, G, 2007



**Marianne Ryter Sauvant**  
Division I  
BE, G, 2007



**Regula Schenker Senn**  
Division V  
BE and SO, G, 2007



**Gérard Scherrer**  
Division IV  
SH, F, 2007



**Daniel Schmid**  
Division IV  
BE, G, 2007



**Eva Schneeberger**  
Division II  
BE, G, 2007



**Franziska Schneider**  
Division III  
GR and SG, G, 2007



**Hans Schürch**  
Division IV  
BE, G, 2007



**Frank Seethaler**  
Division II  
TG, G, 2007



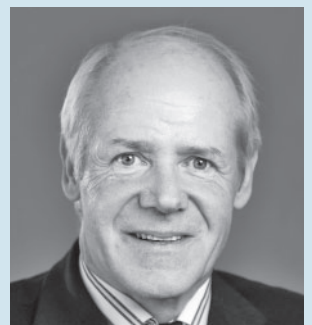
**Nina Spälti Giannakitsas**  
Division IV  
TG, G, 2007



**Thomas Stadelmann**  
Division I  
LU, G, 2007



**Marc Steiner**  
Division II  
BS, G, 2007



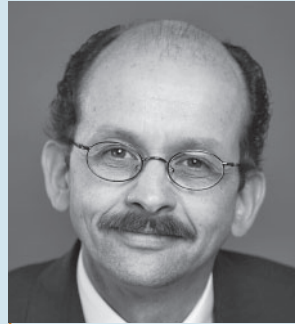
**Walter Stöckli**  
Division V  
BE and ZH, G, 2007



**Bendicht Tellenbach**  
Division IV  
BE, G, 2007



**Marianne Teuscher**  
Division V  
BE, G, 2007



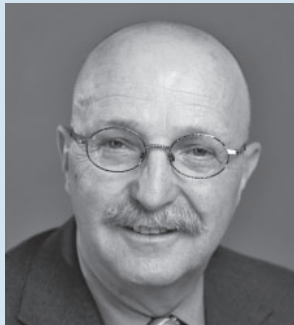
**Andreas Trommer**  
Division III  
SH, G, 2007



**Hans Urech**  
Division II  
AG, G, 2007



**Vito Valenti**  
Division IV  
TI, I, 2007



**Bernard Vaudan**  
Division III  
VD, F, 2007



**Blaise Vuille**  
Division III  
BE, F, 2007



**Beat Weber**  
Division V  
AG, G, 2007



**Philippe Weissenberger**  
Division II  
BS, G, 2007



**Thomas Wespi**  
Division IV  
LU, G, 2007



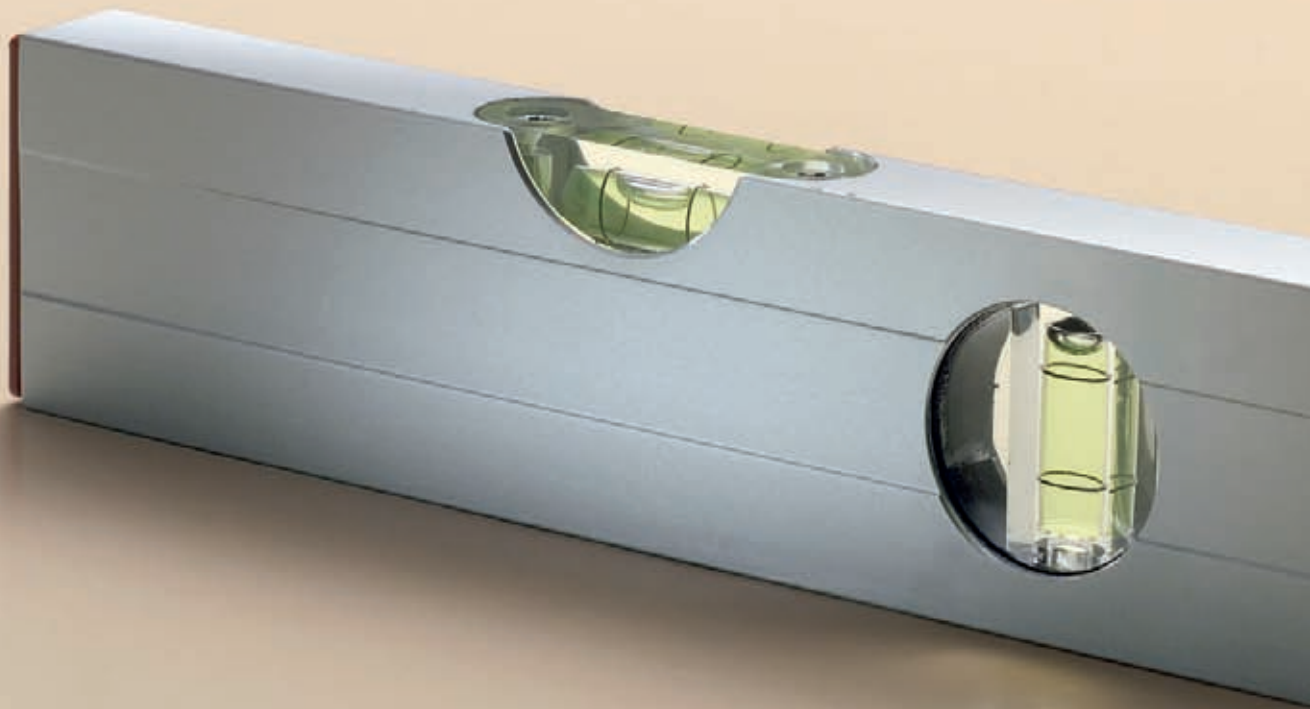
**Salome Zimmermann**  
Division I  
GL and ZH, G, 2007



**Martin Zoller**  
Division IV  
BL, G, 2007



Weighing up  
all of the arguments  
and getting them straight –  
that is the art  
of judicial decision-making.



# Views on the Federal Administrative Court

## Die Schaffung eines Verwaltungsgerichts auf Bundesebene ist eine grosse Chance.

Wenn es dem Bundesverwaltungsgericht gelingt, sich als eigenständige und unabhängige Institution zu positionieren, werden in erster Linie die Bürgerinnen und Bürger profitieren. Die bisherigen Beschwerdedienste waren als Dienststellen des Bundes in die Strukturen und die Hierarchie der Verwaltung integriert. Diese Nähe war problematisch. Es darf nicht sein, dass Richterinnen und Richter als Befehlsempfänger eines Bundesrates wahrgenommen werden. Wer Recht spricht, darf nur dem Gesetz und sich selbst verpflichtet sein.

Ich hoffe, dass es dem Bundesverwaltungsgericht gelingt, ein stolzes und selbstbewusstes Gericht zu werden, mit einem richtigen Esprit de Corps und Richterinnen und Richtern, die sich als Vertreter der dritten Gewalt verstehen.

Durch die Zusammenfassung unter einem Dach erwarte ich mehr Zusammenarbeit und Austausch über die Sachgebiete hinweg. Dies dürfte zu einer einheitlicheren und stringenteren Rechtsprechung führen und die Qualität der Urteile steigern. Es ist wichtig, dass der Gedankenaustausch über Abteilungsgrenzen hinweg gepflegt und mit gleichen Ellen gemessen wird. Gesetze sind nun einmal interpretierbar und die hohe Kunst der Rechtsprechung liegt in der Anwendung. Eine konsistente Auslegung der Gesetze und die Veröffentlichung der Urteile werden sich vermutlich auch positiv auf die Praxis der Verwaltungsbehörden auswirken. Ein besser abgesteckter Rahmen dient Bundesrat und Verwaltung als Leitlinie für ihre Entscheidungen und fördert deren Qualität und Vorhersehbarkeit im Interesse der Betroffenen.

## Erwin Jutzet

lic. iur., attorney-at-law,  
National Councillor  
President of the Judicial  
Committee of the Federal  
Assembly  
Schmiten FR

## La réforme de l'organisation judiciaire fédérale a conduit le législateur à créer un nouveau Tribunal administratif fédéral.

De nombreuses décisions des autorités administratives fédérales qui aujourd'hui sont finales pourront être contestées devant ce nouveau tribunal en garantissant le droit fondamental de l'administré de voir sa cause tranchée par une autorité judiciaire indépendante de l'administration.

Le Tribunal administratif fédéral devra faire preuve d'une grande efficacité pour se substituer aux quelques trente commissions actuelles qui ont acquis une expérience de nombreuses années dans leurs domaines de spécialisation tels le droit des assurances sociales, le droit des étrangers et l'asile ou la propriété intellectuelle. Le Tribunal administratif fédéral sera ainsi divisé en cinq cours pour juger les affaires qui relèvent de ces divers domaines.

Les juges qui remplaceront les nombreux spécialistes des commissions de recours devront rapidement assimiler des connaissances juridiques et techniques pour être à même de maîtriser un droit administratif de plus en plus complexe et technique, afin de rendre des décisions qui préservent les grands principes développés par la jurisprudence administrative. Quel défi!

Les avocats se réjouissent de cette réforme et sont confiants que la systématique et la simplification voulue par la nouvelle organisation iront de pair avec une jurisprudence d'excellente qualité que les administrés et leurs représentants, au premier rang desquels les avocats, attendent du nouveau tribunal auquel ils souhaitent plein succès.

## Alain B. Lévy

Prof. Dr. iur.,  
attorney-at-law  
Chairman of the Swiss Bar  
Association Fédération  
Suisse des Avocats  
Geneva

**Jacques Pilet**  
Journalist, media expert  
Vevey/Zurich

### Une institution rassurante

Un nouveau tribunal? Encore des coûts, encore des fonctionnaires... Certains reçoivent devant toute innovation. Celle-ci, voulue par la nouvelle Constitution, doit pourtant rassurer les citoyens. Car l'Etat se dote là d'un nouvel outil démocratique.

Il existe dans la population le sentiment diffus que la machine administrative échappe à tout contrôle. Qu'il faut être riche et patient pour faire triompher sa cause devant le Tribunal fédéral que l'on sait débordé. Le Tribunal administratif fédéral, d'accès plus rapide et facile, comble donc une lacune.

Il ne suffit pas de se lamenter sur le fossé qui se creuserait entre le pouvoir et le

peuple. Cette rengaine peut tourner au populisme le plus néfaste. Il faut agir. Avec des moyens concrets, juridiquement fondés. C'est ce que fait la Confédération.

Quiconque voyage et travaille en Europe et dans le monde sait bien que l'un des maux qui pénalisent de nombreux pays est précisément l'insécurité juridique face à l'administration. En complétant son système démocratique, la Suisse se dote d'un atout exemplaire. Il importe maintenant de le faire connaître. Auprès des Suisses et Suissesses. Et pourquoi pas aussi auprès des jeunes démocraties de l'est européen qui consolident pas à pas leur état de droit?

### Das Bundesverwaltungsgericht ist ein gewichtiges Ergebnis der Justizreform im Rahmen des Projektes «Reform der Bundesverfassung».

Ich hoffe, dass es dem Bundesverwaltungsgericht gelingt, das für unsere Bürgerinnen und Bürger immer wichtiger werdende Verwaltungsrecht aus seiner bereichsspezifischen Spezialisierung und der damit verbundenen Isolierung herauszuführen und es wieder besser in die allgemein gültigen Prinzipien des Verwal-

tungsrechts und des Rechts allgemein zu integrieren. Auch soll es die Unabhängigkeit der Verwaltungsrechtsprechung gegenüber Regierung und Verwaltung und dem Parlament bewusster machen. Ich wünsche dem hoffnungsvollen Sprössling der Rechtsprechung eine gedeihliche und nachhaltige Entwicklung.

**Arnold Koller**  
Prof. Dr. iur. and lic. oec.,  
former Federal Councillor  
Appenzell

**Suzette Sandoz**  
Em. Prof., former  
National Councillor  
Pully VD

### Bon vent au nouveau tribunal administratif de la Confédération!

Réunir quelque trente commissions fédérales en un seul tribunal, c'est sans doute nécessaire et rationnel. Si cela peut favoriser l'unité de la jurisprudence, donc la sécurité du droit, c'est une excellente chose. Je n'ai en fait que deux regrets, le nom de ce nouveau tribunal et le mode d'élection des juges. Tous deux pourraient engendrer la confusion. C'est sans doute à la mode, mais regrettable.

Sachant qu'il y a un tribunal fédéral qui connaît entre autres des recours de droit administratif, on peut craindre que le justiciable ne sache plus très bien à qui il a affaire quand il doit s'adresser au Tribu-

nal administratif fédéral de première instance, même si ce tribunal est alors administratif avant d'être fédéral. Un tribunal administratif de la Confédération eût-il engendré une moindre confusion? Quant au mode d'élection, pourquoi est-il le même que celui du Tribunal fédéral, c'est-à-dire par l'Assemblée fédérale? La réponse est évidemment politique et les juges élus n'y peuvent rien. Ils ont maintenant devant eux une activité professionnelle passionnante au service du pays et des administrés et je leur souhaite tout le bonheur et toutes les satisfactions possibles dans l'accomplissement de leur nouvelle mission!

# The Federal Administrative Court Sankt Gallen

Thoughts on the new building project, by the architects Stauffer & Hasler

**A slightly elevated site on the western slopes of Rosenberg hill is soon to be the location of the Federal Administrative Court's symbolic new building. An air of modest stateliness, created thanks to the careful use of construction materials, will emphasize the nature of the Federal Administrative Court. The imposing building will not only represent the seat of the administrative court of the Swiss Confederation, but also mark the western border of the development area on Rosenberg hill.**

## Main building with divisional tower

A thirteen-storey tower will house the offices of the judges, clerks and the administrative staff. The connecting two-storey main building is where the courtrooms, a part of the library and the cafeteria will be located. The way in which the Court is structured – into an administrative section and five procedural divisions – is also reflected in the tower building. The bottom three floors will accommodate the Court's Board of Directors and administrative staff. The Court's five divisions will then occupy the floors above, each division being allocated two floors. This interior layout will also be made visible by the design of the building's facade.

## Space for peace and for people

Lively debates among colleagues are as much part of judicial activities as the studying of the law in the peace and quiet of one's office. Both aspects have been taken into account by the layout of the offices within the divisions' premises. Each division has a central atrium spanning two floors, encouraging the communicative side of legal work, which is surrounded by the offices of the judges and clerks.

## Public park

The public main building follows the edge of the slope of Rosenberg hill and, together with the grounds of the historical Villa Nef, creates a generous sweep of land in front of the Court building. This open space around the seat of the Federal Administrative Court will be open to the public as a park, and will set the building apart in a manner fitting for one of the courts of the Swiss Confederation.



Entrance hall



Courtroom lobby



Large courtroom



Two-storey atrium



# The background to the Federal Administrative Court

## 2000

**March:** Switzerland's people and cantons approve judicial reforms.

## 2001

**February:** Federal Council opinion on the complete revision of the administration of justice at federal level.

**September:** Additional opinion from the Federal Council on the seats of the federal courts.

**December:** Beginning of parliamentary consultations.

## 2002

**March:** Appointment of senior project teams for the Federal Criminal Court and Federal Administrative Court.

**June:** Selection of Bellinzona (Federal Criminal Court) and Sankt Gallen (Federal Administrative Court) as court locations.

**June:** Project teams begin work on establishing the new courts.

**December:** Parliament lays down rules for the appointment of judges and on salaries and conditions of employment at the Federal Criminal Court.

## 2004

**August:** Federal Council opinion on the federal law establishing the Federal Administrative Court.

**August:** Contract between the Federal Authorities and the Canton Sankt Gallen on the construction of the new Federal Administrative Court building.

## 2005

**February:** The Federal Administrative Court is structured into five divisions with defined jurisdictions.

**March:** Parliament passes the federal law establishing the Federal Administrative Court.

**June:** Parliament passes the federal laws on the Federal Supreme Court and the Federal Administrative Court, as well as the secondary legislation concerning the judges' posts at the Federal Administrative Court.

**October:** A joint session of the Federal Assembly appoints 72 new Federal Administrative Court judges, the President and Vice-President and the members of the provisional Board of Directors of the court.

**November:** Appointments to the General Secretariat and of other senior executives.

**December:** Appointment of divisional presidents; the Judicial Committee allocates the judges across the five divisions.

**December:** Winning architects in the competition to design the new Court building in Sankt Gallen are announced.

## 2006

**January:** First plenary session of the appointed judges.

**February:** The remaining employment positions at the Federal Administrative Court are advertised publicly.

**March:** A joint session of the Federal Assembly makes replacement appointments to the provisional Board of Directors of the Federal Administrative Court.

**June:** Recruitment of Federal Administrative Court staff is concluded.

**31 December:** Abolition of the Federal Appeals Commissions and the Confederation's appeals services.

## 2007

**1 January:** The Federal Administrative Court starts operation at its provisional locations in and around Bern.

## 2010

Expected date of relocation of the Federal Administrative Court to its definitive seat in Sankt Gallen.

**Published by**

Federal Administrative Court  
Schwarztorstrasse 59  
P.O. Box, CH-3000 Berne 14  
Tel. +41 (0)58 705 26 26  
Fax +41 (0)58 705 29 80  
info@bvger.admin.ch  
www.bvger.ch

**Responsibility**

Christoph Bandli, Magnus Hoffmann  
Federal Administrative Court, Berne

**Project management, outline and editing**

Thomas C. Maurer & Partner, Berne

**Images**

Urs Maurer, Zurich and Berne

**Portrait photographs**

Edouard Rieben, Cotterd

**Impressions of the new building in Sankt Gallen**

Staufner & Hasler Architects, Frauenfeld

**Design and layout**

Scarton+Stingelin, Liebefeld Berne

**Printed by**

Jost Druck AG, Hünibach

This publication is also available in German,  
French and Italian.

**Address for copies**

Federal Administrative Court  
Schwarztorstrasse 59  
P.O. Box, CH 3000 Berne 14  
info@bvger.admin.ch

Berne, January 2007

