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Annual Report

**Report of the Office of the Attorney
General of Switzerland on its
activities in 2021 for the attention
of the supervisory authority**

Foreword

We are delighted to present the 2021 Annual Report of the Office of the Attorney General of Switzerland (OAG). The report includes the annual report to the Supervisory Authority for the Office of the Attorney General of Switzerland (SA-OAG), and complies with its regulatory directives.

Since 1 September 2020, as deputy attorneys general we have been acting jointly as the heads of the OAG until the new Attorney General of Switzerland takes office. This 16-month ‘deputisation event’ – to quote the unassuming terminology of the law – has been a challenge because of its workload and long duration and has tested us both to the limits of our resilience. Our central aim in this phase was to guarantee that the OAG continued to function as an efficient prosecution authority and to be able to hand over a motivated organisation that is well equipped for the future to the new Attorney General. We have achieved this aim, thanks not least to the valuable support we have received from our staff.

As a result, as far as its core business is concerned, the OAG was once again able to conclude or bring to trial several important cases. In all fields – from white-collar crime across international criminal law to national security and terrorism – we were able to secure significant court judgments. True to the principle that crime should not pay, the OAG consistently called for the forfeiture of criminal assets. It goes without saying that work went on in the large, resource-intensive procedural complexes.

In organisational terms, the COVID-19 pandemic continued to present the OAG with a challenge. The task force created to manage the situation, which implemented the measures taken to protect our staff, has proven its value. Thanks to our efficient internal organisation, we were able to guarantee the OAG’s operations at all times.

Furthermore, in the report year we successfully filled all the vacant key positions: for example, we were able to appoint a new secretary general, a new head of information and a new HR manager for the OAG.

At the beginning of 2022, the new Attorney General of Switzerland, Dr Stefan Blättler, takes over as head of the OAG, and we wish him the best of luck and every success in his new post.

The OAG is once again looking back on a demanding year. This report documents in excerpts how diverse the OAG’s statutory duties are.

In conclusion, we would like to thank our staff for all their hard work and unstinting dedication, and the OAG’s numerous partner authorities in the Federal Administration and in the cantons for their excellent cooperation.

Ruedi Montanari,
Deputy Attorney General
of Switzerland

Jacques Rayroud,
Deputy Attorney General
of Switzerland

Bern, January 2022

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1 Status and Statutory Mandate of the Office of the Attorney General of Switzerland (OAG)

1.1 The OAG's organisational status

Under Article 7 of the Criminal Justice Authorities Act (CJAA, SR 173.71), the OAG is the federal prosecution service. It is headed by the Attorney General of Switzerland, who is appointed by the Federal Assembly and who has comprehensive powers to organise and manage the OAG. The Attorney General has two deputies, who are also appointed by the Federal Assembly and who may exercise all of the Attorney General's powers when acting on his behalf. The appointment of the federal attorneys and the recruitment of other staff is the Attorney General's responsibility. He is an independent employer under federal personnel law.

The OAG is subject to the comprehensive oversight of a supervisory authority whose members are also appointed by the Federal Assembly (SA-OAG; Art. 23 ff. CJAA).

1.2 Statutory operational mandate

As the federal prosecution service, the OAG is responsible for investigating and prosecuting offences that fall under federal jurisdiction, as specified in Articles 23 and 24 of the Criminal Procedure Code (CrimPC, SR 312.0) and in other specific federal legislation.

These firstly include classic crimes against the state, i.e. offences that are primarily directed against the Swiss Confederation or have significant consequences for its interests. Secondly, they include the prosecution of more complex intercantonal or international cases of organised crime (including terrorism and its funding), money laundering and corruption. The OAG may also assume jurisdiction in cases of white-collar crime that have a national or international dimension. Lastly the OAG's tasks include the execution of requests for mutual assistance from foreign law enforcement agencies.

2 International Cooperation

2.1 Mutual assistance

The situation on the COVID-19 front once again hampered mutual assistance activities in this report year. In particular, uncertainty as to how the pandemic would develop and the various national restrictions made it difficult for foreign officials to travel to Switzerland (Art. 65a of the Mutual Assistance Act, IMAC, SR 351.1), which led to the postponement or cancellation of various investigative activities and delayed the execution of requests.

In 2021, various new provisions were added to the IMAC. For example, Article 1 paragraph 3^{bis} and 3^{ter} IMAC allow the IMAC to be applied to certain types of procedure that are conducted by international courts or other intergovernmental or supranational bodies. For the OAG, these provisions are important primarily for cooperation with courts that have jurisdiction to sanction serious breaches of humanitarian international law. Article 80a^{bis} IMAC will allow the disclosure of the results of the executed request for mutual assistance to the foreign authority without the person concerned having to be informed beforehand. This possibility only exists for cases connected with terrorism or organised crime and is subject to strict conditions. These provisions represent a significant step forward in the fight against terrorism and organised crime, but are unlikely to have a significant overall impact on the OAG because of their limited scope of application. Lastly Articles 80a^{ter}–80a^{duodecies} introduce the possibility already provided for in some treaties of forming joint investigation teams with other states. These provisions bring further potential for cooperation for the prosecution authorities, which may increase the speed and the efficiency of cross-border law enforcement.

The revised provisions of the Anti-Money Laundering Act (AMLA, SR 955.0), which came into force on 1 July 2021, also open up new opportunities for exchanging bank information between the MROS as the Swiss financial intelligence unit (FIU) and foreign FIUs in the run up to mutual assistance proceedings. The new provisions should enable foreign authorities to submit more targeted and better quality requests for mutual assistance. This new situation has strengthened the dialogue with MROS.

Furthermore, two court decisions are worthy of mention. The OAG is often required to process large quantities of electronic data. These data cannot simply be handed over unsorted to foreign authorities, but must be sorted out in a resource-intensive process, in order to sift out the relevant data. In its judgment of 22 September 2021 (RR.2021.39), the Federal Criminal Court made it clear that an authority normally meets its

obligations if it initially sorts out the data on the basis of relevant keywords, and it does not need specific justification for processing each file.

According to the legal precedent in relation to fiscal administrative assistance¹, financial institutions or their employees are increasingly requesting to be recognised as parties to the proceedings in order to oppose the granting of administrative assistance or to request the redacting of documents. In two judgments dated 2 February 2021 (RR.2021.308 and RR.2021.11), the Federal Criminal Court confirmed that, in view of Switzerland's international obligations towards requesting states, the rules applicable to administrative assistance in tax matters do not apply to mutual assistance proceedings. Bank employees have thus been denied party status. The appeals filed in parallel in the Federal Administrative Court were dismissed.²

2.2 FATF³

The OAG participates as an expert in the work of the FATF as a member of the Swiss working group led by the State Secretariat for International Financial Matters (SIF). As a result of its competences and expertise in prosecuting money laundering and terrorism financing offences, the OAG drafts opinions and formulates proposals. The OAG also coordinates the compilation of statistics that are kept to satisfy FATF needs both by the OAG and the cantonal prosecution services.

The OAG also participates in the work of the inter-departmental coordinating group on combating money laundering and the financing of terrorism (CGMT) and its working groups, which identify and assess the risks at national level of money laundering and terrorism financing on behalf of the Federal Council and under the auspices of the SIF. In this way, the Federal Council implements the related FATF recommendation for a national risk assessment.

2.3 OECD⁴

As a result of the continuing COVID-19 pandemic, the plenary meetings of the OECD Working Group on Bribery (WGB) were again held exclusively online using the 'Zoom' IT platform in 2021. As the WGB adhered to its requirement to use Zoom as the only option, the opportunities for discussions were considerably restricted in view of the security concerns related to this platform.

In December 2021, the WGB concluded Phase 4 of its country examination of France relating to the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business, the 2009 recommendation for further combating bribery of foreign public officials in international business and the related instruments. The evaluation team for this Phase 4 country examination of France comprised auditors from Canada and Switzerland as well as members of the OECD's anticorruption division. In addition to representatives from the State Secretariat for Economic Affairs (SECO) and the Federal Office of Justice (FOJ), the OAG was also represented in the Swiss expert delegation. In accordance with the evaluation procedures specified by the WGB, the evaluation team conducted a visit from 3 to 12 May 2021 after the French authorities had responded in writing to the questions and additional questions for Phase 4. As a result of the restrictions due to the COVID-19 pandemic, by way of exception this visit was conducted virtually. In this way, the evaluation team met with representatives of the authorities responsible for applying the laws and with the government, members of parliament and representatives of civil society and the private sector. At the fourth and final plenary meeting of the WGB from 6 to 10 December 2021, which was also held exclusively online, the report on France's Phase 4 country examination was approved.

1 Judgment of the Federal Administrative Court A-5715/2018 of 3 September 2019.

2 Judgments A-5706/2020 and A-5709/2020 of 5 March 2021.

3 Financial Action Task Force.

4 Organisation for Economic Co-operation and Development.

3 National Cooperation

2.4 Genocide Network⁵

In the report year, the OAG attended the 29th and 30th meetings of the European Genocide Network. As a result of the COVID-19 pandemic, the first meeting was held by video conference, while the second took place partly online and with some participants present in The Hague. The Network, made up of practitioners from prosecution services and justice and police authorities working in the field of international criminal law, offers members from EU countries and observers from Canada, the USA, Norway, Bosnia-Herzegovina, the United Kingdom and Switzerland the opportunity to pursue continuing professional education on specific topics and to exchange experiences.

The topics discussed at the meeting in the report year included prohibiting the use of chemical weapons, the related international statutory principles and the prosecution of the use of chemical weapons in Syria. In addition, opportunities for cooperation between the national authorities and with the International Criminal Court and the UN mechanisms (in particular IIM⁶, IIMM⁷, UNITAD⁸) were considered. Representatives of prosecution authorities were also able to hold discussions at meetings specially reserved to them for the purpose of ensuring the networked and coordinated prosecution of core international crimes.

3.1 Federal Office of Police (fedpol)

The positive comments in past OAG annual reports on its cooperation with fedpol were again confirmed in the report year. Cooperation with fedpol is still good and characterised by a mutual understanding for the respective tasks and issues that the two authorities contend with. This assessment applies not only to the fedpol management, but also to its organisational units, such as the Federal Criminal Police (FCP), the Federal Security Service (FSS), International Police Cooperation (IPC) and the Money Laundering Reporting Office (MROS).

Excellent cooperation with the OAG's main partner authority is a fundamental aspect of successful law enforcement. This applies in principle to all fields in which the Confederation is responsible for bringing prosecutions. In recent years, the task force TETRA (TErrorist TRACKing) has enabled clear and functioning cooperation structures to be put in place for the prosecution of suspected terrorist offences, the Countering Organised Crime COC platform is currently pursuing a comparable form of cooperation for combating criminal organisations. By this is meant organisations that have mafia-type structures and thus seek not only to enrich themselves, but in a further step have the aim of undermining the economy and ultimately the state. In the report year, cooperation, particularly in the areas mentioned, was further increased. All those concerned are aware that effective and efficient cooperation is essential not only for the federal authorities but also for local partners in the cantons.

3.2 Federal Intelligence Service (FIS)

General discussions with the FIS on current events were again held in the report year as part of scheduled meetings in June and December. In addition to the regular meetings, exchanges related to specific cases took place quickly and directly.

The FIS is an important partner for the OAG, in particular in relation to terrorism, providing its assessment of the threat situation. Its cooperation with the OAG in this field is founded in particular on the TETRA concept. This cooperation is efficient, and guarantees the regular and rapid exchange of information. Security-relevant information assists in the early recognition and prevention of threats to internal and external security and must reach the OAG in good time and in the appropriate form in order to have the maximum effect. The interfaces between the FIS's preventive duties and

5 European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes.

6 International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011.

7 Independent Investigative Mechanism for Myanmar.

8 United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL.

those of prosecutors are recognised; they are each reviewed and discussed in partnership. The official reports issued by the FIS form a crucial basis for opening criminal proceedings.

3.3 Federal Office of Justice (FOJ)

As the central and supervisory authority in relation to international mutual assistance, the FOJ supervises passive mutual assistance procedures, advises the OAG on active mutual assistance proceedings and monitors the OAG's compliance with the applicable statutory provisions.

Employees of the OAG and the FOJ are in contact with each other on a daily basis, whether in relation to administrative matters or in order to deal with fundamental issues in connection with conducting proceedings. Any differences of opinion are settled in a pragmatic way at the appropriate level. Each authority understands and respects the other's responsibilities and prerogatives.

The OAG regularly calls on the services of EUROJUST⁹, whether for needs in terms of national criminal proceedings or as an intermediary in active mutual assistance proceedings when direct contact with the requesting authority proves difficult or insufficiently efficient. EUROJUST is a key partner for the OAG, in particular in coordinating international efforts to combat crime. In addition, EUROJUST can be used as a platform for tackling problem areas that concern several states and creating a basis for solutions, which if not uniform, will at least be coordinated.

3.4 Swiss Financial Market Supervisory Authority (FINMA)

The OAG held discussions with FINMA as part of their usual coordination meetings, as well as regular ad-hoc meetings, dealing with topics that mainly concerned stock exchange and money laundering offences. In the course of 2021, the OAG received seven reports from FINMA related to eleven natural persons who are suspected of breaching Article 154 of the Financial Market Infrastructure Act (FINMASA, SR 958.1) and one report relating to a suspicion of a breach of Article 273 SCC.

3.5 Federal Tax Administration (FTA)

The FTA and the OAG continued their close cooperation in 2021. They were able to make the optimum use of the synergies that result from their respective spheres of activity. Accordingly, the OAG, as in the previous years, was also able in 2021 to identify potential tax offences. It is the OAG's practice to report such cases in accordance with the applicable statutory provisions to the tax authorities responsible. Conversely, ongoing tax proceedings can uncover practices that are relevant to the duties that the OAG carries out. In order to optimise the reciprocal identification of relevant matters and the related cooperation, the two authorities liaise through their respective single points of contact.

3.6 Conference of Swiss Public Prosecutors (CSPP)

The OAG regards it as important to participate in the CSPP, as the CSPP encourages cooperation between the cantonal and federal prosecution services. In particular, it aims to achieve an exchange of views between the cantonal prosecution services themselves and with federal services, as well as the coordination and upholding of common interests. The CSPP encourages uniform practices, which bring legal certainty in criminal law and the law of criminal procedure. It comments on federal legislative projects, issues recommendations, and influences opinion on issues relating to criminal law, the law of criminal procedure and related fields.

A common priority in the report year was again the revision of the Criminal Procedure Code, which was debated in the spring session by the National Council and in the winter session by the Council of States.

For administrative support in setting up a general secretariat at the CSPP, the OAG expressed its willingness in 2020 as a transitional measure to employ the Secretary General of the CSPP and to offer him a workplace. The costs were borne by the CSPP. Since the start of the report year, the CSPP has appointed the staff of its own General Secretariat directly; its office infrastructure is located outside the OAG.

9 European Union Agency for Criminal Justice Cooperation.

4 Legal Issues and General Information for Parliament

3.7 Joint task of fighting terrorism: Single Points of Contact

The prosecution services in all the cantons have designated a *single point of contact* for the OAG for the purpose of combating terrorism (SPOC T). This person will be the OAG's first contact partner in the canton if there is any suspicion of terrorist activity and for general questions on this subject. As a link with the OAG, he has direct contact with the persons responsible for dealing with terrorism offences at the OAG. His colleagues in the canton act as contact partners and advisers to the SPOC T. The OAG regularly provides the SPOC T with information, which he passes on to his colleagues in the cantons in order to raise awareness of the issue. At regular meetings, the OAG and the SPOC T discuss their experiences, outstanding questions and mutual needs. As a result of the continuing pandemic situation, it was not possible to hold any of these meetings in the report year.

4.1 Applying the net principle in assessing claims for compensation

In its decision 6B_379/2020 issued on 1 June 2021, the Federal Supreme Court dealt in detail with the issue of the extent to which the proceeds obtained from a transaction brought about by bribery should be forfeited.

The OAG had abandoned criminal proceedings related to the suspected bribery of foreign public officials (Art. 322^{septies} SCC) and aggravated money laundering (Art. 305^{bis} Sec. 2 SCC). As part of the abandonment process a claim for compensation was upheld, in which the assessment was made that the entire net proceeds of the corrupt transaction were eligible for forfeiture. The persons concerned appealed up to the Federal Supreme Court, which ultimately allowed their appeals. The Federal Supreme Court held that in such cases the net principle should be applied, i.e. that the entire net proceeds should not be forfeited if the offence simply involves influencing a discretionary decision (taken by the decision-maker who is bribed). In the view of the court, in this scenario the amount to be forfeited can be fixed by making an estimate (Art. 70 para. 5 SCC). In the proportionality test, the entire circumstances of the case in question must be taken into account. According to the Federal Supreme Court, if the entire net proceeds were to be forfeited to the state, the party paying the bribe would effectively be required to provide its services to the state free of charge, which is disproportionate and not appropriate if contract terms were legally agreed for the service, even though the persons acting on behalf of the state made the award of the contract unlawfully in response to a bribe. An examination must therefore be made of how and why the bribe payments came about. Consideration should also be given to the other circumstances, such as the content of contract, the amount of discretion that the bribed public official had and the degree of influence exerted, any approval of or challenge to the legal transaction following disclosure of the bribe payments, any indirect advantages associated with the awarding of the contract, for example in the form of an improvement of the market position, etc. The specific circumstances of the case are decisive.

In the view of the Federal Supreme Court, no generally applicable calculation method exists.

4.2 No statute of limitations in international criminal law

The competent cantonal prosecution service had conducted proceedings in connection with the death of a former Iranian diplomat and activist in the National Council of the Iranian Resistance in Western Switzer-

land in April 1990. Before the proceedings were abandoned under the statute of limitations, a private claimant requested the cantonal prosecution service to classify the matter under investigation as a case of genocide and crimes against humanity (Art. 264 and 264a SCC). In a decision dated 25 March 2021, the Appeals Chamber of the Federal Criminal Court in response to an application to determine jurisdiction, held that the OAG was required to decide on the request for the reclassification of the case. Subsequently, the OAG issued a ruling in which it declined to extend the legal classification of the case to bring it under the criminal provisions on genocide and on crimes against humanity, which had come into force on 15 December 2000 and 1 January 2011 respectively (Art. 264 and 264a SCC), on the grounds that the prohibition of the retrospective effect of a criminal offence in accordance with Article 2 paragraph 1 SCC applied. This was because the criminal act that was the subject matter of the criminal proceedings was committed before the aforementioned provisions came into force. The private claimant appealed against this decision to the Federal Criminal Court.

In its decision of 23 September 2021, the Appeals Chamber of the Federal Criminal Court held that the retrospective effect of the provision for there being no time bar for prosecutions in Article 101 paragraph 3 SCC made it possible to reconcile the principle by which criminal laws do not have a retrospective effect laid down in Article 2 SCC with the political considerations that favour there being no statute of limitation for serious crimes with an historical dimension such as genocide and crimes against humanity (Art. 101 para. 3 SCC). The Federal Criminal Court concluded that the circumstances under investigation could constitute the criminal offence of genocide and/or crimes against humanity, as the cantonal prosecution service had shown that opponents of the Iranian regime opposition had been eliminated in several countries. In view of this and of the principle of 'in dubio pro duriore', the murder of the Iranian opposition member in the canton of Vaud could have been carried out with the intention of committing genocide or crimes against humanity. As the prosecution of such offences cannot become time-barred, their prosecution is not subject to any time limit, with the result that the case was referred back to the OAG.

This clarification from the Federal Criminal Court is of crucial importance for the OAG in its current and future criminal proceedings based on international criminal law.

4.3 Admissibility of reports from the Swiss Transportation Safety Investigation Board (STSB)

The existing direct and prompt contact between the OAG and the STSB in the event of an incident is vital and functions very well, despite the fact that investigations are conducted independently, particularly with regard to the collection of evidence and communication with relatives and the public. The question of whether STSB reports and files may be used in criminal proceedings is currently being raised in several cases pending before the Federal Criminal Court. The outcome of these proceedings may have a direct influence on the investigative activities of the prosecution authorities.

4.4 Jurisdiction over aviation offences

The OAG has jurisdiction over all offences committed on board aircraft (Art. 98 para. 1 of the Aviation Act, FAA, SR 748.0). If the criminal offence is committed on the ground, such as an incident caused by a drone or by a pilot being blinded by a laser pointer, cantonal jurisdiction still applies.

Motion 18.3700 tabled by National Councillor Martin Candinas, in terms of which all offences committed in an aviation context should fall within the jurisdiction of the federal criminal justice authorities, was accepted in September 2018 by the National Council and in September 2019 by the Council of States. In order to guarantee uniform legal precedent in relation to aviation and develop the relevant expertise, the OAG supported the comprehensive federal power in this sector and thus the rapid implementation of the motion. According to the answer from the Federal Council on 27 September 2021 to Question 21.7828 from National Councillor Martin Candinas, however, the revised FAA is not expected to come into force before 2024 at the earliest.

Interview

Interview with the Deputy Attorneys General



Ruedi Montanari,
Deputy Attorney General of Switzerland



Jacques Rayroud,
Deputy Attorney General of Switzerland

“The Office of the Attorney General of Switzerland is keeping pace with the times”

Mr Montanari, Mr Rayroud – as deputy attorneys general, you hardly expected at the time to have to take over as acting heads of the OAG for much longer than a few months. What have been your biggest challenges over this long period?

Ruedi Montanari (RM): It was not always simple to find the balance between preserving what we already had and moving forward, above all the longer the provisional situation lasted. We were rather forced to take certain decisions, without knowing who was going to take over as Attorney General and when.

Ultimately, irrespective of the duration of this transitional phase, the main aim has been to ensure that the OAG functions well and does so on the basis of the current OAG-2020-2023 Strategy. At the same time, we also wanted to guarantee work of the highest quality. We achieved this in part thanks to the excellent support we received from the heads of division and our partner organisations. In addition, we created an environment in the difficult times of the pandemic that allowed our employees to do their jobs under the best conditions that were possible.

Jacques Rayroud (JR): Major strategic changes of directions were never on the agenda. The joint leadership could not and did not want to pre-empt a new Attorney General. Nevertheless, we decided, for exam-

ple, to hold a pilot trial for an expanded Directorate (including all heads of division and the head of human resources). Decisions are now more broadly supported, and this means the heads of division can justify them credibly to their teams. Ultimately bringing the heads of division into the Directorate creates greater transparency and more cohesion. As a result, with this pilot project in the Directorate, we have taken a small step towards a more participative culture within the organisation.

We also had some staff departures this year. By pooling out efforts, we have succeeded in filling all the key vacant positions. The Attorney General designate, Dr Stefan Blättler, was of course involved in this. We can now hand over to him a fully staffed Directorate and a well-established organisation with motivated employees. In that respect, we have achieved one of the most important goals for 2021.

You say that there were no major strategic changes of direction – nonetheless you have done further work at a strategic level...

RM: The OAG’s vision states: ‘We are committed to ensuring that crime does not pay, thereby strengthening the structures of our constitutional state.’

The OAG must constantly adapt to changes in its environment. Ultimately the OAG must be and wants to be true to its vision, to keep pace with the times. Take the example of international criminal organisations. These are developing rapidly – not least due to the dig-

ital opportunities – and do not wait for our strategies or the law to change. In order to keep pace with these developments, we have to constantly adapt our strategies. This year we adopted a new strategy in relation to criminal organisations. The prosecution and combating of criminal organisations are a strategic priority for the OAG.

Criminal organisations, which include terrorist organisations, are, like the majority of the fields we deal with, a dynamic, cross-border phenomenon. To combat them and bring their members to justice, working with all our partner authorities in this field in Switzerland and abroad is crucially important. In Switzerland, this is a joint task for the prosecution and security services at federal and cantonal levels, and each have a variety of powers and instruments at their disposal.

Because Switzerland cannot combat such serious forms of crime on its own, it is vital to have close cooperation with other states and ensure the most direct, cross-border flow of information that is possible between the authorities concerned. As a consequence, the use of shared instruments, such as joint investigation teams (“JITs”) is important for the direct and efficient coordination of international investigations. A good example of successful national and international cooperation was the arrests of six suspected members the ‘Ndrangheta in mid-November 2021 in four cantons in Switzerland.

Looking back: what were the most outstanding results this year for you personally?

RM: Looking back, a lot has happened, above all in the second half of the year. In particular, we secured some very satisfying judgements in the Federal Criminal Court.

JR: And we did so right across the board, from white-collar crime through international crime to national security and terrorism. Even if not all the court cases generated the same media interest, these court decisions, which are so encouraging for the OAG, clearly show that our federal attorneys do an exceptionally professional job and are highly motivated.

What were the operational highlights this year?

RM: The OAG reached some important operational milestones this year, despite corona, and brought key priority cases in all divisions and fields of crime to a conclusion or to trial. To name the most important:

On 18 June 2021, the Federal Criminal Court convicted a former rebel leader from the Liberian ULIMO militia of war crimes and sentenced him to 20 years’ imprisonment. It is the first judgment in Switzerland un-

der international criminal law and is the deserved result of a four-and-half-year criminal investigation. And this in a case, let us not forget, where the crimes were committed exclusively in Liberia. The Swiss prosecution authorities have proven that they can prosecute war crimes successfully and secure convictions.

On 17 September 2021, the judgment was handed down in the SECO anti-corruption case with the main perpetrator, an employee of the Federal Administration, receiving a custodial sentence of 4 years and 4 months from the court of first instance. This judgment shows that Switzerland itself is not immune from corruption offences, but that its criminal justice system can prosecute them and impose appropriate penalties.

JR: And on 2 November 2021 the OAG reached a milestone by filing an indictment against Joseph Blatter and Michel Platini in the FIFA case. The two accused are alleged to have unlawfully induced FIFA to pay CHF 2 million to Michel Platini. The OAG thus concluded another case within the overall ‘FIFA complex’ by filing an indictment.

The OAG this year also secured important convictions in relation to money laundering, international corruption, stock market offences and general white-collar crime, which entailed substantial forfeitures of assets. It is regrettable that there were procedural delays due to the long time taken over proceedings to remove the seals on documents before certain compulsory measures courts. Although the amendments to the Criminal Procedure Code currently under discussion will solve some of these difficulties, this will not be enough. The compulsory measures courts concerned commonly justify the delays on the grounds of the complexity the OAG’s cases, the quantities of sealed documents or data and their high workload. Beyond adapting the legal framework, fundamental consideration must therefore be given to how these delays can be prevented in the future.

And looking forward: on 1 January 2022, Dr Stefan Blättler assumes office as Attorney General of Switzerland. Where do you wish him, yourselves and the OAG to be in a year’s time?

RM: First of all, we want to ensure that the Attorney General makes the best possible start at the OAG. At the same time, we must continue to conduct criminal proceedings successfully within the framework of the controlling procedures that have been resumed by the deputy attorneys general.

It goes without saying that we also have to publicise the results we achieve. Generally speaking, I could imagine that we will again improve external communi-

cation somewhat, whether through more 'original sounds and pictures' or via so-called background discussions.

The reorganisation of the current General Secretariat will be another priority. In addition to creating more transparent and appropriate organisational structures, it is also important that rapid progress is made with projects that have been initiated.

JR: For me it is a great relief that the new Attorney General of Switzerland is assuming office. It means that the OAG management can finally resume its normal work patterns. I hope the new Attorney General gets the time he needs to familiarise himself with the way the OAG works and its procedures. And in addition to the best of health, I sincerely hope that he enjoys the trust that is required both at a political level and in the media and among the general public, so that he can carry out his duties with the greatest possible composure. I very much hope that he succeeds in finding a good balance between his highly demanding professional life and his private life. Lastly, I hope that by the end of next year this pandemic will simply be a distant memory.

Operational Activities

1 Strategy 2020–2023¹⁰

The 2020-2023 strategy was launched at the start of 2020 and is based on the OAG's Vision and Mission Statement. The vision, which forms the OAG's objective for the coming years, states that the OAG is committed to ensuring that crime does not pay, by strengthening the rule of law. The Mission Statement, which provides a framework for the OAG's activities, focuses on the OAG's commitment to uphold the rule of law and establish the truth by conducting criminal proceedings, providing mutual assistance, and working effectively with partner organisations.

In order to implement the Vision and the Mission Statement, the OAG will adopt the following four strategic approaches in the 2020-2023 period:

- Safeguarding its freedom to act and remain flexible: The OAG formulates strategies specific to each field of crime, in order to be able to develop systematically and in a structured manner in relation to these fields of crime. In the report year, the OAG drew up an analysis and strategy for the field of criminal organisations. To safeguard its freedom to act, the OAG is optimising internal processes through standardisation and centralisation. In addition, the OAG is increasing its existing cooperation with fedpol and promoting new forms of collaboration.
- Strengthening leadership: The concept of leadership, and specialist and management structures are being further consolidated. The various roles and their interaction are regularly reviewed and adjusted if necessary.
- Encouraging strategic human resources planning: In order to enable its staff to do their jobs as well as possible, the OAG intends to further develop its working methods and to motivate its employees. The OAG is also focusing on succession planning, to fill vacancies with the best possible candidates and to plan for the transfer of knowledge and experience at an early stage.
- Developing technology / IT instruments: The OAG is constantly developing its IT instruments, in some cases jointly with its main partner authorities, in order to support its employees in their daily work. A key element of this is including the employees, so that the requirements for IT instruments can be defined and fulfilled according to specific technical needs.

The strategy is managed on the basis of a 'roadmap', i.e. a rolling 12-month plan that contains the projects needed to implement the strategy. They are prioritised on the basis of their importance and the availability of resources.

¹² <https://www.bundesanwaltshaft.ch/mpc/en/home/die-bundesanwaltshaft/vision.html>

2 Centralised Processing of Incoming Communications at the OAG (ZEB)

The ZEB registers, analyses and triages in one location all incoming communications that are not directly connected with or which have to be processed separately from an ongoing criminal investigation. These communications consist primarily of reports of criminal offences, criminal complaints, requests to take over proceedings from the cantons, and reports from the Money Laundering Reporting Office (MROS). If necessary, an incoming communication is passed on to a federal attorney or assistant federal attorney for consideration, and his or her proposal for further action is discussed in the Attorney General's operational committee (OAB). Clear cases are dealt with directly through the ZEB. This relieves the workload of units conducting proceedings in particular and fosters a *unité de doctrine* within the OAG.

In the report year a total of 2077 incoming communications were processed, including 435 requests to take over proceedings; in 96% of these, the OAB recognised federal jurisdiction. In addition, 132 MROS reports were processed. While 1688 of the incoming communications were passed on to the divisions for further processing, 389 were processed and dealt with directly at ZEB level (by rejecting the request to take over proceedings or not accepting criminal complaints). In comparison with previous years, the total number of incoming communications again increased, while the number of MROS reports continued to decline.

3 Cases of Public Interest

Information on cases of public interest as at the end of 2021.

3.1 Case of corruption involving public officials

In the period from 2004 to 2013, a head of section at the State Secretariat for Economic Affairs (SECO), acting independently, awarded numerous private contracts to various IT companies in connection with running the unemployment insurance computer centre. The companies concerned made considerable profits from the contracts, which were awarded in violation of procurement law provisions and guidelines. In addition, the former head of section accepted falsified invoices from one of the IT companies and approved them for payment. In return, the former SECO official regularly demanded and received benefits from the beneficiary companies in the form of sponsorship for events, invitations to events in Switzerland and abroad, gifts, cash, etc., which the IT contractors willingly gave him. In the case of one IT company, funds were siphoned off from the company via offshore corporations by means of falsified invoices. These funds were used, among other things, to pay bribes to the former SECO official.

The Criminal Chamber of the Federal Criminal Court found the former SECO official guilty of multiple counts of forgery of documents while in office, of taking bribes and of forgery of documents. Three IT contractors were found guilty of multiple counts of bribery, and one IT contractor was found guilty of multiple counts of forgery of documents and of criminal mismanagement. The OAG had already by summary penalty order convicted and sentenced three other IT contractors for bribery and a fiduciary for multiple counts of forgery of documents and of criminal mismanagement and for money laundering.

The accused and the OAG have filed an appeal against the judgment of the Criminal Chamber.

3.2 Cases of ATM burglary with the use of explosives in Switzerland

For around two years, the OAG has noticed an increase in cases in which ATMs in Switzerland are broken open using explosives. Cases in which explosives are used generally fall within the OAG's purview, and it is currently conducting criminal proceedings in around 30 cases. The perpetrators accept a greater danger to life and limb with this method than with other methods; the blasts usually cause serious property damage and can, under certain circumstances, also put people's lives at risk. The conduct of proceedings is time-consuming and resource-intensive, especially since the perpetrators often operate across cantonal and national borders

and many investigations have to be conducted through international mutual legal assistance. Accordingly, co-operation with foreign prosecution authorities is also crucial.

At a national level and depending on the individual case, fedpol and the cantonal police authorities are important partners that are responsible for the investigations under the direction of the OAG.

In October 2021, the OAG filed its first indictment in the Federal Criminal Court in relation to an ATM explosion/theft in Switzerland. The accused is a Romanian national resident in Romania. According to the indictment, the accused broke open an ATM in Sevelen in the canton of St Gallen in December 2019 using explosives and stole cash amounting to CHF 126 600. In addition, the destructive force of the explosives and the tools used caused damage to the ATM and to the façade of the property estimated at CHF 100 000. According to the indictment, by detonating the explosives at an ATM built into the façade of a multi-storey residential and commercial building, the accused at least tacitly accepted that injuries to persons and damage to other people's property could be a consequence of his behaviour and acted knowingly and willingly with felonious intent.

In December 2021, the Federal Criminal Court, as court of at first instance, convicted the accused, sentencing him to 6 years and 2 months imprisonment and ordering his expulsion from the country for 10 years. This sentence has not yet taken legal effect.

3.3 Terrorism case (1)

In its judgment of 8 October 2020 (SK.2020.11, not yet binding), the Criminal Chamber of the Federal Criminal Court found a then 53-year-old Iraqi guilty of participation in a criminal organisation under Article 260^{ter} SCC (among other offences), sentenced him to a total term of imprisonment of 70 months and ordered his expulsion from the country for 15 years. The Criminal Chamber considered it proven that the accused was a middle-ranking member of the 'Islamic State' terrorist organisation (IS). As such, he had, among other things, encouraged a woman living in Lebanon to commit a suicide attack on behalf of IS, given financial support to IS of at least USD 7500, acted as a recruiter and trafficker of IS members, and spread propaganda for IS. The Criminal Chamber rejected the OAG's application for the accused to be incarcerated indefinitely.

In its judgment of 9 July 2021 (CA.2020.18, not yet binding), the Higher Appeals Chamber of the Federal Criminal Court partially upheld the appeals of the OAG and the accused against the judgment of the Criminal

Chamber of 8 October 2020. The Higher Appeals Chamber essentially confirmed the first-instance guilty verdict, in particular with regard to the main charge of involvement in IS. However, in allowing the OAG's appeal, the Higher Appeals Chamber found the accused guilty of violating the Federal Act on the Prohibition of the Groups 'Al-Qaeda' and 'Islamic State' and Related Organisations (AQ/IS Act), rather than of participating in a criminal organisation under Article 260^{ter} SCC. The Higher Appeals Chamber also confirmed the OAG's view that both the CrimPC and the SCC each contain a genuine legal loophole with regard to the AQ/IS Act. As a result, the court added the offence of Article 2 of the AQ/IS Act to the list of offences in Article 269 paragraph 2 of the CrimPC for which covert surveillance measures are permitted. Similarly, it expanded the list of offences in Article 66a paragraph 1 SCC that lead to mandatory expulsion to include offences under Article 2 AQ/IS Act. Furthermore, the Higher Appeals Chamber rejected the call for the accused's indefinite incarceration. Accepting the accused's appeal, the Higher Appeals Chamber reduced the total custodial sentence to 65 months.

A few days before the appeal hearing, the OAG learned of the allegation that the accused, while in preventive detention, had tried to arrange the contract-killing of his ex-wife. In addition, there is reason to suspect that the accused has continued to spread IS propaganda while in custody. Due to these suspicions, the OAG immediately opened new criminal proceedings against the accused and applied to the compulsory measures court for his transfer to pre-trial detention. The new criminal proceedings are pending; the presumption of innocence applies.

3.4 Terrorism case (2)

In its judgment of 1 December 2021 (CA.2021.9, not yet binding), the Higher Appeals Chamber of the Federal Criminal Court upheld the first-instance conviction of a Swiss-Italian dual national for supporting the terrorist organisation 'Islamic State' (IS). Like the Criminal Chamber before it, the Higher Appeals Chamber considered it established, as set out in the indictment, that the accused had gone to Syria for a short time and had performed guard duties in a camp there in the service of an IS combat unit. After his return to Switzerland, the accused, as the person in charge of a Koran distribution campaign and a martial arts school, had systematically and specifically indoctrinated adolescents and young men with the IS ideology and thus encouraged five persons to join IS and leave for the combat zone.

The Higher Appeals Chamber dismissed the accused's appeal against this conviction, but reduced the

sentence from 50 months to a 36-month partially suspended custodial sentence. The court acquitted the accused of possession of a violent image. The OAG had filed a cross-appeal against the first-instance verdict, requesting in particular that the custodial sentence be increased to 55 months.

3.5 Case involving international criminal law

In December 2020, the first ever trial for war crimes was opened before the Federal Criminal Court. The trial took place in two sessions and was concluded at the beginning of March 2021. The indictment charged the accused with 26 violations of the law of war, committed between 1993 and 1995 during the first civil war in Liberia. The accused had played a leading role in the rebel faction ULIMO, which had returned to Liberia to fight against Charles Taylor's National Patriotic Front of Liberia (NPFL). Notably, the judges in Bellinzona heard the evidence of a 12-year-old child soldier who had served in the accused's forces, taken part in fighting and who had now come from Liberia to testify in court about the horrors he had experienced. Eight other witnesses and seven private claimants were examined by the court either directly or via video conferencing from France and Liberia. The judges thus heard their stories of looting, the forced transport of goods, cruel treatment, rape, arbitrary killings and cannibalism.

The verdict was read out in court in June 2021. The accused was found guilty of 22 violations of the law of war (Articles 108 and 109 of the former Military Criminal Code in conjunction with the Article 3 common to the Geneva Conventions) and sentenced to the maximum penalty under the law applicable to the offence, i.e. 20 years' imprisonment and expulsion from the country for a period of 15 years.

The OAG wishes to highlight the considerable efforts made for this trial, both during the investigation and at the main hearing, not least against the background of the COVID-19 pandemic. The trial was the result of a four-and-a-half-year OAG investigation and demonstrated that the Swiss justice system and its legal instruments are capable of handling this type of exceptional case in accordance with the principle of universal jurisdiction. For the complainants and the victims, the main satisfaction lies in the judicial recognition of the atrocities they experienced more than 25 years ago. For the OAG, this judgment provides strong motivation to continue fighting against impunity in the field of war crimes, crimes against humanity, and genocide.

The defence has filed an appeal and the parties are awaiting service of the written judgment.

3.6 Petrobras-Odebrecht cases

The Petrobras-Odebrecht series of cases, which was handled by a task force, remains one of the priorities of the OAG's White-Collar Crime Division.

The first two phases of the investigations focused on the recipients of the payments (bribed persons) and on the persons who arranged these payments (bribers). Due to the scope of these investigations, work in these two phases is still ongoing, although many proceedings have already been concluded. In parallel, the OAG is conducting a third phase of investigations, which focuses on the criminal liability of financial intermediaries in Switzerland on the basis of the facts clarified in proceedings in the first two phases.

Contrary to the trend of previous years, the number of mutual assistance requests delegated by the Federal Office of Justice to the OAG increased only slightly; at the same time significant progress was made with the execution of mutual assistance requests.

Both the handling of national proceedings and requests for mutual legal assistance and the restitutions to the Brazilian authorities made possible by Switzerland with the consent of the persons concerned illustrate the efficiency of good cooperation between national and international authorities in such a large investigation.

3.7 Series of cases in connection with world football

The final phase of the proceedings conducted in connection with world football, which began in 2020, continued in the report year. This primarily involves the indictment of former FIFA President Joseph Blatter and former UEFA President Michel Platini at the beginning of November 2021.

The accused are charged with financial offences (fraud, potential embezzlement or indeed aggravated criminal mismanagement or participation in such) and forgery in relation to a payment of CHF 2 million to Michel Platini made by FIFA at the beginning of 2011 and the related accounting. With this indictment, the last of the football cases at OAG level, which had been given the highest priority from the beginning, came to a conclusion. In connection with these allegations, the two accused had already been banned from any football activity by the Tribunal Arbitral du Sport (CAS) in 2016 for six and four years respectively.

Efforts to return assets to their rightful owners continued. In March 2021, criminal proceedings against a former South American football official concluded with a summary penalty order for multiple counts of money laundering and a partial abandonment of proceedings. As part of these criminal proceedings, the South Amer-

ican football association CONMEBOL received around CHF 4 million, by direct transfer or in the form of an equivalent claim. The total amount of assets forfeited in OAG procedures in the football cases or returned to parties suffering loss amounted to around CHF 42 million by the end of the 2021 report year.

3.8 Complex case of white-collar crime

In February 2021, the trial of a German hedge fund manager took place before the Federal Criminal Court. The OAG charged him with commercial fraud, criminal mismanagement, repeated forgery of documents and aggravated money laundering in the context of a fraudulent and covert financial scheme. Through this scheme, the hedge fund manager had acquired more than USD 170 million between 2004 and 2007, to the detriment of the investment funds he managed and the company of which he was Chief Investment Officer.

The OAG's indictment was also directed against a financial intermediary who ran a Swiss fiduciary company, who was charged with aggravated money laundering, repeated forgery of documents and fraudulent bankruptcy, and against two bankers charged with aggravated money laundering, forgery of documents, obtaining a false certification and breach of the duty to report suspected money laundering. Among other things, the OAG accused the two bankers of using part of the assets derived from the criminal activities to set up a private bank in Switzerland.

Due to the complexity of the financial constructs, the large number of persons involved, and the international dimension of the crimes prosecuted, numerous measures were ordered during the investigation, with more than a hundred interviews being conducted and records obtained for at least 600 banking relationships. In addition, the OAG submitted numerous international requests for mutual assistance to more than twenty different countries.

On 23 April 2021, the hedge fund manager was sentenced to 36 months' imprisonment and a monetary penalty of 120 daily penalty units of CHF 1000 each for aggravated criminal mismanagement and repeated forgery of documents. He was acquitted of the rest of the charges and the sentences imposed were partially suspended.

The financial intermediary was sentenced to an immediate prison sentence of 42 months and a monetary penalty of 370 daily penalty units of CHF 350 each for aggravated money laundering, repeated forgery of documents and fraudulent bankruptcy. The two bankers were also convicted of aggravated money laundering and forgery of documents, one being sentenced to

24 months' imprisonment and a monetary penalty of 180 daily penalty units of CHF 200 each, and the other to 20 months' imprisonment and a monetary penalty of 100 daily penalty units of CHF 120 each. They were acquitted of the remaining charges, and the sentences imposed were suspended.

In addition, assets in excess of CHF 45 million and several properties in Switzerland and Spain were forfeited. Finally, equivalent claims of over CHF 30 million were awarded.

All parties, including the OAG, have filed appeals.

3.9 Money laundering cases connected with Russia

In 2011, in response to a complaint filed by Hermitage Capital Management Ltd. and reports from MROS, the OAG opened proceedings against persons unknown on suspicion of money laundering. These proceedings concerned allegations of money laundering in Switzerland in the period from 2008 to 2010 in relation to assets stemming from fraud committed in Russia at the end of 2007 to the detriment of the Russian tax authorities, which had led to the unjustified payment of tax refunds totalling the equivalent of USD 230 million.

On 21 July 2021, the OAG abandoned these criminal proceedings, as the investigation had failed to substantiate any suspicions that would have justified charges against a specific person in Switzerland. At the same time, the OAG ordered the forfeiture of a portion of the assets seized in Switzerland to the extent that a connection between the assets and the predicate offence committed in Russia could be proven, and recognised an equivalent claim in favour of the Swiss Confederation. In total, this involves an amount of over CHF 4 million.

As part of its ruling abandoning proceedings, the OAG also re-examined the position of Hermitage Capital Management Ltd. as a private claimant. It turned out that despite detailed investigations, it could not be proven that the funds under investigation in Switzerland originated from a criminal offence to the detriment of that particular company. The OAG therefore revoked Hermitage's status as a private claimant.

Several appeal proceedings against the ruling abandoning proceedings, the forfeiture of assets and the revocation of the status of private claimant on 21 July 2021 are currently pending before the Higher Appeals Chamber of the Federal Criminal Court.

3.10 Cases of insider dealing

In its judgment of 22 June 2021 (SK.2020.36, not yet binding), the Criminal Chamber of the Federal Criminal Court found a well-known multiple board member partly guilty and the managing director of the Swiss branch of a globally active investment bank fully guilty of multiple breaches of business secrecy and multiple industrial espionage offences. The court also found the multiple board member guilty of several counts of insider trading as a primary and secondary insider. Both defendants were acquitted of a charge of bribery of private individuals.

The board member had worked for the investment bank as a senior advisor since April 2014. He was responsible for supporting the bank in the acquisition and execution of advisory mandates in return for a performance-related salary. He was also a member of the board and a senior advisor to the holding company of a well-known industrial group. According to the matters considered by the Federal Criminal Court, in 2015 over several months he passed on confidential documents about the imminent or ongoing sale of a foreign subsidiary of the industrial group to the investment banker, who was advising a prospective buyer. Over an extended period of time, he also disclosed to the investment banker other business secrets of the group as well as strategies and information on mergers and acquisition projects of another company of which he was a board member. The investment banker either used these for his own advisory work for the prospective buyer or passed them on to advisors of foreign units of the investment bank.

The board member and senior advisor received a payment of EUR 138 000 after the successful completion of the sales transaction. The court did not share the OAG's view that the payment was a bribe for the betrayal of trade secrets in the sales transaction and acquitted both defendants of the charge of bribery of private individuals.

On the other hand, the court found the multiple board member guilty of several counts of insider trading as a primary insider. As a member of the board of four listed Swiss companies, he had repeatedly exploited confidential, price-sensitive information for his own securities transactions over a period of two years. The court did not consider the securities transactions that he carried out using insider information from ongoing advisory mandates at the investment bank as primary insider transactions, but as secondary insider transactions. It ordered the defendant to pay compensation of CHF 771 325. In 2018, the Federal Administrative Court had already ordered the forfeiture of part of the unlaw-

ful profit of CHF 1 274 250 in the Swiss Financial Market Supervisory Authority's (FINMA) administrative proceedings for multiple counts of insider trading, and this was taken into account in the criminal proceedings.

The board member and the investment banker were given suspended prison sentences of 24 and 12 months respectively, and ordered to pay fines. The OAG has appealed against the judgment.

3.11 Cases of corporate criminal law

In 2018, the OAG opened a criminal investigation into the former CEO of a Swiss banking institution for aggravated money laundering and into the banking institution itself for being criminally liable (Art. 102 SCC). In June 2020, the indictment was filed in the Federal Criminal Court. This was the first time that the OAG had filed an indictment against a company, following various convictions in summary penalty order proceedings.

In summary, the OAG accused the former CEO of having moved assets totalling CHF 194 million to domestic and foreign accounts between 2012 and 2016 in order to conceal their origin. The assets in question were alleged to have been obtained unlawfully by a senior manager of the foreign company that owned the financial institution, i.e. by means of aggravated criminal mismanagement. The former CEO was thus alleged to be guilty of aggravated money laundering - as an accomplice to the former senior manager of the foreign company that owned the financial institution, who was prosecuted separately. The company itself was accused of having failed to ensure an appropriate separation of functions and the effective independent monitoring of risky business relationships, and of not having avoided conflicts of interest.

In its first-instance ruling of 15 December 2021, the Federal Criminal Court acquitted the former CEO of the banking institution of the charge of aggravated money laundering, applying the principle of 'in dubio pro reo' after it could not be proven that he had knowledge of the criminal origin of the assets. At the same time, the court affirmed the existence of a suitable predicate offence to money laundering and the subsequent acts of money laundering by the accomplice, who had been prosecuted separately. It considered the predicate offence of aggravated money laundering to be established, which is an objective condition for the company's criminal liability under Article 102 paragraph 2 SCC. The court further recognised the de facto position of the former senior manager of the company that owned the financial institution and confirmed the position set out in the indictment that the organisational structure of the banking institution was deficient at the time of the of-

4 Offences prosecuted with official authorisation

fence, because the measures required by the Anti-Money Laundering Act and the related implementing provisions had not been implemented on. As a consequence, the banking institution was found to be liable under the criminal law for aggravated money laundering. The company was fined CHF 3,5 million and a claim for compensation totalling approximately CHF 7 million was established against the company. The judgment is not yet legally binding.

3.12 The cybercrime phenomenon

The effective prosecution of cybercrime cases requires the clearest possible demarcation of cantonal and federal competences. This demarcation is based on the general provisions on federal jurisdiction, i.e., in relation to cyber-economic crime, Article 24 paragraph 2 CrimPC in particular. Accordingly, the optional jurisdiction of the OAG can be assumed if the matter involves a significant case of cyber-economic crime with suspicion of offences under the 2nd or 11th title of the SCC, predominantly committed abroad or in several cantons without a focus in any one canton, with the perpetrators acting from abroad and protecting themselves with exceptional anonymization techniques and using highly sophisticated technical procedures. In practice, the OAG conducts international case series on phishing and e-banking malware in particular.

Series of cases can be coordinated nationally with the cantonal public prosecutors' offices via the national Cyber-CASE platform, which was established in the summer of 2018 at the suggestion of the OAG and brings together representatives of the cantonal public prosecutors' offices, cantonal police, fedpol and the National Cyber Security Center (NCSC)¹¹. Cyber-CASE strengthens cooperation between the cantonal and federal law enforcement authorities through regular meetings with the aim of exchanging experiences and know-how and coordinating ongoing cases.

At an international level, the OAG represents Switzerland at EUROJUST in the European Judicial Cybercrime Network (EJCN)¹², which brings together prosecutors specialising in cybercrime and deals with issues such as encryption and cryptocurrencies. For example, in 2021, the EJCN prepared a draft guide on virtual currencies for prosecutors.

4.1 Prosecution of federal employees / members of the Federal Assembly

The prosecution of federal employees for offences related to their official activities or position (not including road traffic offences) requires authorisation from the FDJP pursuant to Article 15 of the Government Liability Act (GLA, SR 170.32).

In principle, preliminary proceedings are only instigated if authorisation is given, although precautionary measures that cannot be delayed may be taken beforehand (Art. 303 CrimPC). According to the case law of the Federal Supreme Court, authorisation can however be obtained at any time before the start of the appeal proceedings, provided the appeal authority has full legal and factual rights of review (Judgment 6B_142/2012 E. 2.5. of 28 February 2013).

In the case of members of authorities and senior federal officials appointed by the Federal Assembly, the competent committees of both councils, i.e. the Immunity Committee of the National Council and the Legal Affairs Committee of the Council of States, decide whether to grant authorisation (see Art. 14 ff. GLA). Likewise, the prosecution of members of the Federal Assembly for criminal offences that are directly connected with their official position or activity requires the authorisation of the competent committees of both councils (Art. 17 para. 1 Parliament Act, ParlA, SR 171.10).

4.2 Prosecution of political offences

Under Article 66 paragraph 1 CJAA, the prosecution of political offences requires authorisation from the Federal Council. There are cases in which political interests – in particular foreign policy interests – outweigh the interest in prosecution, with the result that the national government is permitted to intervene by way of exception.

The Federal Council has delegated the power of authorisation to the FDJP (Art. 3 let. a FDJP Organisation Ordinance, SR 172.213.1). In cases that involve foreign relations, the FDJP decides after consulting the Federal Department of Foreign Affairs (FDFA); it can refer cases of particular importance to the Federal Council.

With authorisation under Article 66 CJAA, authorisation from the FDJP under the Government Liability Act is also deemed to have been granted (Art. 7 Ordinance to the GLA, SR 170.321).

¹¹ <https://www.ncsc.admin.ch/ncsc/en/home.html>

¹² <https://www.eurojust.europa.eu/judicial-cooperation/practitioner-networks/european-judicial-cybercrime-network>

4.3 Requests for authorisation filed by the OAG in 2021

Applications to: * the GS-EJPD ** parliamentary committees	Number	Authorisation granted	Authorisation refused	Application no longer relevant	Decision pending
under Art. 15 GLA*	1	0	1	0	0
under Art. 66 CJAA* (incl. Art. 302 SCC)	11	8 1 in part	1 1 in part	0	1
nach Art. 17 / 17a ParlG**	0	0	0	0	0
Total	12	8 1 in part	2 1 in part	0	1

Authorisation under Article 66 CJAA may be refused by Federal Council decree (Art. 3 let. a OrgO-FDJP, last sentence).

The authorisation partly granted and partly refused under Article 66 CJAA related to *one* case with four accused: authorisation was granted in relation to three accused and refused in relation to one accused.

In the report year, a further 4 decisions were issued that related to applications pending from 2020: In one case, authorisation under Article 15 GLA was refused; in three cases, authorisation under Article 66 CJAA (a case related to Art. 302 SCC) was granted.

In 2021, the services conducting proceedings passed on around 400 legally enforceable decisions taken by the OAG (summary penalty orders, decisions to take no proceedings, etc.) to the judgment enforcement service with a request for further action to be taken. The service also received 29 judgments and 32 decisions from the Federal Criminal Court for enforcement.

In 2021, forfeitures and equivalent claims for a total of around CHF 732 million were issued by the OAG and the Federal Criminal Court or took full legal effect.

A large portion of this amount related to just two cases: in the report year, Federal Supreme Court and Federal Criminal Court decisions became legally binding that involved forfeitures of around CHF 174 million and equivalent claims of around CHF 326 million in the MUS proceedings, as well as forfeitures of around CHF 204 million in money laundering proceedings relating to Uzbekistan. These sums also include amounts covered by court decisions issued at the end of 2020 in these cases that the OAG mentioned in its annual report for 2020, the execution of which could be initiated in the report year because the decisions had become legally enforceable.¹³

Forfeitures (Art. 70/72 SCC) and equivalent claims (Art. 71 SCC) are measures under criminal law aimed at redressing the advantages gained from criminal activities – offenders should not continue to enjoy the financial advantages they derive from the offences they commit. If the assets subject to the forfeiture order no longer exist, a claim by the state for an equivalent amount is recognised in principle.

A final decision on how the monies are used is made when the forfeitures and equivalent claims are enforced. In particular, any sharing and/or restitution procedures must be taken into account. If the assets are used to compensate the victims, their claims take precedence over sharing.

Sharing-procedures under the Federal Act on the Division of Forfeited Assets (DFAA, SR 312.4) are an important element in enforcement. Before instigating such procedures, it must be clarified whether the DFAA applies. Any sharing procedures are carried out by the FOJ.

It is only once the claims of victims and any sharing procedures are settled that it becomes clear whether and if applicable what amount of assets may be credited to the Confederation.

¹³ See OAG Annual Report for 2020, p. 24; 'MUS': around CHF 167.1 million (forfeiture) / CHF 81.9 million (equivalent claim); money laundering case involving Uzbekistan: around USD 210 million (forfeitures).

Administrative Activities

1 Legal Principles governing the Organisation of the OAG

1.1 Legal Principles governing the Organisation of the OAG

Under Article 16 of the Criminal Justice Authorities Act, the OAG is a self-governing authority that is independent of the Federal Council and the Federal Administration. The Attorney General is responsible for ensuring that it is appropriately organised and that it makes efficient use of its financial and material resources (Art. 9 para. 2 let. b and c CJAA). The OAG maintains its own accounts and has a global budget. The Attorney General submits a draft budget and accounts to the SA-OAG every year, which are ultimately placed before the Federal Assembly for approval (Art. 17 para. 1 and Art. 31 para. 4 CJAA).

As a self-governing authority, the OAG is basically free to procure the goods and services that it needs to satisfy its logistical requirements (Art. 18 para. 2 CJAA).

2 General Secretariat

The General Secretariat (GS) is organised into the following sections:

- The *OAG Development* maintains the OAG's the strategic project portfolio. The Directorate uses this to plan and control the implementation of the strategy and thus achieve the continuous development of the authority.
- The *OAG Management and Controlling* provides support for the Legal Services unit, Finances, Human Resources (HR) and Directorate Assistance. This section supports the Directorate in its strategic and direct management of the OAG and through the Legal Services unit carries out additional tasks for which the OAG has been assigned a statutory mandate. The centralised processing of incoming communications (ZEB) is also affiliated to this Section.
- The *OAG Services* is responsible for providing all the services relevant to the general working infrastructure. In addition, this section provides centralised services to assist in criminal and mutual assistance proceedings. The section also carries out the statutory tasks related to enforcing judgments.

In addition to dealing with daily business, the General Secretariat's main tasks in the report year involved the consolidation of management and control structures, the discharge of the core business, the digital transformation and introducing strategic developments at the OAG. The Secretary General, the HR manager and the head of OAG Services left the OAG during the report year.

2.1 Development of the organisation

The 2020–2023 Strategy (cf. p. 16) is being implemented on the basis of a rolling 12-month-plan ('the roadmap'). As part of the roadmap, the following developments were implemented in the report year in the three sections of the GS, giving new impetus to the organisation.

(1) OAG Development

The following developments, made on the basis of the roadmap, should be highlighted:

- For the 'Criminal organisations' field, the OAG drew up a comprehensive analysis and strategy, including recommendations on measures. The implementation of the strategy has begun. In the 'terrorism' field, knowledge transfer was secured following a personnel change and important strategic issues were identified. In addition, the analysis for 'General white-collar crime' field was begun.

- The WTO procurement procedure was completed for realising a new system that will gradually develop and introduce digital files and electronic file management for criminal and mutual legal assistance proceedings (cf. p. 28, section 2.5).
- Based on the basic infrastructure of the digital workplace, the first workflow has been developed and successfully brought in operation as a pilot for the case processing of a centralised service ('Financial Intermediaries Productions Service', see (3) below on 'OAG Services'). The elimination of numerous media discontinuities improves the consistency of information processing and leads to an increase in the efficiency of the process flow. This benefits cross-team coordination and planning; case processing for internal 'customers' is also made more transparent. Following the same pattern, further workflows can now be set up and similar efficiency gains realised in other business processes as well.

(2) OAG Management and Controlling

In addition to managing the constantly high number of cases and complex daily business, progress was also made with implementing the recommendations made by the Swiss Federal Audit Office (SFAO) in terms of its procurements management inspection. Four of the five recommendations had already been successfully implemented the previous year. Considerable progress has been made in implementing the fifth recommendation (establishing the procurement process). Employees of the Legal Services Section and Directorate Assistance have defined the support process for procurement procedures with the aid of OAG Development and have already published the initial results on the intranet. Further templates, aids and checklists have been devised and can be formally approved in first quarter of 2022 and then made available to all employees.

The Legal Services Section made selective changes to the OAG webpage on requests to inspect files and for information to allow those interested to find the information they are seeking and, if applicable, contact options more easily.

(3) OAG Services

In the report year, OAG Services recorded an increase in the number of assignments in most of its areas of responsibility. The workload of the teams in this section is basically dependent on the needs of the units conducting proceedings and therefore hard to plan for. In order to compensate for the fluctuating volume of work, use is made of the resources of all the teams, depend-

ing on requirements. Additional optimisations, e.g. by making more flexible use of staff, introducing deputisation solutions, and centralising additional activities, are being planned, or in some cases are already being implemented.

Individual areas of activity were further developed in 2021. For example, the Financial Intermediaries Productions Service, which processes requests to obtain bank records and provides the sections conducting proceedings with electronic copies of documents submitted by banks. This service requires cooperation between various teams in the GS. For simpler cross-team coordination and planning, the related business process was therefore set up as the first 'workflow' when developing the digital workplace.

2.2 Consolidating governance structures

The inclusion the heads of division and the HR manager in the current Directorate, which was conceived as a pilot scheme in the report year, has proven its value. On the one hand, it resulted in broader support for the decisions taken and on the other on their consistent implementation.

2.3 Implementation of the SA-OAG recommendations made in the report on the inspection of the OAG General Secretariat

The SA-OAG made ten recommendations in its report on the 'Inspection of the General Secretariat of the Office of the Attorney General of Switzerland'¹⁴ of 7 December 2020 (Recommendations 03_2020 to 12_2020). Eight of these ten recommendations (05_2020 to 12_2020) are for the attention of the new Attorney General of Switzerland. Five of the ten recommendations have already been implemented:

- Twice a year, the SA-OAG is sent the OAG's complete organisation chart in the desired form and with the required detail (Recommendation 03_2020).
- The Regulations on the organisation and administration of the Office of the Attorney General of Switzerland (SR 173.712.22) were revised as of 1 April 2021 and published in the Classified Compilation of Federal Legislation (Recommendation 04_2020).
- The Regulations on the internal organisation of the Forensic Financial Analysis Division (FFA) were revised and came into force in June 2021 (Recom-

¹⁴ https://www.ab-ba.admin.ch/wp-content/uploads/2021/01/20201207_Bericht-AB-BA-Inspektion-GS-BA-1.pdf

mentation 06_2020).

- The position of legal counsel to the Attorney General of Switzerland has been reviewed; its name is now 'Counsel to the Directorate' (Recommendation 10_2020).
- Internal communication has been improved: the weekly information and discussion meeting between the Directorate and the divisions and branch offices has been opened to all employees. The OAG's joint heads have also created a regular time slot (known as 'the open ear'), in which employees can talk directly to the joint heads. Lastly, more special video conferences were held, in which the joint heads of the OAG explained various issues to the employees (Recommendation 11_2020).

The revision of the OAG's organisational manual is planned for 2022 and should probably be completed in the first semester of 2022 (Recommendation 05_2020).

The other recommendations (07_2020, 08_2020, 09_2020 and 12_2020) will be left to the new Attorney General, as they are part of a broader overall context.

2.4 Dealing with the COVID-19 pandemic

The OAG Corona Task Force, established in March 2020, continued its work in 2021. Thanks to the internal principles already drawn up and their system, it was possible to reduce the task force workload for all employees and management staff. With the assistance of systematic measures, operations were maintained and the employees protected against infection in the workplace. The fact that this was also achieved successfully in 2021 was underlined from time to time by positive survey results within the organisation.

With the task force, the OAG continues to have a dynamic instrument that allows the continually changing situation to be monitored and decision-making principles to be devised for taking the required measures. The consistent implementation of appropriate protection measures and the fulfilment of the management responsibilities by the senior staff at the OAG remains essential. The HR Division supports the management and employees in the event of specific challenges.

The OAG will continue to focus on the transfer of knowledge gained on flexible working and the ongoing use of modern IT infrastructure.

2.5 The digital transformation

The OAG is taking a holistic approach to the digital transformation, i.e. not only technological aids, but also the procedures and structures are being considered. At its core, everything revolves around the needs of future-capable electronic records management. The 'electronic file' will only become the principal file when the new legal principles in the Federal Act on the Platform for Electronic Communication in the Justice System take effect.¹⁵ Nevertheless, the current records management system is confronted with a variety of original electronic content and must be able to deal with it.

Understanding file content and being able to use it in court, together with the required security standards are crucial. The needs of the federal attorneys and procedural assistants are being ascertained in a structured way so that digitalisation proceeds step by step and, where necessary, with bespoke solutions. This approach permits innovation to simplify and speed up procedures. In cooperation with fedpol and in line with partner programmes such as 'Harmonisation of information technology in the criminal justice system' (HIS), synergies are identified and exploited.

In relation to management, control and support processes, standard IT platforms are used. Information and know-how should be made available via an interactive intranet. Cooperation, coordination and guidance will be strengthened using established aids. Procedures in the support processes will be consistently adapted to the needs of the core business and the employees, for example by increasingly using digital workflows and thus reducing media disruption.

This nuanced approach takes account of the specifics of federal law enforcement as the core business and also responds to the needs of the OAG's overall organisation.

2.6 Review by the Swiss Federal Audit Office (SFAO)

As part of the programme being conducted with fedpol, and in particular efforts relating to the digital case file and comprehensive cooperation on law enforcement at federal level ('Joining Forces', 'JF'), the SFAO conducted a review at the OAG. On 15 April 2021 the SFAO published its final inspection report.¹⁶

¹⁵ See the information on this on the FOJ website:
<https://www.bj.admin.ch/bj/de/home/staat/gesetzgebung/e-kommunikation.html>

¹⁶ https://www.efk.admin.ch/images/stories/efk_dokumente/publikationen/_sicherheit_und_umwelt/justiz_und_polizei/20094/20094BE-Endgueltige-Fassung-V04.pdf

3 Use of Financial and Material

With regard to the result of the inspection, the SFAO states: 'Had the JF programme not already existed, it would have had to have been created for the digital transformation of the federal criminal justice system.' Under Priority 1, it recommends that the OAG and fed-pol improve programme management in relation to finance, resources, time management, quality assurance and risk management and set up an independent quality and risk management system. In addition, as a second priority, standard products as a basis and joint solutions in partnership with cantonal public prosecutors' offices should be considered as components in the JF programme, and change management for the evidence management system (AMS) should be integrated into the agile JF programme planning. All the SFAO recommendations are being actively addressed and implemented.

3.1 Finances

For 2021, the global budget submitted by the OAG (expenditure and investment costs) amounted to CHF 76.3 million. At CHF 42.8 million (56%), the largest item of expenditure in the budget is staff costs. In addition, CHF 32.8 million was allocated to material operating costs. The remaining CHF 0.7 million covers other operating expenses and investment costs. The global budget can be itemised according to types of financing as follows: CHF 67.3 million is allocated to expenditure outside the Federal Administration that has financial impact and CHF 0.4 million to depreciation. CHF 8.6 million is allocated to service accounting within the Administration (in particular for office rent, IT operating costs and other operating costs). The budgeted operating income of CHF 1.2 million is made up primarily of official procedural fees collected in federal criminal proceedings, income derived from charging for the costs of inspecting files and income from procedural fees in connection with summary penalty orders and the abandonment of proceedings.

The State Financial Statements for 2021 will be published in due course on the relevant page¹⁷ of the Federal Finance Administration website.

3.2 Procurements

In accordance with Article 27 of the Public Procurement Ordinance (PPO; SR 172.056.11), authorities awarding contracts must provide information at least once a year in electronic form on public contracts that they have awarded with a value of over CHF 50'000 that are subject to the Federal Public Procurement Act (PPA; SR 172.056.1).

The OAG will publish the relevant details in due course (2022) on its website.

¹⁷ <https://www.efv.admin.ch/efv/en/home/finanzberichterstattung/finanzberichte/staatsrechnung.html>

4 General Directives

On 1 April 2021, the revised Regulations on the Organisation and Administration of the Office of the Attorney General of Switzerland came into force (SR 173.712.22). The procedures manual was also updated in the report year.

5 Code of Conduct

In 2021, the Advisory Committee on the Code of Conduct (CoC) noted a fall in the number of enquiries that it received. It will examine in the coming report period whether this may be connected with the health situation in the past year. The Committee dealt with ten questions submitted to it by employees in various positions and divisions. The matters drawn to the Committee's attention related to various issues, in particular taking up secondary employment, personal relationships and personal integrity. In addition, the Committee was contacted about questions relating to gifts and its own composition. In the report year, the Committee also commented on the granting of benefits to federal employees from the perspective of the CoC in connection with a question on bulk rebates.

In 2021, the Committee met six times and reached three decisions in written exchanges. In November 2021, it published its opinions in an email to all the employees. It will present a report on its activities and on the matters that it has dealt with in this period to the Directorate and hold a discussion thereon at the start of 2022.

The Ethics Committee endeavoured in the report year to be more visible in order to achieve its goal of further raising awareness. Accordingly, in addition to the declaration acknowledging the CoC, it continued its practice begun in 2020 of meeting face-to-face with new OAG employees as soon as they begin work at the OAG, in order to explain the Code, its role and activities and the opinions it has issued. The Committee also made an amendment to the CoC to make it more precisely formulated.

After four and a half years, the Committee has consolidated its role as the institution that raises awareness of and can be contacted about ethics issues at the OAG. Next year the Commission would like to consider and propose new ways of sensitising employees to ethical issues and to encourage discussion, and to reaffirm its role vis-à-vis the new Attorney General.

6 Human Resources

6.1 Employee survey 2020

The results of the employee survey conducted in 2020 were positive.

Overall, the scores given to the issues of 'work situation' throughout the OAG have clearly improved over time. This is borne out by the fact that no issue was rated lower in comparison with 2017. 'Job satisfaction', 'commitment' and 'target-oriented behaviour' are rated as good to very good. Compared with the scores for the entire Federal Administration, the results within the OAG are slightly more positive; the improvements within the OAG are also more clearly pronounced than in the Federal Administration. Thus the OAG achieved above average improvements. The OAG also does well in the benchmark comparison – the scores are in similar ranges to comparable institutions or only slightly below. Job satisfaction among employees improved in comparison with the last employee survey conducted in 2017.

Based on the results of the survey, specific measures will be developed at management and divisional levels to further promote these positive developments.

6.2 Workforce as of 31 December 2021

At the end of 2021, the OAG had 270 employees (previous year: 252), who together held the equivalent of 244 full-time positions (previous year: 232). Of these 270 employees, 52 (previous year 39) are on temporary contracts. The following numbers of employees work at the OAG's various offices:

	31.12.2020	31.12.2021
Bern	192	206
Lausanne Office	28	31
Lugano Office	15	15
Zürich Office	17	18

6.3 Staff statistics

The OAG's employees hold the following positions: Attorney General of Switzerland (vacant but will be filled from 01.01.2022), Deputy Attorneys General (2), Secretary General (position will be filled from April 2022), Lead Federal Attorneys/Heads of division (4), Chief Information Officer (vacant but will be filled from March 2022), federal attorneys (49), assistant federal attorneys (45), legal assistants (18), assistant case officers and office employees (48), administrative employees (69) and experts and analysts in the FFA, White Collar Crime (WhiCri) and RTVC divisions (34).

As of 31 December 2021, the OAG also offers 8 legal interns a practical legal training and 2 further interns the opportunity to gain practical professional experience in administration and in financial analysis.

The average OAG employee is contracted to work 92% of full-time working hours and is 39.8 years old. The breakdown of staff according to their first official Swiss language is as follows: German 167, French 79, Italian 23 and Romansh 1. The OAG employs 162 women and 108 men. Staff turnover in the report year was 8.9%.¹⁸

6.4 Disciplinary proceedings

The federal attorneys at the OAG are subject to the law applicable to federal employees, with the Attorney General taking decisions as their employer (Art. 22 para. 2 Criminal Justice Authorities Act and Art. 3 para. 1 let. f Federal Personnel Act, SR 172.220.1). In the event of any violation of employment law obligations, the Attorney General decides whether to open disciplinary proceedings and on any disciplinary measures (Art. 1 para. 1 let. c and Art. 98 ff. Federal Personnel Ordinance, FPersO, SR 172.220.111.3).

In the report year, no disciplinary proceedings under Article 98 ff. FPersO were taken against any federal attorney at the OAG.

¹⁸ The staff turnover rate reflects the ratio of departures of employees on permanent contracts to the average number of employees on permanent contracts in the period from 01.01.2021 to 31.12.2021.

7 Organisational chart



*Under the pilot scheme (see above p. 27, section 2.2).

8 Work of the Individual Divisions

8.1 National Security, Organised Crime Division (SK)

The caseload (mutual legal assistance and national cases) in connection with criminal organisations again increased in the report year. Thanks to the expanded and close cooperation with the cantonal authorities and with local and national anti-Mafia authorities in Italy (DDA¹⁹/DNAA²⁰), various arrests were made in Switzerland and in Italy.

The number of incoming cases relating to matters of national security also increased. Attacks on ATMs using explosives should also be highlighted, and are often reported during the on-call service that the SK Division provides for the entire OAG. Bringing the offenders, who are usually from other countries, to justice is a complex task that uses up considerable resources.

In addition to a large number cases related to counterfeit banknotes, several cases were handled or opened relating to parcel theft from Swiss Post. Here there are numerous individual offences, and it is difficult to reconstruct the sequence of events and assign the items stolen to the right persons, which makes these crimes resource-intensive for both the OAG and the FCP. The cases relating to intelligence activities and acts for foreign states have also increased. In the field of aviation, a busy summer in the air led to a glut of aircraft incidents to deal with. The related cooperation with all the cantons involved is working well. In particular, procedures were successfully harmonised with the cantons most commonly involved in these cases. Dealing with the 350 or so cases reported in 2021 of violence or threats towards public authorities and officials (government ministers, judges and members of parliament, employees of the SBB and other transport companies and matters related to asylum centres) remains a considerable challenge that brings a substantial amount of administrative work and often gives rise to complex investigations.

8.2 White-Collar Crime Division (WhiCri)

2021 was notable for an important organisational change: following the retirement of the federal attorney responsible for the offence field 'money laundering', his successor was appointed along with a new federal attorney to take over that successor's position as head of the Lausanne office. These positions are essential for the Division to operate properly, which is why these changes are so important.

The Division is constantly involved in complex international proceedings that entail a permanently high workload due to their special features and their extensive scope. The size and international dimension of the proceedings are inherent to the OAG having jurisdiction over them. Unfortunately, the requests to seal documents in connection with searches have a negative effect on proceedings, as does the long time that the cantonal compulsory measures courts often take to decide on these requests.

Despite the pandemic, which has affected the whole world since spring 2020, the Division was still able to continue with its work in 2021 and guarantee efficiency and quality. Digitalisation has certainly contributed to this, as has the flexibility and solidarity of employees, which makes it possible to guarantee a comprehensive and efficient operation. As a result, the public health situation has not proven to be an obstacle within the Division. However, it remains difficult to arrange for interrogations to be conducted abroad through active requests for mutual legal assistance made by the OAG where there is no possibility of a video conference or if the health situation in the state requested does not allow the measures to be carried out. The prognosis looks positive, but there can be no certainty as to what will happen.

The Division also made use of its own synergies and those with partners within and outside the OAG. Cooperation is indispensable, also in the form of task forces, which have proven to be valuable and effective instruments. To cope with the workload, priorities are set, both at operational and administrative levels. To meet these priorities, it is ensured that resources are used efficiently. Lastly, effort is being made to make systematic and pragmatic use of solutions that aim to speed up statutory procedures, digitalisation and operational processes.

19 Direzioni distrettuali antimafia (District Anti-Mafia Directorates).

20 Direzione nazionale antimafia e antiterrorismo (National Anti-Mafia and Anti-terrorism Directorate).

8.3 Mutual Legal Assistance, Terrorism, International Criminal Law and Cybercrime Division (RTVC)

Despite a difficult situation due to the ongoing pandemic, a large number of what in some cases were extremely complex criminal and mutual assistance proceedings were successfully raised, continued or concluded.

The constantly high workload was reduced by using legal assistants and assistant case officers employed on temporary contracts. In addition, occasional stress peaks were overcome thanks to flexible support provided by team members from parts of the Division. For example, two federal attorneys and an assistant attorney from mutual legal assistance and cybercrime took over several of the cases related to terrorism.

The Division reached its preliminary target level towards the end of the report. It is conceived in such a way that the available human resources can be deployed to deal with cases across all the offence fields without any problems and can be managed accordingly. This makes it possible to contend with the stress peaks occasionally experienced as needs require.

Despite the major challenges, the Division was able to demonstrate positively in the report year that it is highly effective and professional. The high employee satisfaction required to achieve this is confirmed in the positive results of the federal employee survey conducted in 2020.

8.4 Forensic Financial Analysis Division (FFA)

The FFA Division, which supports the federal attorneys in all phases of criminal or mutual assistance proceedings, in 2021 contributed its skills in business and finance to 125 criminal cases, 27 of which (including the Petrobras and 1MDB cases) took up 63% of its operational resources. These resources were used in particular in hearings before the Federal Criminal Court or in relation to convictions that involved forfeitures or equivalent claims.

As part of the integration of the financial crimes' analysts, the Division managed to reduce the risks of knowledge concentration by documenting expertise, filling two vacant positions, optimising operational processes and at the same time contributing to a proposal made to the OAG's management for some strategic adjustments in this area. The Division actively supported OAG projects in this transition year and also demonstrated a clear commitment to technological developments and other projects that it regards as essential to fulfilling its remit. The issues of digital assets and the blockchain increasingly arise in the analysis of money flows, which is a central task of the Division at the beginning of the proceedings.

In line with the priorities set in 2020, the specialists in the Division consolidated their specialist knowledge and began to pass this expertise on to other employees in the Division and in the OAG. The FFA Division's organisational regulations and its operations manual have been completely revised. The public health situation, the many absences due to illness, the integration of eight new employees, the required contribution that the Division made to the aforementioned projects, the transitional situation at the head of the OAG and the constantly rising operational burden made 2021 a particularly challenging year for the Division.

Reporting

Reporting

Criminal investigations (as of 31.12)	2017	2018	2019	2020	2021
Pending preliminary clarifications ¹	334	456	501	481	598
Ongoing criminal investigations ²	478	407	395	428	423
National security	111	103	147	196	195
Terrorism	34	30	31	26	39
Organised crime	62	56	46	39	49
International criminal law	11	14	13	12	15
Cybercrime ³				5	5
Money laundering	243	203	145	119	100
International corruption	65	56	45	41	37
General white-collar crime	96	74	84	83	73
Suspended criminal investigations	227	264	307	345	392
Criminal investigations ongoing for more than two years	234	205	202	162	170
	2017	2018	2019	2020	2021
Newly instigated	237	182	305	255	292
Completed					
Not accepted	128	176	335	377	362
Suspended	95	152	175	114	141
Referral, delegated, forwarded, returned to canton	100	128	130	171	240
Summary penalty orders ^{4/5}	788	170	228	203	294
Indictment filed	21	10	17	29	14
Indictment filed in accelerated proceedings	3	1	7	4	6
Referral of summary penalty order to court	25	13	23	10	27
Indictment rejected	6	2	5	4	5
Judgment of the court of 1st instance ⁶	36	35	30	32	41

1 Including 200 cyber-/phishing cases (previous year: 129).

2 Multiple mentions are possible for the crime categories.

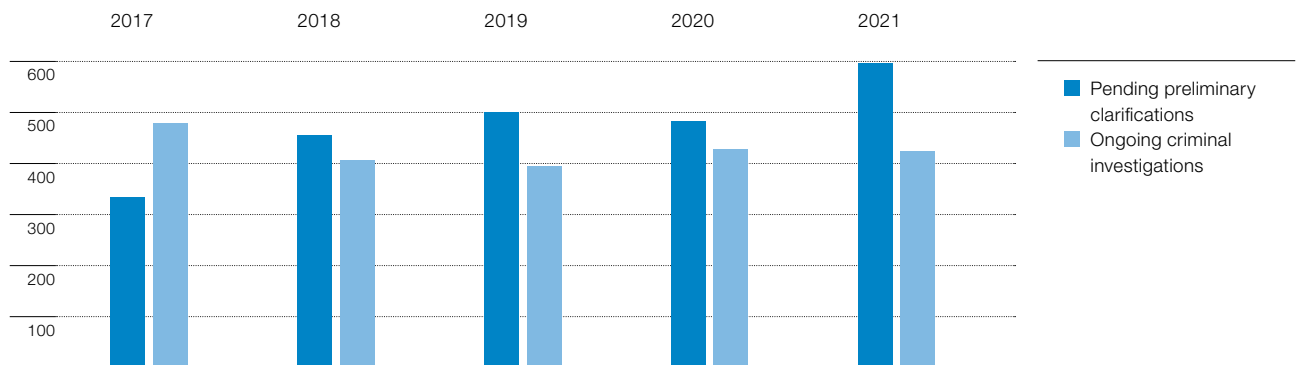
3 "Cybercrime" has only been a separate category of offence since 2020; previously these cases were included in the "General white-collar crime" category.

4 A summary penalty order can only be imposed on one person, so it is possible for several summary penalty orders to be issued in any single case. For the OAG's statistics the number of summary penalty orders is counted.

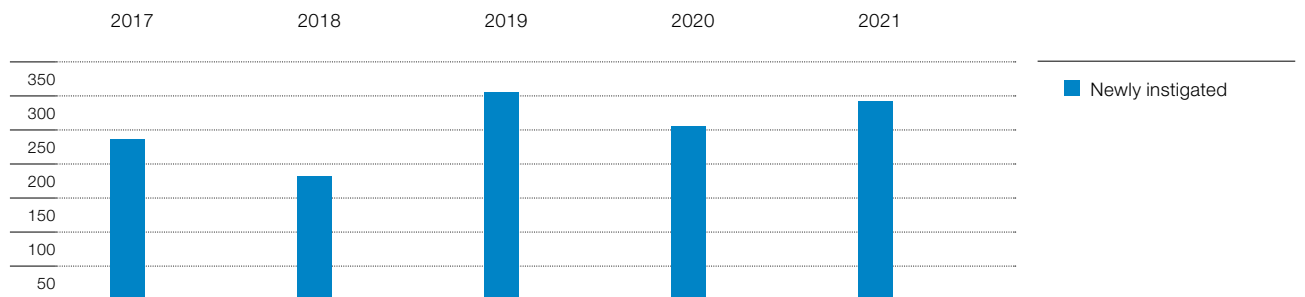
5 The fall in numbers after 2017 is essentially due to the fact that motorway vignette cases are no longer included in the statistics (since 1.1.2018 subject to cantonal jurisdiction).

6 Judgments in accelerated proceedings, in ordinary proceedings and following transferral of summary penalty orders to the court.

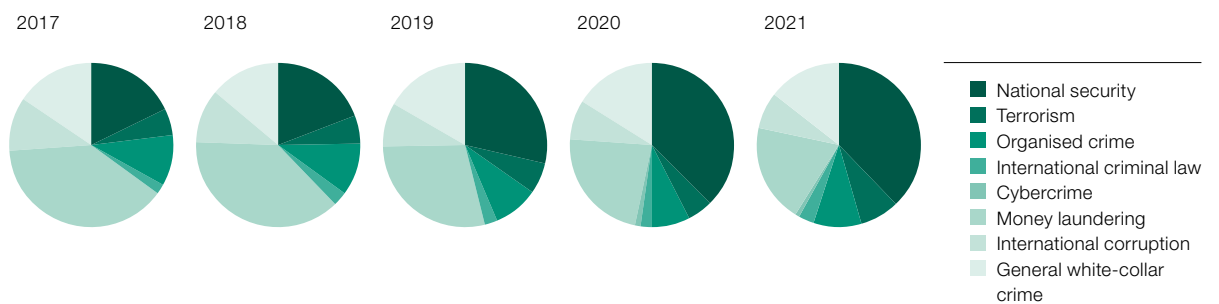
Criminal investigations (as of 31.12)



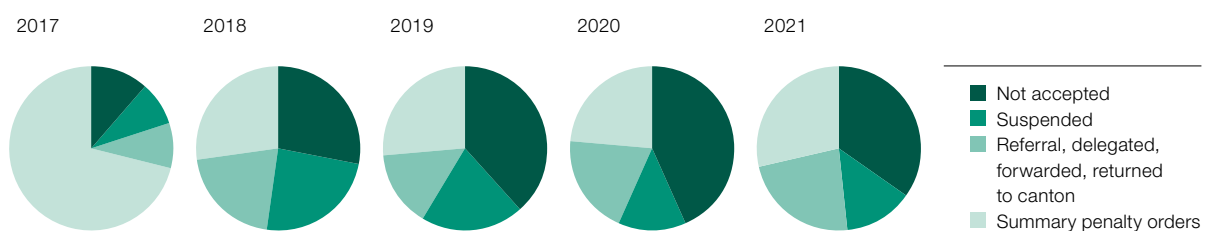
Newly instigated



Ongoing criminal investigations (as of 31.12)



Completed



Requests received for mutual assistance (as of 31.12)	2017	2018	2019	2020	2021
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Ongoing mutual assistance proceedings	307	313	317	249	198
Requests received	31	21	14	10	5
Requests being examined	62	90	70	50	39
Request being executed	208	199	226	183	147
Objections to requests	6	3	7	6	7
Mutual assistance proceedings ongoing for more than two years	50	27	30	39	36

	2017	2018	2019	2020	2021
Mutual assistance requests accepted	197	233	244	213	204
Completion of legal assistance proceedings	187	223	248	269	251
Back to FOJ for delegation to canton	13	22	30	20	27
Mutual assistance refused	8	4	6	6	6
Mutual assistance granted	131	146	165	209	169
Other completions (e.g. dismissal, withdrawal, etc.)	35	51	47	34	49

Bulk business (as of 31.12)	2017	2018	2019	2020	2021
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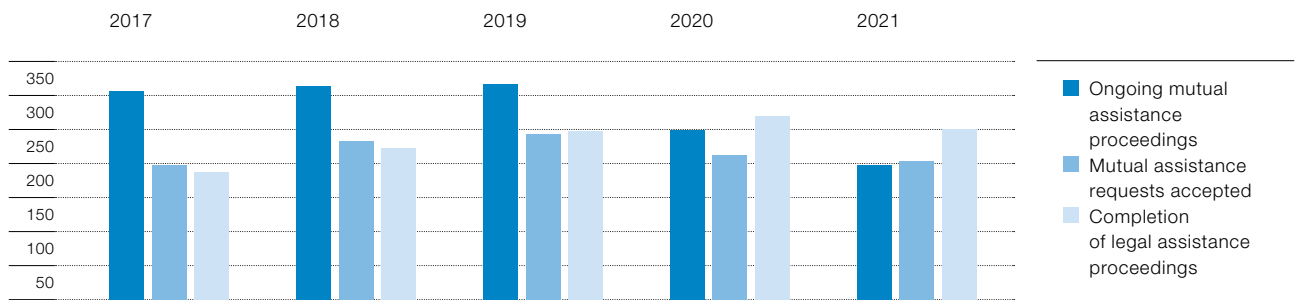
Pending bulk business cases	167	159	150	172	100
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	2017	2018	2019	2020	2021
Newly received bulk business cases ⁵	1324	586	688	652	623
Completed bulk business cases ⁵	1304	533	642	590	598
Counterfeit money	236	169	181	181	136
Explosives	240	157	240	181	159
Aviation ⁷	19	10	0	0	0
Motorway vignette ⁵	629	8	0	0	0
Miscellaneous	180	189	221	228	303

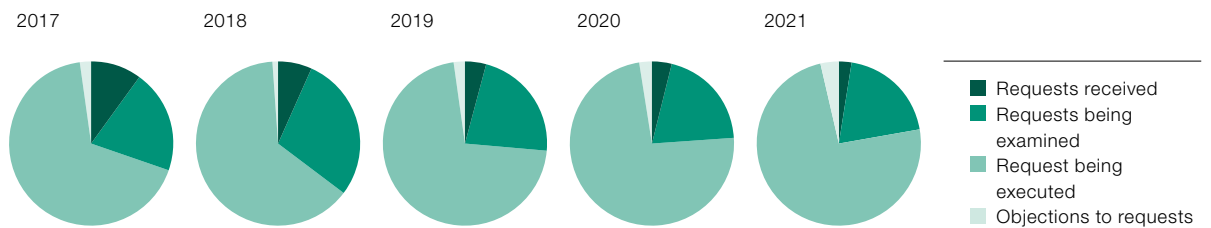
5 The fall in numbers after 2017 is essentially due to the fact that motorway vignette cases are no longer included in the statistics (since 1.1.2018 subject to cantonal jurisdiction).

7 From 1.1.2019, aviation cases are no longer normally listed as bulk business cases.

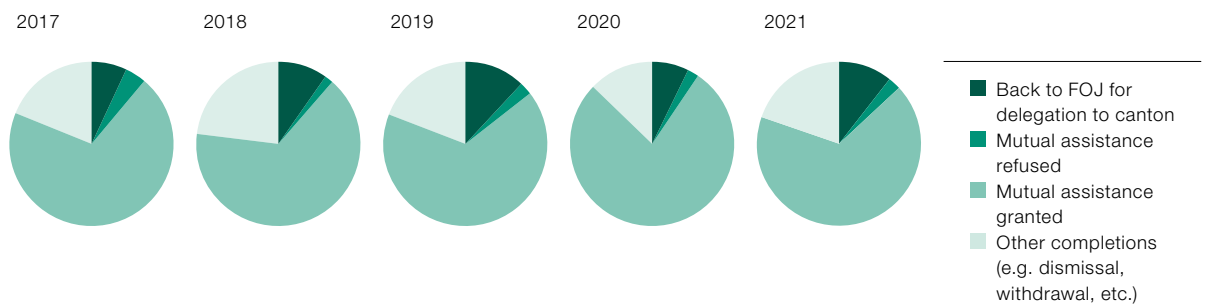
Requests received for mutual assistance (as of 31.12)



Ongoing mutual assistance proceedings (as of 31.12)



Completion of mutual assistance proceedings



Number and result of the main proceedings before the Federal Criminal Court	2017	2018	2019	2020	2021
First-instance main proceedings before the Federal Criminal Court (charges and referrals of penal orders)					
Number of proceedings	29	29	18	23	38
Of which in legal force as of 31.12.	9	15	5	12	13
Of which not or partly in legal force as of 31.12.	20	14	13	11	25
Number of accused individuals	39	50	25	32	56
Of which convicted	25	29	22	27	44
Of which acquitted	14	19	2	5	7
Of which dismissed by the Federal Criminal Court	0	2	1	0	5
Summary proceedings					
Number of proceedings	2	2	6	4	5
Of which in legal force as of 31.12.	2	2	6	4	5
Of which not or partly in legal force as of 31.12.	0	0	0	0	0
Number of accused individuals	2	2	6	4	8
Of which convicted	1	2	6	4	7
Of which returned	1	0	0	0	1

Numbers and results of complaints and appeals

Complaints of the OAG with the Federal Supreme Court

Complaints filed in the reporting year	10
Complaints decided in the reporting year (partly filed in the previous year)	5
Of which granted or partly granted	3
Of which dismissed or not accepted	2
Of which irrelevant	0

Complaints against the OAG with the Federal Supreme Court

Complaints filed in the reporting year	86
Complaints decided in the reporting year (partly filed in the previous year)	99
Of which granted	1
Of which dismissed, partly dismissed or not accepted	93
Of which irrelevant	5

Complaints of the OAG with the Federal Criminal Court

Complaints filed in the reporting year	4
Complaints decided in the reporting year (partly filed in the previous year)	2
Of which granted or partly granted	1
Of which dismissed or not accepted	1
Of which irrelevant	0

Complaints against the OAG with the Federal Criminal Court

Complaints filed in the reporting year	185
Complaints decided in the reporting year (partly filed in the previous year)	207
Of which granted	8
Of which dismissed, partly dismissed or not accepted	176
Of which irrelevant	23

Appeals of the OAG with the Appeals Chamber of the Federal Criminal Court

Appeals filed in the report year	15
Appeals decided in the report year (partly filed in the previous year)	4
Of which granted or partly granted	2
Of which dismissed or not accepted	2
Of which irrelevant	0

Appeals against the OAG with the Appeals Chamber of the Federal Criminal Court

Appeals filed in the report year	60
Appeals decided in the report year (partly filed in the previous year)	28
Of which granted	0
Of which dismissed, partly dismissed or not accepted	25
Of which irrelevant	3

Joint appeals of the OAG with the Appeals Chamber of the Federal Criminal Court

Joint appeals filed in the report year	4
Joint appeals decided in the report year (partly filed in the previous year)	1
Of which granted or partly granted	1
Of which dismissed or not accepted	0
Of which irrelevant	0

Joint Appeals against the OAG with the Appeals Chamber of the Federal Criminal Court

Joint appeals filed in the report year	3
Joint appeals decided in the report year (partly filed in the previous year)	2
Of which granted	0
Of which dismissed, partly dismissed or not accepted	1
Of which irrelevant	1

Glossary

AB-BA	Supervisory Authority Overseeing the Office of the Attorney General
CJAA	Criminal Justice Authorities Act
CrimPC	Swiss Criminal Procedure Code
CSPP	Conference of Swiss Public Prosecutors
FADP	Federal Data Protection Act
FATF	Financial Action Task Force
FCP	Federal Criminal Police
FDJP	Federal Department of Justice and Police
FINMA	Swiss Financial Market Supervisory Authority
FINMASA	Federal Act on the Swiss Financial Market Supervisory Authority (Financial Market Supervision Act)
FIS	Federal Intelligence Service
FOEN	Federal Office for the Environment
FOJ	Federal Office of Justice
FPA	Federal Personnel Act
FPerSO	Federal Personnel Ordinance
FTA	Federal Tax Administration
GRECO	Group of States against Corruption
IMAC	International Legal Assistance in Criminal Matters
OAB	Attorney General's operational committee
OAG	Office of the Attorney General
ParIA	Parliament Act
SFOA	Swiss Federal Audit Office
SIF	State Secretariat for International Financial Matters
TAAA	Federal Act on International Administrative Assistance in Tax Matters (Tax Administrative Assistance Act)
VG	Government Liability Act
ZEB	Centralised processing of incoming communications at the OAG

Concept

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Office of the Attorney General of Switzerland

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www.bueroz.ch

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Ruben Wyttenbach

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Other information

www.bundesanwaltschaft.ch

