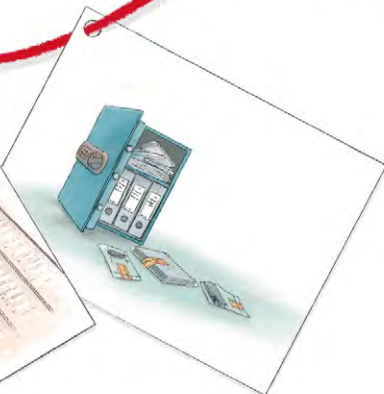
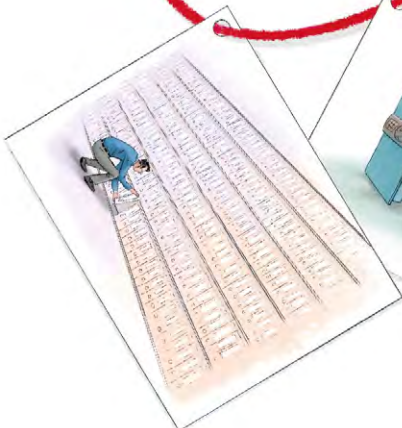


Annual Report 2022

Report of the Office of the Attorney
General of Switzerland on its
activities in 2022 for the attention
of the supervisory authority



Editorial



Dear readers

On 1 January 2022, I assumed office as the Attorney General of Switzerland, a move that only a short time before I had never considered for the next phase of my life. Now, after more than a year, I can only repeat what I said at the start of that year: I wish to thank Parliament for the trust it has shown in me; not for one moment have I regretted accepting this position.

I very quickly saw that the members of staff of the Office of the Attorney General of Switzerland (OAG) had suffered from the turbulent events of recent years. It is in the nature of the job that prosecution authorities are subject to critical observation and are also the subject of polemical opinions, not least – but at the same time not only – because it is in the critics' own interest to be critical. A properly functioning, closely supervised prosecution system is an important part of our democratic, law-abiding state, in that it provides the people in Switzerland with the guarantee that the criminal law will be enforced.

Once again, the OAG's members of staff have achieved a great deal over the course of the year, which is why I am pleased to present the Annual Report for 2022 to you. For the first time, and with the agreement of our supervisory authority (SA-OAG), the report also focuses on the individual fields of crime and topical issues. Last year, important court decisions were reached that perhaps did not receive the public attention they deserved. The OAG also brought cases to court whose outcome was by no means certain. In doing so, it followed the procedural principle of *in dubio pro duriore*, according to which charges should be brought when the investigation results and evidence make a conviction seem more probable than an acquittal.

We have been particularly preoccupied, like everyone else no doubt, by the horrifying effects of the war in Ukraine. The documentation of war crimes, mutual legal assistance involving Ukraine and Russia and dealing with frozen assets are only a few of the legal issues in this context.

In addition, agreement was reached on organisational changes that will allow the OAG to meet the challenges that it faces even more efficiently, of that I am convinced. It is understandable that one of the main concerns that the public has is that there should be constant potential for improvement. However, it should not be forgotten that our highly motivated staff do an excellent job day in, day out. It goes without saying that the OAG also has room for improvement, for no authority is perfectly organised. We must continue to develop in response to our environment and the changing circumstances and challenges.

I wish you a stimulating read and look forward to continuing on the path we have chosen, ably supported by my deputies, and with active, motivated support of all the OAG's members of staff.

Stefan Blättler

Attorney General of Switzerland
Berne, January 2023

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Review and Outlook of the Office of the Attorney General of Switzerland

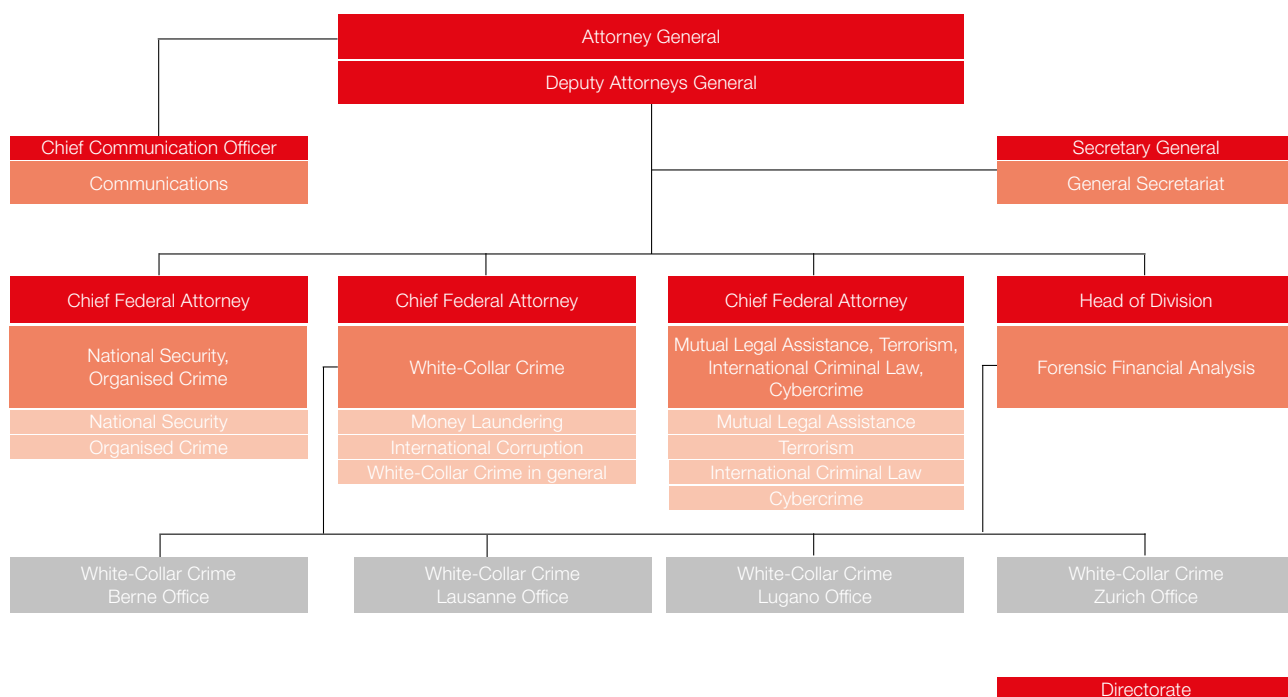
1 The OAG's organisational status

Under Article 7 of the Criminal Justice Authorities Act (CJAA, SR 173.71), the Office of the Attorney General of Switzerland (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).

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 international 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 legal assistance from foreign law enforcement agencies.

Organigramme Office of the Attorney General of Switzerland





From left: Dounia Rezzonico, Chief Federal Attorney WiKri; Jacques Rayroud, Deputy Attorney General; Fabian Carrard, Head of Division FFA; Ruedi Montanari, Deputy Attorney General; Nils Eckmann, Chief Federal Attorney SK; Stefan Blättler, Attorney General; André Beck, Chief Federal Attorney RTVC; Barbara K upfer, Secretary General; Daniela Sigr st, Chief Communication Officer.

3 Directorate

The two deputy attorneys general, Ruedi Montanari and Jacques Rayroud, expanded the Directorate, initially as a pilot trial, by bringing in the lead federal attorneys, the head of the Forensic Financial Analysis Division and the head of Human Resources. With the arrival of the new Attorney General at the start of year and with the appointment of Barbara K upfer as the Secretary General, the new structure of the Directorate came into regular operation over the course of the year, with minor adjustments. The Directorate took the joint decision that the Secretary General would in future also be responsible for HR matters within the Directorate.

The regular meetings of the Directorate ensure that a mutual exchange of information takes place and a *unit  de doctrine* is maintained. In addition, on several occasions each year a senior management conference is held, also attended by the federal attorneys responsible for the various fields of crime, in which cross-cutting issues are discussed.

At the end of 2022, the Chief Federal Attorney National Security and Organised Crime Division (SK) retired. Carlo Bulletti worked for the OAG for 21 years, making a vital contribution to the development of the organisation, for which he deservedly receives our sincere thanks.

In Nils Eckmann, we have found a highly qualified and committed successor from our own ranks. He took up office on 1 January 2023.

4 The OAG's crime policy priorities and goals

The OAG has a range of duties that are laid down by the law and must prosecute all the offences that fall under its jurisdiction *ex officio*. In order to remain effective and to be able to react to changes in the crime situation, it has been decided to set four priorities. These are the prosecution of criminal organisations, general economic offences (including international corruption and money laundering), terrorism and international criminal law.

In order to fulfil its mandate, the OAG focuses on fields of crime that allow specialisation in specific subjects and on forming task forces that ensure the cross-departmental sharing of information and knowledge, as well as exchanges with partner organisations.

In the report year, the OAG devised its goals. They involve the following four subject areas in particular:

Procedure and operative controlling

The OAG's work can often involve large volumes of documents and data: members of staff should be given the working tools that enable them to process cases even more efficiently. In addition, the recommendations made by the SA-OAG are being implemented and the controlling processes are being reviewed and, where possible, harmonised and upgraded.

Use of task forces

The OAG was quick to form a task force in March of the report year in response to the ongoing armed conflict between Ukraine and Russia and its potential effects on the OAG's ability to fulfil its tasks. The aim was and still is to consider the OAG's options for action in connection with the armed conflict within the limits of its powers and thereby highlight all the possible issues that may arise. In this way, the OAG is seeking to ensure that any information and evidence relating to crimes under international criminal law that refugees from Ukraine might be able to provide can be secured. As a consequence, the Federal Office of Police (fedpol) has been instructed to work with the State Secretariat for Migration (SEM) to develop and implement a process for gathering and securing relevant information. However, many other matters in which the OAG is involved are also affected, such as dealing with mutual legal assistance proceedings and requests, with frozen assets, with the arrival of potential war criminals in Switzerland or with bans on flights. The task force ensures the ongoing exchange of information and knowledge, including the exchange with international bodies.

Development of the OAG

Just like any other organisation, the OAG must continuously develop and optimise itself. The processes and structures will continue to be focused consistently on the strategic priorities, but should at the same time offer the necessary freedom to be able to react to new challenges. A particular example of this is that, in line with the recommendations made by the SA-OAG, the General Secretariat has assumed responsibility for the services that are directly involved in processing criminal and mutual legal assistance proceedings. This accounts for around 50% of the staff working in the General Secretariat. The remaining members of staff are responsible for running the OAG as a self-governing authority – in accordance with its statutory mandate.

Staff development

The OAG is a highly specialised organisation, whose most important resource is its staff. Despite there being limited promotion prospects in some cases, members of staff should be offered a motivating working environment; this also helps in the recruitment of sufficient numbers of specialised staff with the relevant qualifications and experience in what is a competitive market. Accordingly, members of staff should receive additional support, whether by means of work instruments, CET options or progressive working models.

5 Supervisory authorities

The OAG is subject to the systemic supervision of a supervisory authority that is also appointed by the Federal Assembly (SA-OAG; Art. 23 ff. CJAA). In 2022, regular supervisory meetings and inspections again took place.

In addition, the OAG reported to the finance committees and control committees (subcommittees for the courts and the OAG) of the Federal Assembly. The Swiss Federal Audit Office also published a consolidated report on combating white-collar crime, for which the OAG was also consulted.

6 Contacts in Switzerland and abroad

In 2022, in addition to contacts through mutual legal assistance proceedings and other work-related matters related to specific cases, numerous personal meetings were held with representatives of the cantons, federal authorities, authorities in other countries and international organisations. These personal exchanges involving the Attorney General, his deputies and other participants make a significant contribution to a better mutual understanding and help to ensure good national and international cooperation.

March saw a working visit with fedpol to Rome, which included a meeting with the chief prosecutor of the Court of Cassation, Giovanni Salvi, Italy's then deputy *Procuratore nazionale antimafia e antiterrorismo*, Giovanni Melillo, and representatives of the police and the *Guardia di Finanza*. The armed conflict in Ukraine was the main topic of a meeting with the president of Eurojust, Ladislav Hamran, and with the Prosecutor of the International Criminal Court, Karim Khan, in The Hague.

The primary objective of that visit was to clarify the responsibilities of the various authorities and the coordination required for securing evidence of crimes under international criminal law with the aim of enabling the exchange of information and evidence, and of using the same in ongoing and future proceedings.

In June, a meeting was held with US Attorney General Merrick B. Garland and the FBI in the USA. In September, the Attorney General of Switzerland and a delegation visited Prosecutor General Dr Robert Wallner in Liechtenstein and the German Public Prosecutor General Peter Frank in Karlsruhe. Again in September, various intensive and valuable meetings were held over several days at the conference of the International Association of Prosecutors in Tiflis (Georgia). In November, Giovanni Melillo, newly appointed as Italy's *Procuratore nazionale antimafia e antiterrorismo*, paid the OAG a working visit. At the end of November, Liechtenstein's Prosecutor General, Dr Robert Wallner, paid a return visit to Berne.

Federal Office of Police (fedpol)

Cooperation with fedpol and related organisational units, primarily the Federal Criminal Police (FCP), the Federal Security Service (FSS), the Directorate for International Police Cooperation (IPC) and the Money Laundering Reporting Office (MROS) was also constructive and productive in the report year. Regular contacts and exchanges took place not only in relation to operational proceedings, but also at management level. The focus was not on any reorientation or strategies, on which the managements of the two organisations are in agreement, but above all on the mutual exchange of information. In order to be able to react to changing criminal phenomena, the allocation of resources to individual cases being conducted in the various fields of crime is regularly the subject of discussions conducted on the best of terms.

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, particularly in relation to terrorism, where it provides its assessment of the threat situation. Its cooperation with the OAG in this field is founded in particular on the TETRA (TERRORIST TRACKING) 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 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.

Swiss Financial Market Supervisory Authority (FINMA)

Regular discussions between the OAG and FINMA took place both as part of the usual coordination meetings and at ad hoc meetings, mainly focusing on stock market and money laundering offences. In the course of 2022, the OAG received nine reports from FINMA. The reports related to nine suspected violations of Article 154 of the Financial Market Infrastructure Act (FinMIA, SR 958.1) as well as one suspected forgery offence (Art. 251 SCC).

Federal Tax Administration (FTA)

The FTA and the OAG continued their close cooperation in 2022. They continued to make the optimum use of the synergies that result from their respective spheres of activity. For example, the OAG, as in the previous years, was also able in 2022 to identify potential tax offences. It is the OAG's practice to report such cases systematically 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.

Swiss Conference of Cantonal Prosecutors (CSPP)

Close cooperation with the CSPP and its members is a top priority for the OAG. A highly constructive relationship contributes to ensuring a mutual exchange of information on best practices, the coordination and assertion of common interests and the resolution of unclear legal issues. The fact that the Attorney General has a seat on the board of this organisation is also proof of the importance of this body to the OAG.

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 questions concerning criminal law, the law of criminal procedure and related fields. One of the CSPP's priorities in the report year was the preparations being made to implement the revised Criminal Procedure Code.

International contacts

OECD¹

In March 2022, Kazakhstan applied to be included as a 'participant' in the Working Group on Bribery (WGB), which was followed in June 2022 by an application from Ukraine to become a member both of the OECD and the WGB.

The armed Russian aggression in Ukraine was the subject of much discussion, in particular the question of how to behave towards Russia, which is a member of the WGB without being a member of the OECD. On 7 March 2022, the OECD Council decided to exclude Russia from all bodies of the organisation with immediate effect and until further notice.

The WGB takes the view that two of the recommendations in its country evaluation of Switzerland have still to be implemented: despite support from the Federal Council, Parliament has so far failed to enact legislation to protect whistle-blowers. The same applies to the WGB requirement for deterrent criminal sanctions against companies. The current limit for penalties stands at CHF 5 million. However, the WGB does not take account of the fact that in Switzerland, in line with the principle that crime should not pay, seized assets may also be forfeited in order to satisfy compensation claims. In terms of the follow-up to Switzerland's country evaluation, phase 4, the OECD published a press release on 20 July 2022 in which it stated: *'The Working Group will commence preparations for a High-Level Mission to Switzerland in December 2022 unless the Swiss authorities take concrete steps to satisfactorily implement these two key recommendations by that time.'*²

In addition, despite the revision of the Anti-Money Laundering Act (AMLA), which came into force on 1 July 2021 and which gave MROS more stringent powers related to obtaining information, the WGB regards the recommendation on combating money laundering as only partly implemented because of the exception for lawyers and notaries which continues to apply.

FATF³

The OAG participated in the work of the FATF in its role as an expert member of the Swiss working group led by the State Secretariat for International Finance (SIF). The OAG submitted opinions and drafted proposals based on its expertise as the body responsible for prosecuting offences of money laundering and terrorism financing. The OAG also coordinates the recording of statistics for the FATF, which are kept both by the OAG itself and by the cantonal prosecution services.

In addition, the OAG took part in the work of the interdepartmental coordination group on combating money laundering and the financing of terrorism (CGMF) and its working groups, which identify and assess risks related to money laundering and terrorism financing at national level on behalf of the Federal Council and under the leadership of the SIF. In this way, the Federal Council is implementing the related FATF recommendation for the national assessment of such risks.

7 Legal questions and general information for Parliament

Deferring indictment in criminal proceedings against companies

In line with the OAG's experiences of corporate criminal law, there is a need in prosecution practice to make provision in the Criminal Procedure Code (CrimPC) for the option of deferring indictment, following the institution of the Deferred Prosecution Agreement (DPA) familiar in Anglo-American law. This is an out-of-court agreement in which the prosecutor refrains from filing an indictment provided the company concerned fulfils certain obligations.

1 Organisation for Economic Co-operation and Development

2 Statement of the OECD Working Group on Bribery dated 20.7.2022

3 Financial Action Task Force

Companies should be encouraged to voluntarily report potential cases of corporate criminal offences (Art. 102 SCC), or to quickly allow any related investigation and cooperate openly and comprehensively with the prosecution authorities during that investigation. According to the OAG's proposal, the public prosecutor would (still) be required to carry out a full investigation; a DPA would only come into consideration following the normal conclusion of the investigation. In this way, several procedural principles would be given special consideration – the obligation to prosecute, the requirements of the inquisitorial system and the 'need for speed'.

Although Swiss criminal law and more particularly criminal procedure law undoubtedly contains certain incentives for a company to cooperate with the prosecution authorities, such as the requirement to take account of cooperative behaviour when assessing the penalty, any form of criminal conviction can cause considerable damage to the reputation of a company. In particular, proceedings against companies that operate internationally can lead to significant collateral damage, including the loss of official licences granted by foreign countries – a risk that in practice can deter many companies from cooperating or making a voluntary report.

In its basic concept, the DPA, as far as the OAG is concerned, offers an instrument that is needed in practice to create a balance between the various conflicts of objectives inherent in criminal proceedings, to conduct white-collar crime proceedings against companies in a more streamlined and efficient manner and to make it possible for companies to avoid disproportionate collateral damage as a result of a criminal conviction. To compensate for this, however, all secondary consequences that could also be ordered in the event of a conviction should have a place in a DPA. In financial terms, imposing a fine, ordering forfeitures, or the payment of compensation or damages are conceivable.

It was partly in view of this that the OAG, on the occasion of the last CrimPC revision, proposed introducing the procedural option of a DPA. This proposal, however, did not find its way into the draft bill.

Work of the Individual Divisions in the Various Fields of Crime

1 National Security and Organised Crime Division (SK)

For years, the National Security and Organised Crime Division has been dealing with a consistently high number of cases in a wide variety of legal fields. Its responsibilities range from the entire catalogue of 'classic crimes against the state' in accordance with Article 23 paragraph 1 CrimPC, through offences related to aviation (Art. 90 FAA) and other specific fields of legislation, such as dual-use goods, war material, sanctions and nuclear energy legislation, to offences related to organised crime under Article 260^{ter} SCC. In addition, the SK Division deals with mutual legal assistance proceedings where these are related to criminal proceedings that it is conducting or where they involve covert investigations.

The SK Division provides an on-call service all year round for the entire OAG. As a result of the experience that it has gained in on-call cases, various (assistant) federal attorneys are involved in the OAG's terrorism task force (EOT)⁴.

In the SK Division, the key factors for efficient and credible prosecution include well-coordinated processes, case- and subject-specific resource allocation and good cooperation with federal and cantonal partner authorities that allows it to carry out its duties and ensure constant operational readiness.

1.1 Field of crime National Security (ST)

Usually at night, increasingly frequent and always violent: attempts to blow open ATMs have continued to increase. Under Articles 224–226^{ter} SCC, explosives offences fall under federal jurisdiction. The perpetrators often operate in several cantons or indeed countries. Proceedings thus require a great deal of time and resources, in part because many investigations have to be carried out through international mutual legal assistance. Attempts to blow open ATMs also generate serious media interest.

After noting a marked increase in 2021 in explosives offences involving ATMs in Switzerland, the OAG is now conducting criminal proceedings in around 50 cases; this marks a further increase in the number of cases. The perpetrators continue to operate in various groups of differing composition, seemingly indifferent to the extreme danger they will cause to life and limb as well as to other people's property by using explosives.

Despite the investigations requiring a great deal of time and considerable resources, the OAG with the assistance of the Federal Criminal Police (FCP) and other partner authorities succeeded in 2022 in filing two further indictments in this connection in the Federal Criminal Court and in securing two convictions: in October 2022, a Romanian man was convicted in the court of first instance of blowing open an ATM in Buchberg (SG) in April 2021, causing property damage of over CHF 220,000; he was sentenced to 52 months imprisonment and was expelled from Switzerland for 10 years. The presumption of innocence applies until a legally binding judgment has been issued.

In November 2022, a Dutch man was convicted in the court of first instance of various offences, including bringing explosives and various tools into Switzerland for the purpose of blowing open Swiss ATMs; he received a custodial sentence of 30 months, a monetary penalty of 60 daily penalty units and a fine; he was also expelled from the country for 8 years. The presumption of innocence applies until a legally binding judgment has been issued.

In addition, close cooperation with Swiss and foreign authorities led to the arrest in other countries of further persons directly implicated in blowing open ATMs in Switzerland. The OAG has requested the extradition of all these persons to Switzerland and in certain cases this has been approved by the foreign authorities concerned.

⁴ See 3.2 Field of crime Terrorism, p. 31

Cooperation with cantonal criminal investigation authorities

In its efforts to combat international organised crime, the SK Division increasingly relies on Article 27 paragraph 2 CrimPC. Under this article, the OAG may conduct the initial investigations in relation to offences that have been committed wholly or partly in several cantons or abroad, but where it is not yet established whether the Confederation or a specific canton has jurisdiction.

For example, initial investigations conducted by the OAG and the FCP involving numerous surveillance measures against various persons contributed decisively to the break-up by the Lucerne prosecution authorities of a drugs ring operating between Albania and Central Switzerland.⁵ The accused must be presumed innocent until convicted in a legally binding judgment.

In applying Article 27 paragraph 2 CrimPC, the OAG and the FCP use their international networks and their expertise in complex operations to combat international organised crime and are committed to ever closer cooperation with the cantonal prosecution authorities.

Constantly high caseload

The caseload for crimes related to national security remained high in the report year. In 2022, more than 1,000 incoming cases (including certain bulk cases) were recorded, with almost the same number of cases being completed (e.g. by summary penalty orders or abandonment and no-proceedings orders). In addition, the federal attorneys filed a variety of indictments from this field of crime in the Federal Criminal Court.

In the cases that were completed, the priorities as in the previous year were felonies and misdemeanours involving explosives and counterfeit money, offences against public officials and authorities (senior federal officials and members of parliament, officials working for transport companies, customs officers, security officers in federal asylum centres, etc.) and offences in the field of aviation (aircraft accidents and offences on board Swiss aircraft).

Offences prosecuted on official authorisation

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 28.2.2013).

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, ParIA, SR 171.10).

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. When authorisation under Article 66 CJAA has been granted, authorisation from the FDJP under the Government Liability Act (GLA) is also deemed to be issued (Art. 7 of the Ordinance to the GLA, SR 170.321).

⁵ See Press release of the Prosecutor's Office of the Canton of Lucerne dated 28.4.2022, available only in German.

Requests for authorisation filed by the OAG in 2022	Number	Authorisation granted	Authorisation refused	Application no longer relevant	Decision pending
Requests for authorisation to prosecute					
To the GS-FDJP pursuant to Art. 15 GLA	2	1	0	1	0
To the GS-FDJP pursuant to Art. 66 para. 1 CJAA (incl. Art. 302 SCC)	12	7	0	0	5
To parliamentary committees pursuant to Art. 17 / 17a ParlA	1	0	1	0	0
To the Office of the Armed Forces Attorney General pursuant to Art. 219 para 2 MCC and Art. 101a para 1 MCJO	1	1	0	0	0
Total	16	9	1	1	5

Requests for authorisation filed by the OAG in 2022

In one case, an application for authorisation to prosecute (Art. 15 GLA) was submitted to the GS-FDJP, which, after an exchange with the Office of the Armed Forces Attorney General, informed that the authorisation did not fall within its competence. Subsequently, an application for authorisation to prosecute (Art. 219 para. 2 MCC in conjunction with Art. 101a para. 1 MCJO) was submitted to the Office of the Armed Forces Attorney General, which granted the authorisation to conduct the civil criminal proceedings.

In the report year, one decision was taken relating to a pending application from 2021. The authorisation under Article 66 CJAA was granted (see table above).

1.2 Field of crime

Organised Crime (KO)

Criminal organisations are a dynamic, cross-border phenomenon. In combating and prosecuting organised crime, cooperation with partner authorities in Switzerland and abroad is therefore extremely important.

In Switzerland this is a joint task for the prosecution authorities and security services at federal and cantonal level, each of which has differing responsibilities and instruments. For the OAG, the prosecution and combating of organised crime is a strategic priority.

The OAG is conducting various criminal proceedings involving the prosecution of criminal organisations connected with a range of Mafia-type organisations,

mostly of Italian origin. A variety of offences are under investigation in these criminal proceedings, but in most cases suspicions of supporting or participating in a criminal organisation (Art. 260^{ter} SCC) are the key element.

Legal issues: Instruments available under Swiss criminal law to combat organised crime

With the partial revision of Article 260^{ter} SCC, which came into force on 1 July 2021, Switzerland upgraded the set of tools that it can use to combat organised crime. The maximum sentence for the basic offence in Article 260^{ter} paragraph 1 SCC was increased to ten years and Article 260^{ter} paragraph 3 SCC introduced an aggravated offence that carries a minimum penalty of three years and a maximum penalty of twenty years. In addition, certain criteria were removed or adapted to comply with the case law. At the same time, the Federal Act on International Mutual Legal Assistance in Criminal Matters (IMAC) was partly revised in relation to dynamic mutual legal assistance in criminal matters, and in particular the international transmission of information and the use of joint investigation teams.

Contrary to the recommendations of the Conference of Swiss Public Prosecutors (CSPP), Parliament decided not to abolish the subsidiarity of Article 260^{ter} SCC to certain offences. As a result, if accused are proven to have participated in a criminal organisation or to have supported such an organisation in the context of certain individual offences, they may still only be sentenced for their involvement in those individual offences and not for any offences under Article 260^{ter} SCC as well.

Lack of rules on principal witnesses

From a prosecutor's point of view, the lack of effective rules on principal witnesses remains an issue.⁶ Experience gained, in particular from the Italian justice system, has shown that the contribution of principal witnesses who have turned state's evidence can have a decisive influence on the success of the prosecution case. In addition to Italy, various other countries (e.g. France, Germany and the USA) have specific principal witness rules that apply in certain cases. Under Article 260^{ter} para. 4 SCC, however, Swiss law has only limited rules on principal witnesses, according to which the penalty may be reduced if an accused has attempted to prevent a criminal organisation from continuing to operate.

Combating organised crime: Essential cooperation

When it comes to combating Mafia-type criminal organisations, the *Direzione nazionale antimafia e antiterrorismo* (DNAA) is one of the OAG's most important partners. This cooperation is not simply limited to that with the DNAA, but involves all the Italian *Direzioni distrettuali antimafia*. Over the years, a valuable and strategically extremely important system of cooperation has been developed, both for the exchange of information on law enforcement matters and for simplifying and coordinating individual investigations.

The OAG and the DNAA plan to expand their mutual exchange of knowledge and their close cooperation, in accordance with the existing agreements and in line with the legal responsibilities and powers that they have under their respective legal systems. To achieve this, vital cooperation on cross-border criminal proceedings has been developed and consolidated over the years, in particular by setting up joint investigation teams, taking joint interim measures in relation to persons and property, and by extraditing wanted and arrested suspects to Italy. This cooperation has been carried out to the complete satisfaction of the relevant bodies at the OAG and the DNAA and is also supported by the European Union's agency for judicial cooperation in criminal cases (Eurojust), which acts as a vital link and coordinating body between the various international authorities involved in investigating and prosecuting serious cross-border organised crime and terrorism.

In view of the necessity of combating global crime effectively, whether it is committed by Mafia-type associations, criminal groups of other origin or criminal organisations with a terrorist background, and thus of conducting transnational investigations, the OAG holds regular working meetings with the Italian regional prosecution services, the *Procure distrettuali*, in connection with ongoing criminal proceedings.

These meetings permit an exchange of experiences, opinions and information on procedural and legal matters, as well as discussions related to the technologies used to manage information in the cases under investigation. They make it possible to discuss and agree on joint goals.

2 White-Collar Crime Division (WiKri)

Enormous volumes of data, the international dimension of the cases, the lack in certain cases of suitable instruments in the Criminal Procedure Code (CrimPC), the large number of persons involved, not to mention a keen media interest: they all shape the character of the largest division within the OAG and the challenges it faces.

The White-Collar Crime Division (WiKri) is responsible for all serious forms of international and intercantonal economic crime. These include cases of international corruption and money laundering and other economic offences of national or international significance. In addition, the division also conducts criminal proceedings related to stock market offences (insider dealing, market manipulation). The division has staff at all the OAG's office locations (Berne, Lausanne, Lugano, Zurich).

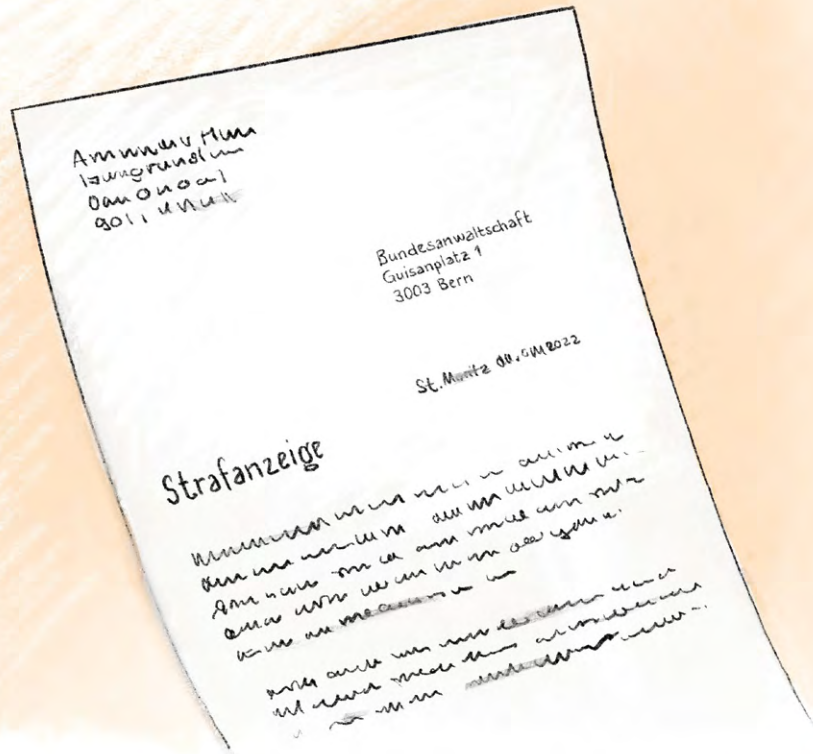
Just one search of a house or business can leave the OAG with the task of dealing with an enormous volume of data. These data must be assessed in complex analyses. This also regularly involves protracted sealing procedures that can extend the length of a case, as the OAG is not allowed any access to the sealed data until a compulsory measures court has reached its decision. Procedures for removing seals can take months, or in certain cases even years.

⁶ The OAG already referred to this issue in its Annual Report for 2015 (p. 8).

Stages in a criminal proceeding

Criminal complaint

Everyone can file a criminal complaint: individuals, non-governmental organisations, but authorities as well. However, the OAG is not responsible for everything. Its jurisdiction is defined as specified in Articles 23 and 24 of the Swiss Criminal Procedure Code and in other special federal legislation.



Studying the files

Once the OAG has received a criminal complaint, the case is examined: to establish whether it falls within federal jurisdiction and – if so – whether it warrants opening criminal proceedings, and particularly whether there is reasonable suspicion that an offence has been committed.



Task force

Complex proceedings and interdepartmental matters (such as the armed conflict in Ukraine) may warrant forming a task force. The purpose of a task force is to internally coordinate and internationally safeguard, also in terms of contacts, the ongoing exchange of information and knowledge.

Investigative team

The tasks of an investigative team include establishing the course of action, dealing with questions of pertinence, and preparing the gathering of evidence; the team includes, in addition to the federal prosecutor acting as Head of Procedure, assistant federal prosecutors, forensic financial analysts from the FFA department, the procedural assistants, and Federal Criminal Police officers.



International dimension of cases and multiple parties to the proceedings

The white-collar crime cases that the OAG handles are characterised by their international dimension, which makes the investigations extremely complex and time-consuming. In almost every case, the OAG has to request international mutual legal assistance. Consideration must be given to the fact that other countries have different legal systems: for example, in some countries a specific factual circumstance may not be assessed in the same way as it would in Switzerland. Consideration must also be given to the fact that certain countries, for various reasons, may have little or no interest in granting mutual legal assistance.

In white-collar crime cases there are often many parties involved in the proceedings, and there are usually several suspects under investigation. Furthermore, in some cases there are a large number of victims, sometimes well over a thousand, who wish to become private claimants. Investigating the circumstances requires numerous interviews with suspects and witnesses and rights of participation must be respected.

In order to meet all these challenges, which contribute to ensuring that criminal proceedings related to white-collar offences often last a long time, the division relies on synergies: cooperation with partners within and outside the OAG is absolutely indispensable, as is flexibility in the use of resources.

Legal issues: The need for action in relation to corporate criminal law⁷

Last but not least, in the field of white-collar crime and in relation to corporate criminal law (Art. 102 SCC), Swiss legislation lacks the provisions that would provide companies with adequate incentives to cooperate with law enforcement agencies. There is a corresponding need for action so as to be able to offer companies in Switzerland a general framework for cooperating in criminal proceedings, as has been the standard practice for a considerable time in other countries (USA, UK, France and soon in Germany as well).

2.1 Field of crime

General white-collar crime (AW)

This field of crime firstly covers proceedings involving financial market offences (market abuse), which fall within the exclusive jurisdiction of the Confederation. It also covers, secondly, offences against property and the forgery or falsification of documents.

Federal jurisdiction makes it possible to specialise in cases with high technical complexity and use analysts with specific expertise in financial markets. When dealing with these cases, cooperation with FINMA is especially close in order to exploit the available synergies and optimise the way in which the proceedings are conducted on both sides.

At an international level, cooperation among prosecution authorities is made easier in cases of market abuse by the fact that jurisdiction is often mutually exclusive. In its prosecutions, the OAG focuses on the exploitation of insider knowledge, both by individual offenders and by 'insider groups'.

In the field of offences against property the OAG deals with cases that have a predominantly international or intercantonal dimension. These are proceedings where federal jurisdiction is optional or, where there is downstream money laundering, compulsory. Where jurisdiction is optional, the OAG follows the principle of the primacy of cantonal jurisdiction. The cases that the OAG takes over relate primarily to serial offences, which pose special challenges, particularly in view of the number of victims. The OAG has developed strategies and instruments to cope with these challenges. In addition, the OAG has implemented measures to deal with the constant advance of digitalisation.

⁷ See also p. 11: 'Legal questions and general information for Parliament'

The series of cases related to world football

The final phase in the series of cases related to world football, which began in 2020, continued in 2022.

In these cases, the OAG has ordered the forfeiture or return to victims of assets totalling around CHF 42 million.

In criminal proceedings connected with a transfer by FIFA of CHF 2 million to the former president of UEFA, the OAG filed an indictment in October 2021. The Federal Criminal Court issued its first-instance judgment in this case in July 2022, acquitting the two accused. The OAG has appealed against this judgment, requesting that the first instance judgment be overturned in its entirety.

The proceedings opened in March 2017 in connection with the granting of FIFA media rights were the subject of appeal proceedings before the Higher Appeals Chamber of the Federal Criminal Court. In a judgment dated 23 June 2022 (which is not yet legally binding), the Higher Appeals Chamber upheld the conviction of the former FIFA Secretary General on charges of repeated falsification of documents. The Higher Appeals Chamber also followed the prosecution in finding the former FIFA Secretary General and the beneficial owner of TAF Sports Marketing SA guilty of repeated private corruption, in contrast to what the court of first instance had held. The Higher Appeals Chamber, just like the Criminal Chamber before her, considered it proven that the former FIFA Secretary General 'had accepted undue advantages', both from the beneficial owner of TAF Sports Marketing SA and from the third accused, the president of the BeIN Media Group LLC.⁸ Regardless of this, the Higher Appeals Chamber upheld the acquittal of the three accused on the charge of serious criminal mismanagement or incitement to commit the same, based on the legal reasoning that no damage had occurred.

Legal issues: Is accepting bribes as a private individual an act of criminal mismanagement under Article 158 SCC?

The acceptance of bribes as a private individual can constitute criminal mismanagement if the legal requirements for this offence (Art. 158 SCC), in particular the condition of loss and damage, are fulfilled. Criminal mismanagement can fall under the OAG's optional jurisdiction, in contrast to the acceptance of bribes as a private individual (Art. 322^{novies} SCC).

According to an old legal precedent, the acceptance of a bribe by a manager and the failure to comply with the obligation to hand over to the employer are not sufficient to consider that the requirement of loss and damage is met. In addition to this, the manager must also have engaged in a conduct that is detrimental to the employer's financial interests.

In relation to retrocessions, the Federal Supreme Court has held that the requirement of loss and damage is met if a manager, who is obliged to give an account of any advantage that he receives in the exercise of the mandate, fails to mention the received financial advantages to his client. This is because the client, in the absence of the required information, is then unable to demand the restitution to which he is entitled and therefore suffers loss and damage (BGE 144 IV 294).

Which solution applies to the employment contract remains uncertain: Federal Supreme Court judgment 6B_1074/2019 provides that retrocessions must be surrendered to the employer. However, in a case investigated by the OAG, the Federal Criminal Court rejected the application of the aforementioned case law outside of the context of retrocessions (SK.2020.4 and CA.2021.3). By 31 of December 2022, the sentence CA.2021.3 by the Higher Court of Appeals had not yet become *res judicata*.

⁸ See Press release from the Higher Appeals Chamber dated 24.6.2022, not available in English



Report

House searches are thoroughly prepared in coordination meetings (reports) of the relevant investigative teams. A house search is usually carried out by the Federal Criminal Police on behalf of the OAG.

House search

The purpose of a house search, as ordered by the Head of Procedure, is to secure evidence within the framework of a criminal investigation.





Seals

Generally speaking, secured documents and data carriers may be searched if they are believed to contain information that is subject to seizure. Persons concerned may demand that secured evidence be sealed. In such cases law enforcement agencies are prohibited, for the time being, from viewing or using in the proceedings the data concerned. The Federal Prosecutor then files a request for unsealing the data with a compulsory measures court, in order to be able to use these data in the proceedings.

Large data volumes

House searches in large-scale criminal proceedings, mostly in the area of complex white-collar crime, may involve enormous amounts of data, sometimes involving rows of files measuring several dozens of metres in length.



2.2 Field of crime Money laundering (GW)

At the OAG, money laundering is a field of crime that primarily covers all significant money laundering cases with cross-border character in which the predicate offence to the money laundering is normally corruption and in certain cases fraud, the offence was committed abroad and the laundering of the proceeds from the offence is mainly carried out abroad. This last-mentioned criterion provides the grounds for federal jurisdiction (Art. 24 para. 1 lit. a CrimPC).

The cases that the OAG handles normally originate from reports filed by the Money Laundering Reporting Office (MROS) in response to reports of suspicious transactions submitted by financial intermediaries. Most cases follow a pattern that has been observed for years, according to which assets of criminal origin that have been brought into Switzerland, have already been laundered or 'pre-laundered' in numerous transactions that often fall under the jurisdiction of many different foreign courts.

These two components – a predicate offence abroad and 'pre-laundering' abroad – pose a considerable challenge when it comes to the duration of the investigations and the outcome of the case, both of which are heavily dependent on the mutual legal assistance granted by the countries involved.

In particular the difficulty of obtaining proof of the predicate offence abroad can become an insurmountable obstacle, especially if the country concerned fails to provide the OAG with the mutual legal assistance requested, only does so in part, or fails to do so within a reasonable time. The situation is also difficult if no investigations are being carried out in the country concerned. However, it should be pointed out that the prosecution or conviction of the perpetrators in the country in which the predicate offence was committed is not a mandatory requirement.

These special features and the ever more complex paths that money launderers take also require considerable resources when it comes to financial analysis. This is especially the case if it is not only the money laundering that is subject to criminal proceedings, but the assets of criminal origin are also to be forfeited according to the principle that crime should not pay.

Conviction of a bank involved with the Bulgarian Mafia

A trial of five accused, including the bank Credit Suisse AG, took place from 7 February to 1 March 2022. In passing its judgment on 27 June 2022 (SK.2020.62), the Criminal Chamber of the Federal Criminal Court essentially allowed the applications that the OAG had filed: four accused were found guilty of aggravated money laundering; two of them were convicted of membership of a criminal organisation, and a third accused was convicted of supporting a criminal organisation. Credit Suisse AG was found guilty of violating Article 102 SCC (corporate criminal liability) in connection with the offence of aggravated money laundering.

The court, however, dismissed the proceedings on charges of serious money laundering in relation to the offences committed before 26 June 2007 as they had become time-barred. Proceedings relating to the falsification of documents were also dismissed.

The court imposed custodial and monetary penalties on all the accused, and also ordered the payment of the daily penalty units, with the execution of all the penalties being suspended for a probationary period. Credit Suisse AG was ordered to pay a fine of CHF 2 million.

It is worth noting that the OAG had requested that Credit Suisse AG settle a claim for compensation equivalent to the amount specified in the indictment that the bank had laundered, the forfeiture of which the bank had prevented. By committing the offence, the bank had failed to comply with its duty of care in relation to preventing money laundering. The court upheld the OAG's request and ordered the bank to pay compensation in the order of around EUR 18.6 million. In addition, the OAG also filed a claim for compensation against one accused for the equivalent of the payments that he had received for activities he carried out in support of the criminal association. On this point, the court upheld a claim for compensation of CHF 100,000.

The court also ordered the forfeiture of all the assets still held in the three existing accounts at Credit Suisse AG. The OAG requested this forfeiture on the basis that these were assets that had originated from drug trafficking or assets that were under the control of the criminal organisation.

As of the publication date of this report, the OAG has still to receive the judgment with the statement of its grounds. The accused and the OAG have already intimated their appeals against the judgment. However, the third parties concerned, in favour of whom the court ordered the forfeiture of the assets, have not indicated that they intend to appeal against the decision.

EUR 100 million fraud and money laundering as a criminal group

At the end of 2021, the Criminal Chamber of the Federal Criminal Court convicted (SK.2020.40) three accused of fraud and money laundering as part of a criminal group and two of the three of forgery of documents, imposing custodial sentences of 48, 54 and 35 months as well as suspended monetary penalties. The accused were also ordered to pay compensation to the Confederation of a total of CHF 10 million. The Criminal Chamber considered the offences to be very serious.

The three accused acted in concert according to a common plan. Using a fictitious joint-venture agreement, they succeeded in transferring EUR 100 million from the Swiss account of an Eastern European company to an account at another Swiss bank that they had opened specifically for this purpose. The recipient account was held by a dormant company that had no assets, which was owned by one of the accused.

Thereafter the accused moved the EUR 100 million in rapid succession through various Swiss and foreign bank accounts without any investment strategy that had been thought through or tested in practice, at the same time benefiting themselves and others financially by continuously withdrawing capital. In this way, they were able to launder the funds and evade the seizure of the assets. They formed a group in which each played a clear role. By 31 December 2022, the sentence was not yet legally binding.

Legal issues: Self-laundering on a professional basis⁹

On 23 April 2021, the Federal Criminal Court convicted (SK.2022.22) a hedge fund manager of serious criminal mismanagement, but acquitted him of the offence of simple money laundering as the prosecution was time-barred (7 years). However, the financial intermediaries that supported the hedge fund manager in laundering his allegedly illegal profits of over USD 170 million were convicted of money laundering. This was because it was assumed that in their case the aggravating factor that justifies a limitation period of 15 years applied.¹⁰

Although appeals are still pending in these proceedings and a reinterpretation of the circumstances is possible, it is reasonable to ask how the person who commits a predicate offence and then instructs financial intermediaries to launder the proceeds of his crimes can evade conviction for money laundering, while the financial intermediaries who are instructed are convicted, even though the case law states that the person who commits a predicate offence can subsequently commit the offence of money laundering (self-laundering; see note: BGE 145 IV 335 Erw. 3.1).

This situation results primarily from the fact that in one of the cases in which aggravated money laundering can be assumed in accordance with Article 305^{bis} paragraph 2, and thus the longer limitation period applies, the aggravating circumstance lies in the laundering being carried out on a commercial basis. For a commercial basis to be assumed, the money launderer must achieve a significant turnover or profit. While this last-mentioned requirement is theoretically easy to fulfil for financial intermediaries (who do indeed receive a fee and commission payments based on the sums of money transferred and thus laundered), the overall circumstances are more complex as far as the person who commits a predicate offence is concerned. His aim was not necessarily to make an additional profit by investing the assets of illegal origin, but instead to bring these assets back into economic circulation. To do this, the support of the financial intermediaries is required to prevent the assets from being identified and seized.

A profit is only achieved if the investments made by the financial intermediaries for his account proves lucrative. In other words: if the stock markets are booming, for example, the financial investments will bring an additional profit, thus adding an aggravating factor to the basic criminal offence of money laundering.

On the other hand, in the event of a collapse in the financial markets or even simply in the case of a poor investment, the assets of criminal origin will not generate any profit. In this case, the aggravating factor of laundering on a commercial basis will not apply to the person who commits the predicate offence. It may seem surprising that the question of whether an accused may be convicted of money laundering should depend on trends in the financial markets – all the more so because the offender cannot deliberately influence such trends in any way and especially as criminals are often quite prepared to accept a loss in order to be able to enjoy the proceeds of their misdeeds unhindered.

⁹ Predicate offenders laundering the proceeds of their own crimes

¹⁰ See Annual Report OAG 2021, Chapter 3.8, p. 20

If this (overly) strict interpretation of laundering on a commercial basis is retained, a potential solution could be that a person who commits a predicate offence and who instructs professionals to launder the proceeds of his crime should already be deemed to have committed the offence of aggravated money laundering recognised in the case law in a generic form.

2.3 Field of crime **International corruption (IK)**

As a significant international financial centre and the home to a range of large companies active in important economic sectors (for example, commodities trading, pharmaceuticals or micro-technologies), Switzerland is regularly the focus of international attention.

International corruption is a field of crime involving cases of bribery of foreign public officials under Article 322^{septies} SCC (a criminal offence since 1.7.2006) and related offences. Cases in this field are commonly opened in response to information obtained from foreign requests for mutual legal assistance, reports submitted by MROS to the OAG, or criminal complaints.

In cases of international corruption, coordinated cooperation between the prosecution authorities in the countries concerned is crucial. If there is a lack of will to prosecute in the foreign state whose citizen is the bribed public official, this makes it considerably more difficult or indeed impossible for the OAG to investigate the bribery allegation and to secure a conviction or to return any bribes seized in Switzerland. The investigations conducted in this field of crime often have a close connection with those in the field of money laundering.

In view of the international dimension of these cases and the increasing importance of 'global resolutions', i. e. the completion of proceedings coordinated between various states, cooperation and the development of joint investigation strategies with foreign prosecution authorities are of key importance. The OAG also attaches a considerable weight to dialogue with the companies that are under scrutiny, the possibility of filing voluntary reports and a company's cooperation in an ongoing criminal investigation. Lastly, the OAG pursues a proactive strategy in relation to international corruption investigations, in that, if possible and appropriate, it notifies foreign prosecution authorities of available evidence and the possibility of filing a request for mutual legal assistance by means of spontaneous transmissions of information.

Proceedings against three subsidiaries in connection with cross-border corruption¹¹

In a summary penalty order dated 18 November 2021, the OAG convicted three Swiss subsidiaries of the oil service group SBM Offshore, imposing sanctions of over CHF 7 million, including a fine of CHF 4.2 million. This conviction was based on the fact that the three companies, due to numerous serious defects in their internal organisation, had not taken all the precautions required within their ranks to prevent the bribery of foreign public officials in Angola, Equatorial Guinea and Nigeria in the period between 2006 and the start of 2012.

In a separate decision, the OAG abandoned proceedings on suspicion of organisational failures in connection with acts of bribery of foreign public officials in Brazil. It did so on the grounds that one party had already concluded an agreement with Brazil.

This case, which was opened in 2020, could also be completed thanks to the conviction in July 2020 by the Federal Criminal Court in accelerated proceedings of a former executive employee of the SBM Offshore Group for the bribery of foreign public officials (SK.2020.8). The OAG also took account of agreements reached by SBM Offshore in the Netherlands and in the USA.

The summary penalty order mentioned is also an expression of the OAG's will to prosecute and penalise companies that support cross-border corruption from Switzerland; and this remains the case even if some of the alleged offences are already the subject of foreign agreements.

Petrobras Task Force: First conviction of an employee of a Swiss banking institution

As part of the proceedings being conducted by a task force in connection with the semi-state-owned company Petrobras, the OAG has prosecuted bank employees and banking institutions in Switzerland. In this connection, the OAG opened two proceedings in particular: one against PKB Privatbank SA, which is based in Lugano, and a second against two employees of that banking institution.

¹¹ See OAG Press release dated 23.11.2021

In the course of the proceedings, it was established, as emerged from a Brazilian judgment against corrupt Brazilian public officials, that a considerable volume of assets originating from bribe payments had been deposited at the bank in question. This was done with the complicity of an employee of the bank. Neither the bank employee nor his direct superior carried out any checks to establish the origin of the assets. The bank thus failed to take all the reasonable organisational measures and precautions required to prevent an offence of this type.

At present, investigations in these criminal proceedings are ongoing both in relation to one of the two bank employees, who is alleged to have been complicit in bribery and money laundering, and in relation to the allegation that the bank itself is criminally liable under Article 102 paragraph 2 SCC.

In relation to the second employee, who holds a management position at the bank, a summary penalty order for the offence of money laundering under Article 305^{bis} number 1 SCC was issued in May 2022 and has now taken full legal effect. This is the first conviction of an employee of PKB Privatbank SA in the task force proceedings mentioned above.

National and international cooperation

The OAG must fulfil its responsibilities for the investigation, prosecution and penalising of international bribery offences in proceedings efficiently coordinated with foreign partner authorities. To do so, the OAG carefully examines vital information from incoming foreign requests for mutual legal assistance from countries conducting investigations into the bribery of foreign public officials, as well as reports of suspicious transactions submitted by MROS and criminal complaints filed by third parties, for example NGOs. If there is a reasonable initial suspicion, investigations are systematically opened.

The country evaluations carried out by the OECD, FATF and UNCAC also play an important role in this field of crime, in that Switzerland is under continuous scrutiny with regard to the efficiency of its measures to fight corruption.

3 International Mutual Legal Assistance, Terrorism, International Criminal Law and Cyber-crime Division (RTVC)

Cases handled by the RTVC Division are routinely characterised by a high degree of substantive complexity. In addition, there is a lack of established and thus predictable case law, particularly in international criminal law, but also to some extent in the areas of terrorism and cybercrime, which would promote efficient adjudication.

The continuing high workload that the specialists of the RTVC Division were confronted with in this reporting year is not only the result of a continuing high number of cases. In addition, there are stringent professional demands and challenges that have to be met in order to successfully conduct proceedings in these specialised areas of criminal prosecution. Despite the stringent professional and task-specific demands this subject-area places on them, the members of the RTVC Division have handled their cases with a high level of commitment and competence, demonstrating a drive to prosecute cases with impressive professionalism, efficiency and a focus on delivering results.

In 2022, as in the previous year, dynamic case developments and the resulting need for support required the deployment of federal attorneys and assistant federal attorneys across all categories of offences. In particular, specialists in international mutual legal assistance took over or supported various criminal proceedings in the areas of international criminal law and terrorism. In light of continuing limited personnel resources, the RTVC Division will have no option in future but to continue its practice of cross-disciplinary deployment of staff whenever the need arises.

With the special Emergency Task Force on Terrorism (German abbreviation: EOT) which was established and developed during the reporting year under the leadership of the RTVC Division, the OAG is in an even better position to open criminal proceedings promptly or to take over criminal proceedings from the cantonal public prosecutor's offices in the event of major terrorist attacks or of multiple simultaneous terrorist attacks. In this way the OAG contributes to professional and successful situation management and prosecution of offences.

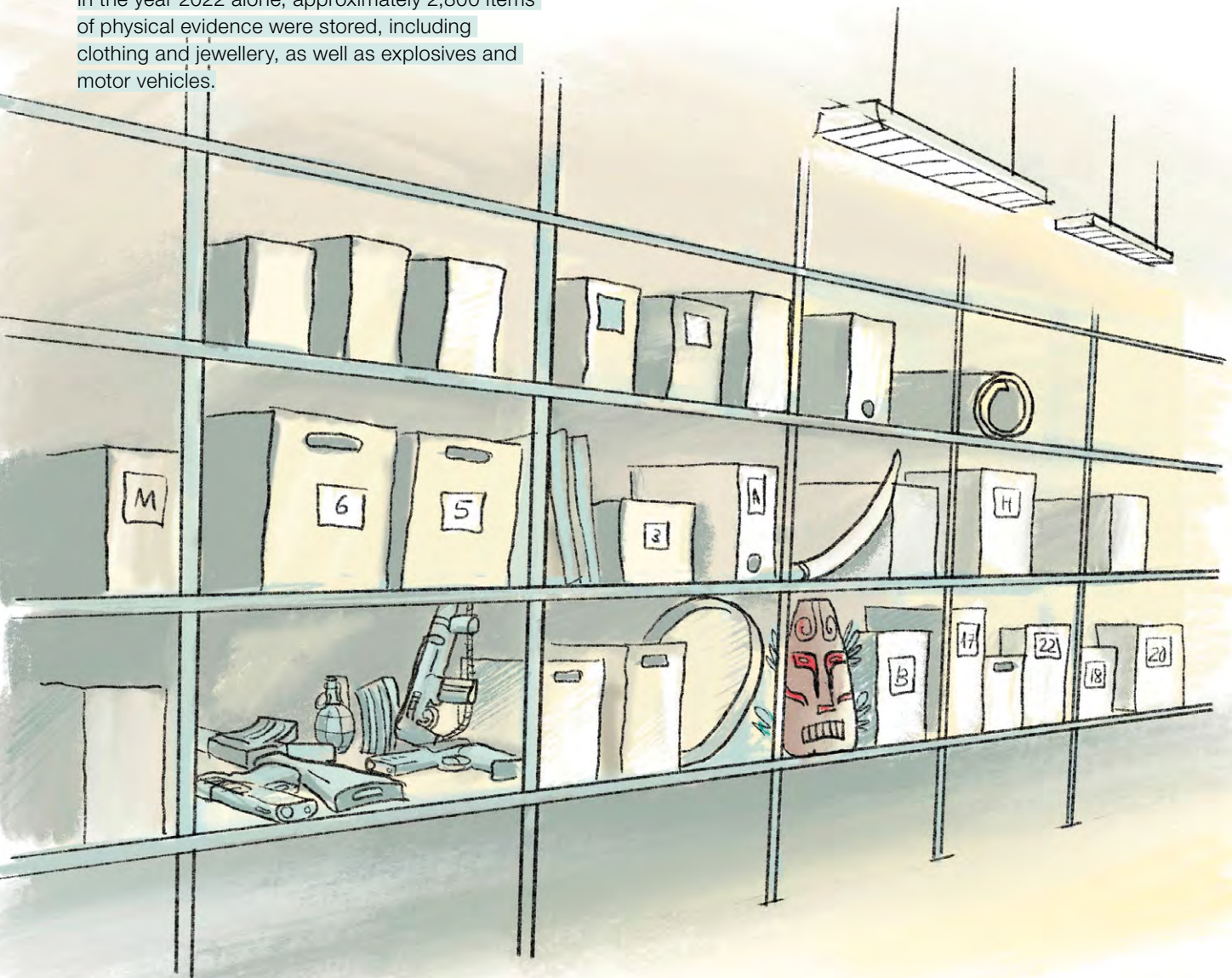
Mutual legal assistance

Given the current, often global, crime phenomena, mutual legal assistance in criminal matters is of central importance and one of the OAG's principal cross-sectional skills. Its mutual legal assistance experts share their expertise across the entire OAG.



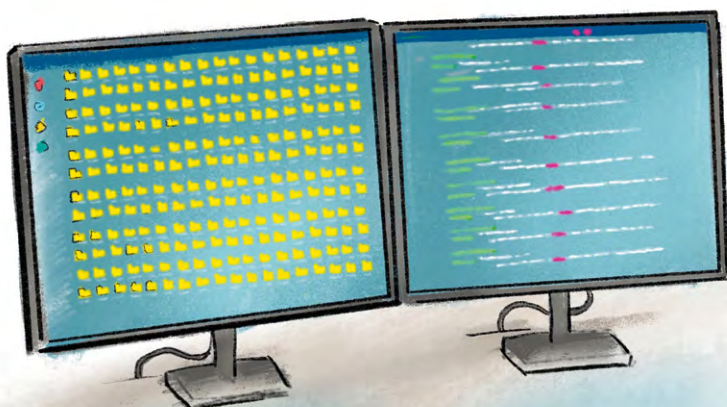
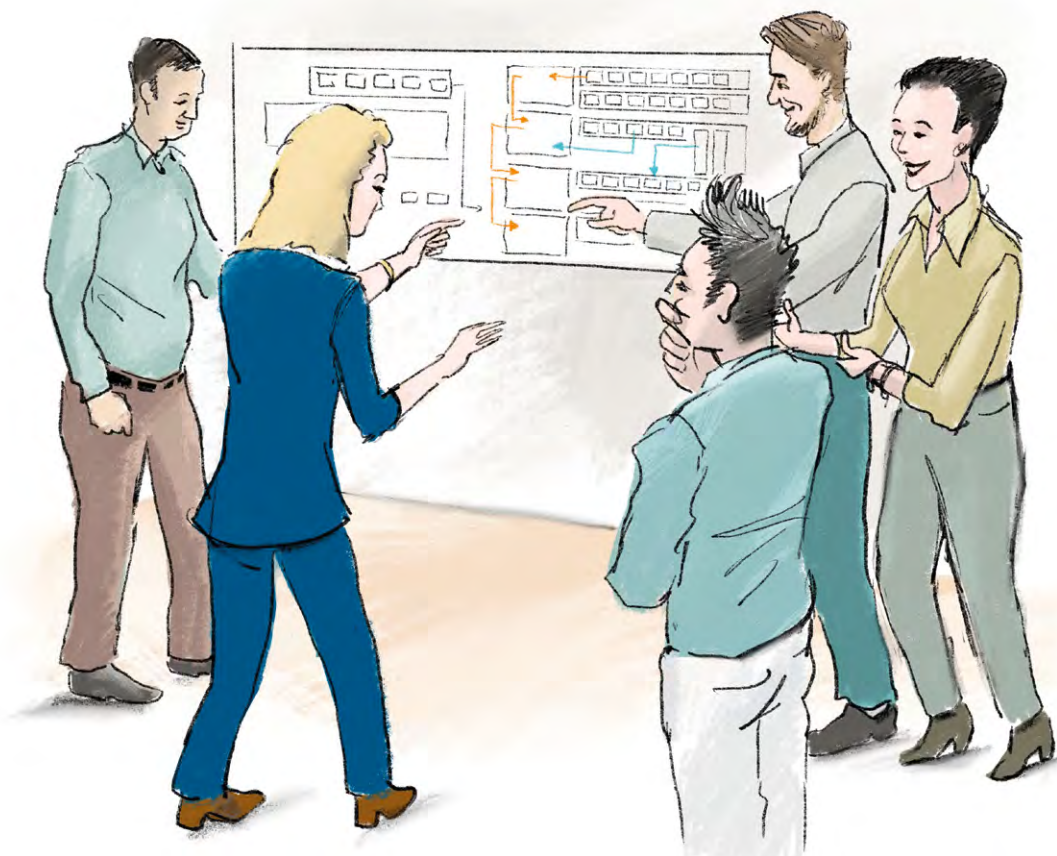
Physical Evidence Service Unit

The Physical Evidence Service Unit is responsible for the entire life cycle of the evidence gathered, including recording and properly storing the evidence, until criminal proceedings are closed. In the year 2022 alone, approximately 2,800 items of physical evidence were stored, including clothing and jewellery, as well as explosives and motor vehicles.



Forensic Financial Analysis FFA

It is the FFA's job to search for the proverbial needle in the haystack. The FFA's specialists analyse thousands of bank accounts and transactions, in order to find exactly those that lead to evidence, of money laundering activities, for instance.



Big Data

Files are searched, terabytes of electronic data are combed, and complex business transactions are thoroughly analysed.

As a direct consequence of the armed conflict in Ukraine and the resulting flow of refugees to third countries (including Switzerland), the OAG immediately created an internal OAG task force which, in addition to the Directorate, includes all operational divisions as well as Communications. The task force's mandate and goal are to identify any need for action that falls within the OAG's remit at an early stage, deduce the appropriate measures from those findings and implement them in a timely manner. In particular in the fields of international criminal law, state security, international mutual legal assistance, cybercrime and white-collar crime, various areas of action were immediately identified and measures based on those findings were implemented. These measures *inter alia* are aimed at gathering information with a view to possible subsequent criminal proceedings (e.g. war crime prosecutions), or at determining how pending mutual legal assistance proceedings with Russia should be handled.

3.1 Field of crime Mutual legal assistance (RH)

Based on the organisational structure of the OAG, requests for mutual legal assistance are handled by specialists of the Mutual Legal Assistance (RH). If the request for mutual legal assistance has a direct connection with proceedings conducted in another division or involving another field of crime, it is usually transferred to the federal attorney in charge of the case. This ensures coordination of cases and means that the individual steps can be carried out more efficiently. In certain more complex cases, where the administrative burden associated with providing mutual legal assistance could interfere with the criminal proceedings, a task force is deployed.

In view of current crime phenomena, the OAG's mastery of international mutual legal assistance procedures is a crucial skill applicable in a variety of fields. The OAG's specialised experts in mutual legal assistance contribute their expertise through advice, knowledge of case law developments and professional training, as well as by supporting various services. They also stand ready to assist the entire OAG (especially on the Attorney General's Operational Committee, OAB). Conversely, in cases where the execution of foreign requests for mutual legal assistance requires special expertise, specialists from the other divisions are consulted.

2022 was characterised by increased staff workloads in the area of mutual legal assistance. This was due mainly to the fact that the OAG's staff were increasingly involved in conducting or supporting criminal proceedings in other areas, especially terrorism and international criminal law. The resulting additional workload was compensated for by the support of other departments and the decrease in new requests for mutual legal assistance.

Impact of the armed conflict in Ukraine on international mutual legal assistance

The armed conflict in Ukraine also had an impact on various aspects of international mutual legal assistance. At the internal level, mutual legal assistance proceedings with Russia were suspended with immediate effect, and the Federal Office of Justice (FOJ), as the central authority responsible for this area, was asked for guidance regarding the further course of action in international mutual legal assistance proceedings with this State. In a series of decisions (in particular Decision RR.2021.84 of 13.5.2022 concerning proceedings by the OAG), the Federal Criminal Court determined that it was no longer possible to grant Russia international mutual legal assistance. Uncertainty remains with regard to the further handling of assets that were forfeited in connection with requests for international mutual legal assistance prior to the inception of the armed conflict in Ukraine. An appeal is currently pending (as of 31.12.2022) before the Federal Supreme Court in a similar case.

Conversely, international mutual legal assistance between Switzerland and Ukraine was not significantly affected by the Russian aggression. After a brief interruption, dialogue between the two countries resumed. The OAG continues to receive and execute requests for international mutual legal assistance from Ukraine. The maintenance of mutual legal assistance relations with Ukraine has been confirmed by the courts (Federal Criminal Court [FCC] RR.2021.300, RR.2021.301 of 17.5.2022, appeal to the Federal Supreme Court deemed inadmissible: BGE 1C_338/2022 of 17.6.2022).

The question of a pledge of assets which were previously frozen

In another area, the Federal Criminal Court dealt with the validity of a claim for enforcement of a pledge that had been acquired by a bank after the freezing of financial assets in connection with an Israeli request for mutual legal assistance (Decision RR.2021.175 of 23.5.2022). The court found that it was impossible to enforce a pledge against assets that had already been frozen, so that the pledge agreement was to be considered null and void in accordance with Article 20 of the Swiss Code of Obligations (CO; SR 220). It thus found that the bank could not oppose the handover of the assets in question to Israel.

Legal issues

At the beginning of 2022, the OAG was asked to provide bank information that would have made it possible to confirm the identity of an alleged extortion offender who was threatening to detonate explosives. As a resident in Switzerland, the person should have been informed of the proceedings before the information was transmitted abroad (Art. 80m para. 1 let. a IMAC). This in turn would have allowed the person to flee and/or conceal or destroy evidence. The new provisions in Article 80c^{bis} IMAC, which make it possible to defer informing the individual in question, could not be applied because their scope is limited to organised crime and terrorism. The execution of this request for international mutual legal assistance therefore had to be deferred.

In the 2021 Annual Report (section 2.1, p. 5), the OAG referred to the fact that financial institutions had invoked a Federal Administrative Court decision in order to be recognised as parties to international mutual legal assistance proceedings (Decision A-5715/2018 of 3.9.2019). They did so in order to oppose the granting of administrative assistance or to demand the redaction of documents. In its Decision 2C_825/2019 of 21 December 2021 (intended for publication), the Federal Supreme Court overturned the decision of the Federal Administrative Court.

In Decision 6B_1419/2020 of 2 May 2022, the Federal Supreme Court ruled that the effective prosecution of complex international offences necessarily requires that the authorities of the various states involved coordinate their actions. If the discussions in question are limited to matters of coordination, they do not have to be recorded in the files of the Swiss criminal proceedings (para. 3.4). This decision confirms the principle that strategic coordination discussions do not necessarily have to be part of the legal framework for formal mutual legal assistance relations.

Domestic and international cooperation in the field of mutual legal assistance

The OAG's dialogue in 2022 with the Federal Office of Justice (FOJ), the central authority in matters of mutual legal assistance, was ongoing and constructive. It was marked in particular by the difficult situation caused by the armed conflict in Ukraine. From the beginning of the armed conflict, the FOJ took the clear position that it was imperative to freeze any form of cooperation with Russia. The impact of the conflict was also discussed in the context of the dialogue with Eurojust.

The extension of MROS's remit in July 2021 with regard to the transmission of bank information abroad led to an intensification of the discussions between the two institutions. Their dialogue proved to be very

constructive, as both authorities are aware of the remits and the regulatory framework in which the respective partner institution operates.

3.2 Field of crime Terrorism (TE)

The OAG must be ready at any time to handle law enforcement within its jurisdiction in the event of a terrorist attack – together with its partners. In the reporting year, one area of focus was again on increasing the ability to react and on refining procedures in such cases.

At the end of 2021, the OAG approved the concept 'Emergency Task Force on Terrorism' (EOT). The concept provides rules on the internal procedures to be applied on receipt of a report of a terrorist attack that has been committed or is imminent, and designates resources that an internal OAG case manager can access if necessary (e.g. additional legal personnel, administrative or logistical support). The OAG is in close contact with its partners to align the interfaces that arise during activation of the EOT.

In June 2022, the EOT concept was employed, in a planned exercise, for the first time ever. In a fictitious scenario, an assassin ran a hijacked train into Lucerne station, leaving many dead and injured. The participants in the exercise quickly received indications that it could be an attack by the jihadist terrorist organisation 'Islamic State' (IS). In the exercise, the OAG, in consultation with the canton in question, quickly took charge of the investigation, sent a liaison prosecutor to the scene and initiated the initial investigative measures. The EOT concept has proved itself in principle and is now being further developed to implement knowledge gained from the exercise.

Two terrorism trials before the Federal Criminal Court

In the first case, a female IS member attacked two random victims with a knife in a department store in Lugano, canton of Ticino, on 24 November 2020 and attempted to kill them, claiming to be acting on behalf of IS. The Federal Criminal Court sentenced the accused to nine years' imprisonment for multiple attempted murders and for offences under the Federal Act on the Proscription of the Groups 'Al-Qaida' and 'Islamic State' and Associated Organisations (AQ/IS Act). As the accused suffers from a mental disorder, the court ordered inpatient treatment. By 31 of December 2022, the sentence was not yet legally binding.

In the second case, according to the indictment, a then 26-year-old Swiss man claiming to be acting on behalf of IS killed a randomly selected person with a knife at a snack bar in Morges, Canton of Vaud, on 12 September 2020. He had earlier tried to set fire to a petrol station. The trial took place in December 2022. In January 2023, the Federal Criminal Court sentenced the accused in the first instance to 20 years' imprisonment and to therapeutic measures in a closed facility. The presumption of innocence applies until a final conviction.

During the reporting year, the OAG carried out two arrest operations against IS members and supporters: one in the Winterthur area and one in the Lake Geneva area. Five persons were arrested and numerous searches were carried out. The suspects are strongly suspected of belonging to or supporting IS. However, the presumption of innocence applies. The OAG has set up joint investigative groups and platforms for the coordinated exchange of information with partners in both cases.

Legal issues: New criminal law provision comes into force in relation to terrorism

On 1 June 2022, a new criminal law provision came into force in relation to terrorism, a field of crime in which the OAG has exclusive jurisdiction to prosecute. It concerns the offence of violating measures to combat terrorism (so-called PMT measures; Art. 29a of the Federal Act on Measures to Safeguard National Security). At the time of going to press, the OAG had not yet received any reports of crimes relevant to the new provisions.

On 1 December 2022, the Federal Act on the Proscription of the Groups 'Al-Qaida' and 'Islamic State' and Associated Organisations expired. From that date, the provisions of Article 74 paragraph 4 of the Federal Act on the Intelligence Service (IntelSA) apply instead, in conjunction with the general ruling issued by the Federal Council concerning the proscription of the groups 'Al-Qaida' and 'Islamic State' and Associated Organisations. This ban on the organisations applies from 1 December 2022 and is limited to five years (BBl 2022 2548).

If an accused is convicted solely of the criminal offence under Article 2 of the Federal Act on the Proscription of the Groups 'Al-Qaida' and 'Islamic State' and Associated Organisations or the criminal offence of criminal organisation (260^{ter} SCC), the accused cannot be sentenced to indefinite incarceration. This was decided by the Federal Supreme Court in a landmark ruling. The Federal Supreme Court determined that the above-mentioned offences per se do not suffice for indefinite incarceration under Article 64 SCC. In order to obtain an answer to this fundamental legal question, the OAG had appealed to the Federal Supreme Court to challenge the refusal by the two lower courts to order the indefinite incarceration of the member of an IS squad.

Domestic collaboration: Cantonal SPOC Ts

During this reporting year and for the first time since the beginning of the Covid pandemic, the OAG held physical meetings with the Single Points of Contact in the area of counterterrorism (SPOC Ts). The cantonal public prosecutor's offices have each designated one such SPOC T for the OAG. The SPOC T serves as the OAG's first point of contact at cantonal level for cases involving suspected terrorist activities and for general questions on the subject. As a liaison officer for the OAG, the SPOC T has direct contact with the person responsible for dealing with terrorism offences at the OAG. The SPOC T serves as a contact and knowledge carrier for colleagues in the canton. The OAG regularly provides information to the SPOC Ts, which the latter pass on to colleagues in the cantons to raise awareness of the issue. At regular meetings, the OAG exchanges information with the SPOC Ts about experiences, unanswered questions and mutual needs. The OAG intends to strengthen its cooperation with the SPOC Ts.

3.3 Field of crime

International criminal law (VO)

Although crimes under international law have so far always been offences committed outside Switzerland's borders, Switzerland, as a depositary state of the Geneva Conventions, has sent a clear signal of its support for the prosecution of such crimes by signing the Rome Statute, which states that Switzerland should under no circumstances serve as a refuge for persons who have allegedly committed genocide, crimes against humanity or war crimes.

Since the Criminal Procedure Code, which applies nationwide, and the corresponding amendment to the Swiss Criminal Code came into force on 1 January 2011, in peacetime the federal authorities are exclusively responsible for the prosecution of genocide, crimes against humanity and war crimes. However, this applies only if the offender is on Swiss territory and is not extradited to another state or to an international criminal court whose jurisdiction is recognised by Switzerland (Art. 264m SCC).

The facts that form the basis for proceedings under international criminal law almost always occur abroad and in some cases date back many years. These circumstances sometimes make criminal investigations difficult and costly. One of the recurring challenges is how to collect evidence. Often statements by victims and witnesses are the only evidence. Investigations are further complicated by the fact that some states in which

crimes are committed are unwilling to support investigations through mutual legal assistance, or by the fact that those mutual legal assistance procedures can be protracted, and by the scope and complexity of the criminal investigations.

The preliminary-inquiries phase in cases under international criminal law can be challenging. It includes the question of whether the contextual elements of genocide, crimes against humanity and war crimes are established (assuming that the preconditions for jurisdiction are met).

In the reporting year, a total of 28 preliminary inquiries and criminal investigations were pending in the area of international criminal law, including 3 new cases. The pending preliminary inquiries and criminal investigations concern allegations of genocide, crimes against humanity and war crimes in 14 countries, for which the time periods of the offences range from 1982 to 2022.

The Office of the Attorney General has declared the field of international criminal law to be one of its strategic priorities. In November of the reporting year, the Attorney General and the federal attorney responsible for this field of crime met with several non-governmental organisations (NGOs) active in the area of international criminal law. The main topics of the meeting were clarifying the various roles and the complementary work of NGOs and the OAG. NGOs are among those which file criminal reports with the OAG in relation to crimes under international criminal law.

Domestic and international collaboration in the field of international criminal law

In the field of international criminal law, the OAG is in regular contact with foreign authorities, the International Criminal Court and other international institutions.

An important platform for regular dialogue with foreign authorities and institutions is the European Genocide Network, which is made up of practitioners from prosecution, judicial and police authorities in the field of international criminal law. Meetings are held twice a year in The Hague, giving participants the opportunity to discuss the prosecution of crimes under international law in a network-based, coordinated setting, to discuss experiences and exchange information, and to receive specialised training. In the reporting year, the OAG participated in the 31st and 32nd meetings of the European Genocide Network. The topics of the meetings included: the concept of 'structural investigations' and their use in proceedings under international criminal law; empirical observations and challenges in connection with criminal proceedings under international criminal law in Germany and Sweden; and the current status of the initiative to devise a mutual legal assistance instrument in the field

of international criminal law. The role of Eurojust and the coordination and cooperation with Europol to support national prosecution authorities were also discussed.

3.4 Cybercrime (CY)

The topic of cybercrime affects us all. Various authorities and organisations are dealing with it in Switzerland, including the OAG, which conducted 64 cases of which 55 preliminary enquiries in this area in 2022.

Criminal offenders in Switzerland are active in the areas of cyber security, cyber defence and cybercrime. The majority of cases in the cyber area concern cybercrime in the broader meaning of that term, i. e. offences that were already being committed before the new technologies came into being and are now also committed by means of those technologies. The crimes committed are mainly property offences. The OAG pursues cases that are technically highly complex and that constitute the phenomena of cybercrime in the strict sense (i. e. those that are only possible by means of new technologies and the internet).

The number of cybercrimes has increased exponentially in recent years. This is shown by the relevant statistics and by statements made by victims in the media. In addition, the technical complexity of the cases has also changed considerably in terms of the *modus operandi* and the technologies used by the offenders, both in committing the offences and in concealing their identity. Cases in practically all categories of offences can include aspects of digitalised crime.

The challenges in the field of cybercrime are manifold:

- Because of the complex techniques used by offenders to remain anonymous, offenders are very difficult to identify.
- The international nature of cybercrime makes prosecution of such crimes difficult, especially because of slow international mutual legal assistance.
- The traces left by offenders are digital data, which are inherently volatile and therefore more difficult to collect.
- Combating cybercrime is an interdisciplinary endeavour which requires the combination of several fields (e. g. law, technology and forensic investigations).

Knowledge-sharing between those involved in the fight against cybercrime is thus the key to success in this area.



Interrogations

Interrogations take place in special rooms. The accused in most cases appear accompanied by their defence lawyers. Other parties or persons involved in the criminal proceeding, for instance victims accompanied by their legal representatives, may be present as well.



Conclusion of proceedings

A criminal investigation may be completed in different ways: by filing an indictment with the Federal Criminal Court, or by issuing a summary penalty order or a ruling abandoning proceedings if no facts constituting an offence have been established.

Federal Criminal Court – main hearing and closing argument

In the main hearing before the court, the OAG is a party as well.

In the closing argument, the federal prosecutor once again substantiates the counts of the charge and the sentence demanded.



Phishing by text message with FluBot

Following a wave of smishing attacks (phishing via text message) in Switzerland in the summer of 2021, the OAG opened criminal proceedings against persons unknown for unauthorised obtaining of data (Art. 143 SCC), unauthorised access to a data processing system (Art. 143^{bis} SCC), damage to data (Art. 144^{bis} SCC) and computer fraud (Art. 147 SCC).

The preliminary investigations by fedpol under the direction of the OAG revealed that the attacks were carried out from abroad, using FluBot malware and infected Android mobile phones. The victims received a text message with a link that supposedly led to a voice message, but actually allowed the offenders to access the victims' data, including passwords, e-banking information, text messages and online account data. A total of over 1,500 cases have been documented in various cantons.

Thanks to close cooperation with the telecommunications service providers, but also with SWITCH and the National Cyber Security Centre (NCSC), fedpol and the OAG were able to gather important information about the techniques used by the offenders. These findings were shared with other European countries via the European police agency Europol. An action day conducted by Europol on 1 June 2022, in which eleven countries (including Switzerland) participated, led to the destruction of the infrastructure and the deactivation of the malware strain. The Swiss criminal proceedings are continuing. The main goal is to identify the offenders with the help of evidence that can be used in court.

Domestic and international collaboration in the field of cybercrime

Cybercrime does not respect cantonal or national borders. Consequently, the sharing of knowledge and experience, as well as the coordination of proceedings, are crucial for success. Although they are 'computer savvy', the federal attorneys working in the area of cybercrime are not computer scientists, forensic experts or hacking gurus. Rather they provide a bridge between computer experts and the law, providing specific guidance on the elements of criminal offences and the corresponding procedural steps. Above all they liaise with the prosecution authorities at home and abroad. The cybercrime unit cooperates and collaborates in an interdisciplinary group with a common goal: to identify the offenders.

For this reason, several years ago the Swiss federal government and the cantons jointly set up the Cyberboard, which promotes operational dialogue between the federal authorities and the cantons, and also provides strategic orientation. In the 'Cyber-Case' panel, which emerged from the Cyberboard, Switzerland has a body in which cantonal public prosecutors and federal attorneys can explore legal cooperation and related issues, and share their knowledge and experience in the rapidly changing area of cybercrime prosecution. The Cyber-Case platform is held two to three times a year under the direction of the OAG.

The international context of cybercrime is obvious today. Offenders understood very early on that the internet is not constrained by national borders, in contrast to the jurisdictional scope of the judicial authorities of the various countries. The prosecution of offenders therefore requires increased international cooperation, perhaps even more than in the other areas of crime. In order to achieve concrete results in cybercrime, the OAG is present and active at the international level and involves numerous states in proceedings. Information sharing on specific topics is also handled through the Eurojust European Judicial Cybercrime Network (EJCN), among others.

4 Forensic Financial Analysis Division (FFA)

Evaluating thousands of financial transactions, analysing the behaviour of stock market investors after unexpectedly high profits or examining a company’s corporate governance guidelines in connection with a suspicion of corruption or money laundering; these and many other tasks are part of the activities of the Forensic Financial Analysis staff.

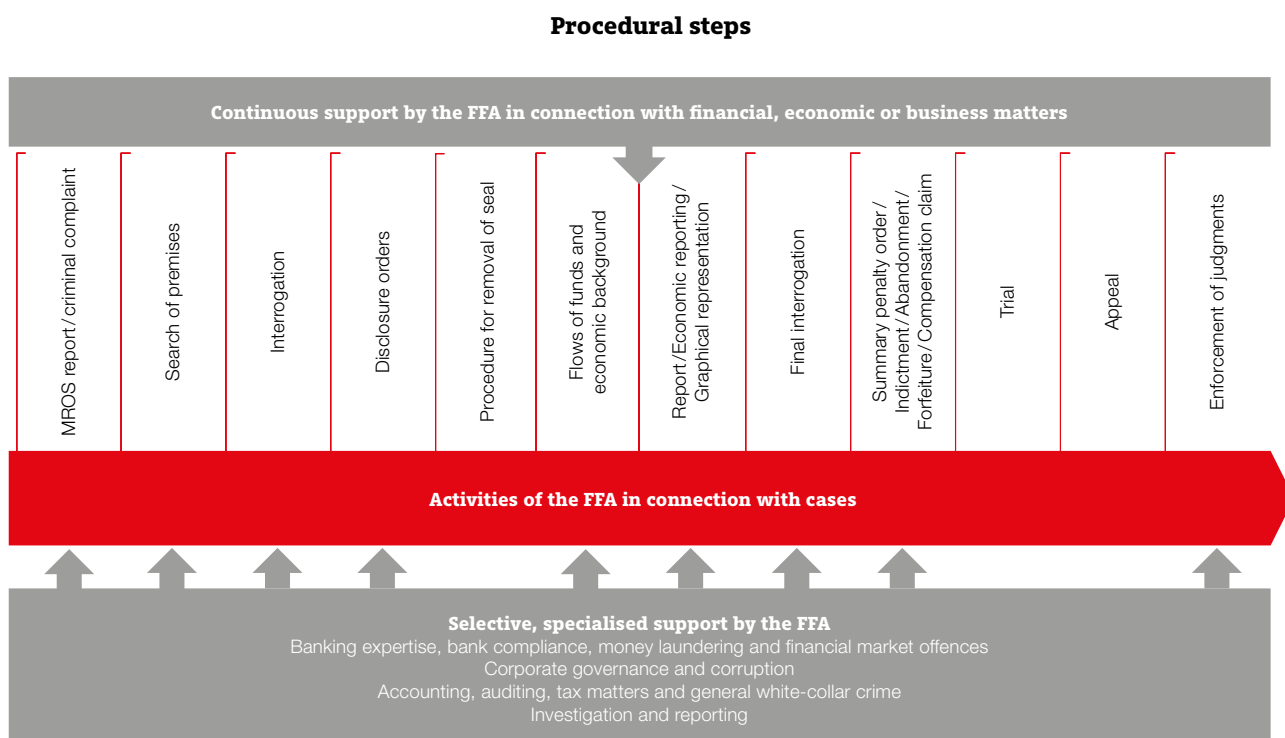
In a large majority of cases, the FFA acts as a service provider for the case-handling divisions, but its areas of competence also support the Directorate and the General Secretariat. FFA analysts are frequently consulted to lend their expertise in support of the federal attorneys in charge of cases, irrespective of the offence that is being investigated. Especially in the area of white-collar offences, their analyses are indispensable to the successful conduct of proceedings. FFA analysts are involved throughout a given case (see figure below).

For example, in connection with a money laundering case based on a suspicion of fraud in the United States in connection with securities, the FFA conducted analyses of 5.5 million documents relating to 570 underlying bank-client relationships at approximately 40 banks.

The documents originated from several searches of premises, from international legal assistance and from numerous disclosure orders. In one case, the accused was convicted in a case abroad in which the losses incurred by the victims was estimated at more than USD 200 million. In Switzerland too – not least of all thanks to the FFA’s meticulous work and its cooperation with lawyers on the cases – there were convictions, forfeitures and claims for compensation totalling approximately CHF 60 million.

Structure, remit and strategy of the FFA

In 2022, the FFA contributed its expertise to 134 criminal and international mutual legal assistance cases, 25 of which (including the Petrobras and 1MDB series of cases) required up to 58% of available resources.



The FFA employs staff in 31 job positions. In order to incorporate the necessary specialist competencies (continuously adapted to developments in real-life practice) into the handling of cases, a specialist organisation was set up in 2020. This organisation covers the following specialist groups and areas:

- banking expertise, bank compliance, money laundering and financial markets offences;
- corporate governance and corruption;
- accounting, auditing, tax matters and general white-collar crime;
- investigation, reporting, investigative tools and new technologies, investigation and final documentation, and forfeitures and claims for damages.

Dealing with increasingly large amounts of digital data is a major challenge. The proverbial search for a needle in a haystack is part of the daily routine of forensic financial analysts. In proceedings, it is often necessary to trace thousands of transactions and acts of concealment through complex corporate networks and investment vehicles in order to identify senders and recipients and to determine the financial background of transactions.

The forces of innovation in the area of alternative payment transactions and the importance of trading in digital assets, such as cryptocurrencies, are increasing substantially. One must assume that FFA specialists will be confronted with these new financial instruments more and more frequently.

To be able to analyse the constantly increasing volumes of data without having to proportionally increase the number of staff, the FFA relies on the development of new technologies and improved analytical tools. These should help to filter and search structured and unstructured data, and to uncover certain patterns, irregularities or anomalies more quickly. Meeting these challenges as effectively as possible requires the expertise of specialists, who contribute their knowledge to the design and implementation of internal projects and to their further development.

5 General Secretariat (GS)

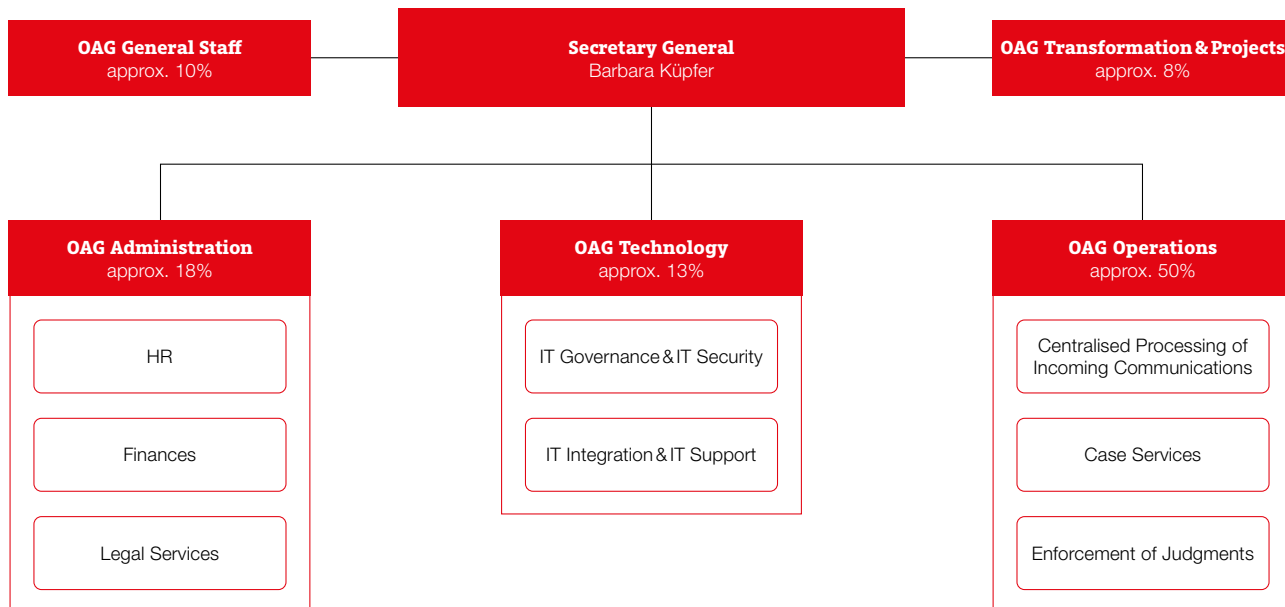
The various units of the General Secretariat (GS) support the case-handling divisions in two ways: around 50% of the staff provide direct operational services on cases, while the other 50% ensure the operations of the GS as a self-governing, independent authority.

Beyond the GS's ongoing projects and permanent duties, 2022 was above all a time of change for the GS, when it became necessary to critically examine processes and to modify and adapt structures. Provision of optimal support for the core remit of the OAG has top priority. These additional efforts, and the changes that went along with them, resulted in additional workloads for staff. The modified new structure of the GS, the introduction of which will be completed in the first quarter of 2023, creates clearer responsibilities with fewer interfaces, and bundles duties and responsibilities so that cooperation can be made simpler and more efficient for the benefit of the OAG's operational core business. The new organisational structure separates the responsibilities of the GS into clearly distinguishable areas (see figure p. 39).

In addition to the operational services provided in the area of law enforcement, the main focus was on human resources and organisational development and on continuous advances in digitalisation. Significant progress was made and initial successes achieved. For example, the productive launch of the first executable product from Core.Link took place on 12 December 2022. This was an important step towards more efficient and secure transaction and file management in law enforcement at federal level.

Hybrid file management involving both digital and physical elements has been the reality for several years now, confronting the OAG with challenges such as media outages, traceability, file handling, etc.

Against this background and the imminent legal basis of the Federal Act on the Platform for Electronic Communication in the Justice System, the Directorate decided to introduce digital master files for transactions managed on the new Core.Link system. Core.Link forms the basis of future transaction and file management, a move into the digital age which will make the OAG's work easier through automation. The specific needs of federal law enforcement will be taken into account, as will cooperation with fedpol. Both are ensured through regular coordination to take into account the needs of the staff involved.



A prerequisite for digital file management is the digitisation of incoming physical documents, which is performed by Central Case Support. (cf. 5.1 Case support). The gradual introduction of Core.Link is thus also accompanied by the adaptation or supplementation of associated processes and structures. Of equal relevance is coordination with partner programmes such as the Harmonisation of Information Technology in Criminal Justice (HIS), which is intended to make digital exchange possible with external agencies. In addition, measures were introduced to bolster IT security.

Another challenge at the beginning of 2022, on both an individual and organisational level, was that of confronting the coronavirus. In the first months of the year, the Covid task force was deployed and in constant dialogue. Several events were conducted on an exclusively virtual basis. Hygiene measures continued to be the focus of attention, and appropriate materials were made available.

As infection numbers declined, everyday life in the office returned to normal. We have learned a great deal from the experience and grappled with the need to adopt new habits after the pandemic. Consequently, the OAG has formulated principles for cooperation and a guideline entitled ‘Our Working Environment’, including guidelines for those working from home. The main idea was that staff, in consultation with their teams, are expected to decide for themselves which work location is the most effective and efficient for a given activity.

Towards the end of the year, energy-saving measures became a focus of attention. Various steps were taken in tandem with the other building tenants to reduce energy consumption.

Statutory mandate to be a self-governing authority

Under Article 16 of the Criminal Justice Authorities Act (CJAA), 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 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. Every year the Attorney General submits a draft budget and accounts to the Supervisory Authority for the Office of the Attorney General of Switzerland; these are submitted to 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 it needs to satisfy its logistical requirements (Art. 18 para. 2 CJAA).

5.1 Case support

Tasks of the Case Support Unit include the digitisation of thousands of bank transactions for financial analysis, the recording and secure archiving of (for example) trace evidence after ATM detonations, and the preparation of case documents. In addition, the duties of this unit include the preparation of e-mails and documents, and the organisation of translations into numerous languages.

The Case Support Unit, which has around 20 employees, focuses on centralised services for criminal and mutual legal assistance proceedings. The aim of all of its services is to provide support to the operational divisions in respect of core tasks. For example, the Financial Intermediaries Disclosure Service (*Service Editionen Finanzintermediäre* [SEFI]) processes requests for disclosure of bank records and makes them available in electronic form to the sections conducting the proceedings. In 2022, 825 disclosures were processed. Among other things, *Data Management* accepts orders for the preparation, pagination and scanning of documents for the operational divisions, and also works closely with the SEFI and the *Physical Evidence Service Unit*.

The *Physical Evidence Service Unit* is responsible for the entire life cycle of seized physical evidence. This includes collection and adequate storage of the evidence, and implementation of final decisions regarding such evidence. In 2022 alone, around 2,800 items of evidence were stored. These include clothing and jewellery, as well as explosives and cars.

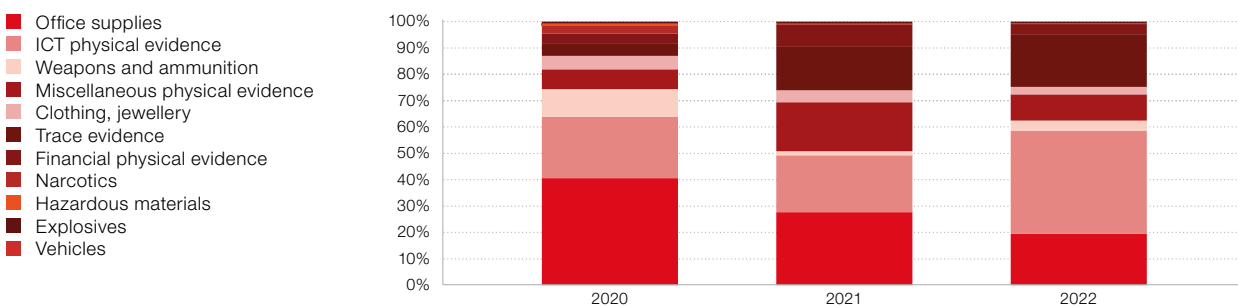
In addition to the ICT evidence, which has increased as expected, the number of seized items of trace evidence has also increased. This is due mainly to the series of explosives offences related to ATMs about which the OAG is conducting proceedings. All of the evidence is recorded and managed by means of a storage solution introduced in 2020. The Evidence Management System, the first joint system of the OAG and fedpol, supports all phases: from the recording of items by investigators during searches of premises to the final decisions such as return/handover, destruction or forfeiture of assets.

The *eDiscovery Service Unit* enables the operational divisions to analyse large, unstructured amounts of data. In this way, data relevant to a specific matter (mostly e-mails and documents) are uploaded for investigators. As a rule, tens of thousands of documents are collected in a case, of which ultimately less than 1% are of a material character and thus find their way into the possible summary penalty order/final criminal charges.

The *Language Services Unit* coordinates and manages for the case-handling divisions external orders for translations, transcriptions and interpreting assignments for hearings, for example. This year, translations into and out of 45 languages were arranged. In addition, this unit maintains a large network of around 400 linguists.

In connection with the introduction of Core.Link, the new *Document Storage Service Unit* is also being set up. This allows all physical documents that are filed in digitised form on Core.Link to be centrally stored and managed in a designated place.

Breakdown of physical evidence into categories



5.2 Legal services

The Legal Services Unit ensures the centralised performance of statutory tasks of the OAG that do not relate to the conduct of criminal proceedings, the enforcement of judgments or the execution of mutual legal assistance proceedings. These include, for example, safeguarding the rights of persons and authorities to information and data inspection under the Data Protection Act, the Freedom of Information Act and the Archiving Act.

In addition, the Legal Services Unit drafts the OAG's submissions in connection with legislative processes and coordinates responses to parliamentary motions. It prepares legal opinions on behalf of the Directorate on specific legal issues or on issues of fundamental importance to the OAG and provides legal advice to all of the organisational units of the OAG.

In relation to data protection, the Legal Services Unit of the OAG has a role as a legal advisor; it also handles the release of summary penalty orders, dismissals and no-proceedings orders that have taken full effect to third parties who have requested them (principle of freedom of information in the justice system). The legal assessment of requests and the anonymisation of decisions before they are released involve considerable effort. The Legal Services Unit also provides legal and case support in employment law cases. The Unit is also regularly consulted on legal issues in the area of procurement and contracts.

In 2022, the Legal Services Unit again had to perform a large number of tasks in various areas of the law, in addition to dealing with a high caseload and extensive day-to-day business. In the reporting year, the OAG appointed a successor to the head of the Legal Services Unit because the previous incumbent was retiring. Furthermore, the position of an experienced lawyer who left the OAG was filled. Finally, the Legal Services Unit also had to deal with absences and reductions in workload due to illness.

5.3 Centralised processing of incoming communications (ZEB)

The dozens of incoming communications arriving every day represent the daily routine of the Centralised Processing of Incoming Communications Unit. In 2022, the ZEB received a total of 1932 new incoming communications for processing. A large part of these communications triggered new criminal or mutual legal assistance proceedings and were forwarded to the operational divisions. Roughly one-quarter of all the incoming cases were processed directly by the ZEB, relieving the workload of the case-handling divisions. Among them were 368 requests to take over proceedings; 93% of these were recognised federal competence by the OAB. Furthermore, 78 MROS reports were processed. While 1,540 of the incoming communications were passed on to the divisions for further processing, 392 were processed and dealt with directly at ZEB level (by rejecting the request to take over proceedings or not accepting criminal complaints).

The ZEB is the central point of entry for incoming communications in day-to-day business that are not directly connected with an ongoing criminal case. It sorts incoming communications by means of a predefined process. In that process, possible no-proceedings orders or other forms of final case disposal are identified at an early stage and processed directly. After an initial triage (federal jurisdiction, etc.), all other new incoming cases are either forwarded to the responsible operational divisions or subjected to a more in-depth review with the involvement of the Attorney General's Operational Committee. The ZEB is in control of procedures until a matter is assigned to the competent division, or until the ZEB makes a final disposal of the case.

The rapid and efficient initial processing of incoming communications effectively reduces the workload of the case-handling divisions. In addition, uniform processing of similar incoming communications is ensured.

At the beginning of 2022, in some cantons multiple complaints were received against unknown persons 'on serious suspicion of negligent mass homicide by means of a human experiment declared to be a vaccination' in the form of a text apparently circulating on the internet which was submitted by various senders. In the interest of taking a coordinated approach, the OAG offered to deal with the complaints on behalf of the cantons (a total of 15 complaints from 11 cantons). The ZEB drafted a no-proceedings order for the criminal complaints in question, as the requirements for opening criminal proceedings were clearly not met due to lack of sufficient suspicion that any offence had been committed.

In 2022, the ZEB had submitted 170 requests to the cantons to take over cases because offences had been reported which do not fall within the jurisdiction of the OAG. In some cases, the allegations were directed against members of courts and authorities of the cantons or local governments.

Contrary to popular belief, the OAG is not a supervisory authority exercising oversight over the courts and authorities of the cantons or local governments. The OAG has no legal powers to review or influence the activities of such authorities. Accordingly, neither complaints nor requests for investigations against these authorities can be submitted to the OAG.

The background to such complaints are often rulings or decisions by federal courts and authorities by which they issue no-proceedings orders in response to objections from the complainants, or dismiss them, or with which the complainants do not agree. If the offences in question or the procedural requirements are clearly not established, the ZEB directly issues a no-proceedings order (65 since 1.1.2022). In this regard, it should be noted that the OAG is neither a supervisory authority with oversight over the Federal Supreme Court nor an appellate authority with the ability to review its rulings. A criminal complaint is no substitute for the legal remedies available in criminal, administrative or civil proceedings. It is therefore not up to the OAG to review or correct rulings and decisions of other authorities or courts.

In the reporting year, a total of 33 requests to accept the transfer of cases were submitted to the OAG by cantonal prosecution authorities in connection with cybercrime. To justify their requests, the cantonal prosecution authorities referred to the case law of the Federal Criminal Court in phishing cases (BG.2011.43, E. 2.4.). However, the Federal Criminal Court has held (BG.2018.15 of 29.8.2018; BG.2021.10 of 31.3.2021) that federal jurisdiction in cybercrime cases is likewise based on the legal requirements of Article 24 CrimPC and that the Swiss federal courts have no 'special jurisdiction' in this area. As a general matter, property offences are not included in the OAG's jurisdictional catalogue under Article 23 or Article 24 paragraph 1 CrimPC. These are examined under the criterion of optional jurisdiction under Article 24 paragraph 2 CrimPC. Since the beginning of the year, the ZEB has directly processed and rejected a total of eight requests from cantons to accept the transfer of cybercrime cases where federal jurisdiction clearly did not apply.

5.4 Enforcement of judgments (UV)

As a body that is separate from investigation and prosecution matters, the Enforcement of Judgments Unit is responsible for the enforcement of the decisions of the federal criminal authorities. It mainly enforces decisions of the Federal Criminal Court that have become legally binding and orders of the OAG (summary penalty orders, abandonment and forfeiture orders, etc.).

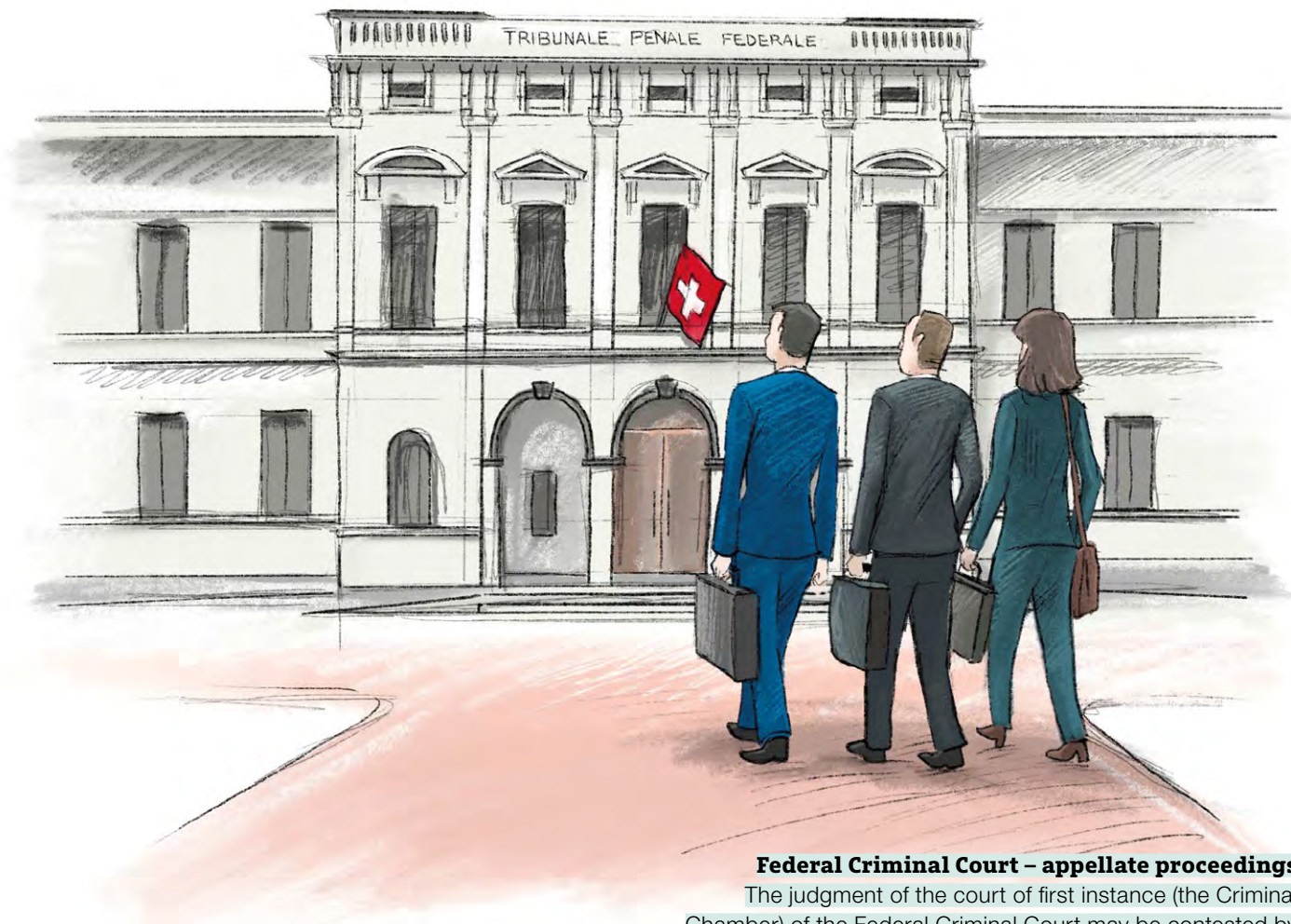
In addition, the UV is the Single Point of Contact with the Federal Office of Justice (FOJ) in cases in which the Federal Act on the Division of Forfeited Assets applies (so-called sharing procedures).

Likewise in the area of Central Support in Criminal Proceedings (German abbreviation: ZS-SV), the UV takes on important tasks that have a direct impact on subsequent enforcement action and that require close cooperation with the OAG's Financial Services Unit. In the area of asset management, the UV is responsible for opening and maintaining accounts for seized assets and portfolios in the case of seized securities. The ZS-SV's remit also includes organising the realisation of assets and liaising with external partners (e.g. debt collection office, auction houses, trustees).

In addition, the UV maintains a so-called detentions list, a listing of all persons who are being held in custody for OAG proceedings. In connection with its detentions list, the UV is also responsible for the triage of invoices for periods of custody (pre-trial detention/ [anticipatory] imprisonment) issued by the cantons executing criminal sentences.

In the reporting year, the UV received around 475 decisions for enforcement or requiring action. Around 12 of these were enforceable (partial) rulings, and a further 25 were judgements of the Federal Criminal Court.

Over the same period, the OAG and the Federal Criminal Court ordered a total of CHF 62.7 million in forfeitures and claims for compensation. Of this total of nearly CHF 63 million, the UV was able to transfer the sum of CHF 8.7 million to the FOJ, which is responsible for determining the final use of the assets. A further amount of CHF 20 million is held in seized accounts at third-party banks or must be collected in accordance with the provisions of the Federal Debt Enforcement and Bankruptcy Act (DEBA). In addition, seized assets of CHF 34 million are held in an account managed by the OAG.



Federal Criminal Court – appellate proceedings

The judgment of the court of first instance (the Criminal Chamber) of the Federal Criminal Court may be contested by the parties involved in the proceedings, including the OAG. The court of the second instance, the Higher Appeals Chamber, will then once again deal with the case in a comprehensive manner. Ultimately, the case may be brought, by means of an objection, before the Federal Supreme Court.



Enforcement of judgments

Once a decision in criminal proceedings becomes legally binding, the – sometimes complex – execution of the sentence begins. The execution of the sentence instigates the enforcement of the decision in criminal proceedings, whether by being forwarded to the canton in charge, or directly through the OAG. This regularly involves the execution of prison sentences by the cantons or the forfeiture of assets, in particular for the benefit of the victims.

The marked decrease in forfeitures and claims for compensation as compared to the previous year is due to the fact that in 2021 the large sums from forfeitures and claims for compensation ordered in the 'MUS' group of cases (commercial privatisation of the Czech coal group Mostecká Uhelná Společnost) and those from a money laundering case in connection with corruption offences in Uzbekistan became legally enforceable. In respect of those enforcement proceedings, the staff of the UV are currently involved in pursuing collection of the claims for compensation and are confronted with extensive and complex civil proceedings.

Whilst there are formal rules in place governing the procedure in cases where the debtor or the assets are located in Switzerland, there are no such clear procedures for dealing with debtors of unknown residence or who are domiciled abroad.

Confiscations and claims for compensation – a more detailed explanation

The courts or the OAG issue orders for forfeiture of assets that are the proceeds of a criminal offence or were intended to induce or reward a criminal offence, unless they are handed over to the injured party to restore that party's rightful status (Art. 70 para. 1 SCC). If the assets subject to forfeiture no longer exist, the court awards the state a claim for compensation in the same amount (Art. 71 para. 1 SCC). The purpose of forfeiture or of a claim for compensation is to cancel out the benefits of the offence. The state pursues such assets because it cannot allow crime to pay.

In cases in which forfeiture is ordered and/or claims for compensation are awarded, the UV, as an independent body, establishes how such funds are to be used. Priority is given to restitution proceedings (i.e. the return of assets to the victims of the crime). Their claims take precedence even over the sharing of assets with foreign states or domestic communities involved.

5.5 Use of financial and material resources

Finances

For 2022 the global budget (expenditure and investment costs) submitted by the OAG amounts to CHF 77.5 million. At CHF 43.6 million (56%), the largest item of expenditure in the budget is staff costs. In addition, CHF 33 million is allocated to material operating costs. The remaining CHF 0.9 million covers other operating expenses and investment costs.

The global budget can be broken down by type of financing as follows: CHF 68.8 million is allocated to expenditure outside the Federal Administration that has financial impact, and CHF 0.5 million is allocated to depreciation. CHF 8.2 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 1.1 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 2022 will be published in due course on the relevant page of the Federal Finance Administration website.

Procurement

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 and which are subject to the Federal Public Procurement Act (PPA; SR 172.056.1). The OAG will publish the relevant details in due course (2023) on its website.

5.6 Human Resources

Workforce numbers

As of the end of 2022, workforce numbers at the OAG totalled 268 members of staff (previous year: 270) with 243 full-time positions (previous year: 244). Thirty-six (previous year: 52) of the 268 staff members are subject to a limited term of employment. The workforce is distributed across the OAG's local offices as follows:

	31.12.2021	31.12.2022
Berne	206	210
Lausanne Office	31	27
Lugano Office	15	15
Zurich Office	18	16

Deployment of staff

The positions at the OAG are distributed across the following roles: Attorney General (1), Deputy Attorney General (2), Secretary General (1), Chief Federal Attorneys/ Heads of division (4), Chief Communication Officer (1), federal attorneys (49), assistant federal attorneys (47), legal assistants (20), assistant case officers and office employees (45), operational employees (27) within the General Secretariat (excluding legal assistants), administrative employees (40) and experts and analysts in the FFA, WiKri and RTVC divisions (31).

As of 31 December 2022, the OAG offered eight legal interns practical legal training and the opportunity to gain practical professional experience.

The average OAG employee is contracted to work 91% of full-time working hours and is 40.6 years old. The breakdown of staff by official Swiss language is as follows: German 171, French 73, Italian 24. The OAG employs 163 female and 108 male staff. Net staff fluctuation during the reporting year was 13.7%.

Disciplinary proceedings

The federal attorneys at the OAG are subject to the law applicable to federal employees, under which the Attorney General is responsible for taking decisions as their employer (Art. 22 para. 2 Criminal Justice Authorities Act, CJAA, and Art. 3 para. 1 let. f Federal Personnel Act, FPA, SR 172.220.1). In the event of any violation of employment law obligations, the Attorney General determines whether to open disciplinary proceedings and decides 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 reporting year, no disciplinary proceedings under Article 98 ff. FPersO were taken against a federal attorney at the OAG.

5.7 General policies and organisational rules

In the reporting year, the existing Policy on Applications by Division Heads for the Appointment of *ad interim* (a. i.) Federal Attorneys was amended. In addition, a newly created Policy on Signatures and Authorities for Procurements and Contracts was issued, as well as a new 'Our Working Environment' guideline providing guidance regarding standards for collaboration, working time models and mobile working at the OAG.

The procedures manual was updated during the reporting year. The required revision of the organisation manual was begun and is being carried out in coordination with modifications to the organisational structure of the General Secretariat.

5.8 Code of conduct

During the reporting year, the advisory Ethics Committee (Committee) met a total of seven times and made three decisions using the circular method. The Committee dealt with nine questions concerning secondary employment and political activities as well as invitations proffered to staff. It also dealt with two questions in connection with the armed conflict in Ukraine.

6 Communications

The Communications Division of the Office of the Attorney General of Switzerland once again provided advice and support to the Directorate, the heads of division and other employees on internal communication projects and changes in the report year, and devised and implemented measures. Moreover, it acts as a service provider, supporting the attorneys in charge of proceedings at high-profile milestones in their cases, handling more than thousand media enquiries in widest variety of languages on their behalf.

6.1 Internal communications

In the reporting year, the OAG again held weekly video conferences with information from the Attorney General and the Attorney General's deputies, as well as the heads of division and the federal attorneys in charge of cases. These conferences are open to all staff members. The opportunity to obtain direct information regarding Directorate decisions, important developments and important case findings was again very much appreciated, and without exception the number of participants was in the triple digits. In addition, both the Attorney General and the Secretary General visited all of the offices and held informal discussions with interested staff from all divisions. Once again, informative conferences for senior staff and federal prosecutors were held, as well as other events.

Alongside a newsletter that is published at regular intervals, the Attorney General also provides employees with written information in his '*Information from the Attorney General*', an established internal publication that is now systematically planned and issued. In addition to other internal communications measures in projects and managing the intranet, the Communications provides a daily digest of the media that keeps staff, including in particular the attorneys in charge of cases, up to date with developments in Switzerland and abroad.

6.2 External communications

Whilst the beginning of the reporting year was mainly marked by media interest related to the new Attorney General assuming office, by March the work of the task force for the armed conflict in Ukraine was the focus. Thereafter it was no surprise that the upcoming World Cup in Qatar and the series of investigations and prosecutions related to world football prompted questions from all around the world. Communications and the federal attorneys in charge of cases answered more than thousand questions from journalists from numerous countries. The most frequent questions related to white-collar crime – above all the football cases (over 100), as well as to terrorism (over 100), the task force in connection with Ukraine and Russia (over 50) and allegations of bribery of foreign public officials in connection with commodities (around 30).

In addition to questions about various proceedings, especially in connection with alleged breaches of official secrecy, Communications was also required to provide an on-call service with the federal attorneys in charge in cases related to air accidents and detonations of ATMs.

Reporting

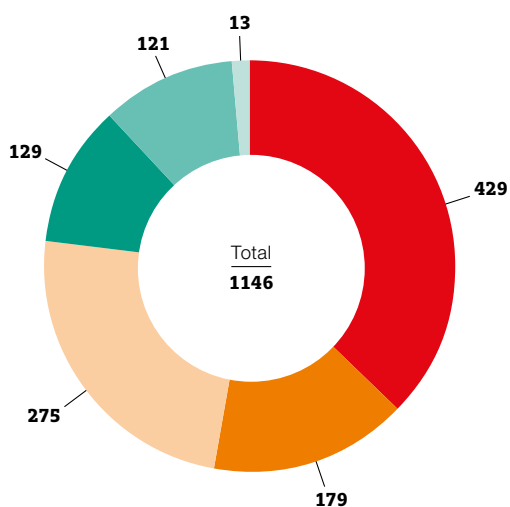
Criminal investigations 2022

	ST	KO	RH	TE	VO	CY	AW	GW	IK	ZEB	Total OAG
Newly opened criminal investigations	210	5	0	13	3	5	11	7	2	0	256
Criminal investigations completed											
No-proceedings decision	121	5	7	3	2	100	2	7	4	178	429
Abandonment of proceedings	104	1	2	2	4	26	23	12	5	0	179
Transfer /delegation/forwarding/referral back to canton	51	3	0	0	1	0	0	0	0	220	275
Summary penalty order*	118	0	0	5	0	0	2	1	3	0	129
Investigations combined	7	0	0	1	0	5	107	1	0	0	121
Decisions that have become legally binding	11	0	0	1	0	0	1	0	0	0	13
Total number of criminal investigations completed	412	9	9	12	7	131	135	21	12	398	1146
Opened criminal investigations (as per 31.12.2022)											
Duration of proceedings up to 1 year	121	5	0	12	3	5	12	7	3	0	168
Duration of proceedings 1 to 2 years	45	0	0	15	1	1	6	12	4	0	84
Duration of proceedings 2 to 3 years	21	0	0	4	1	0	5	15	8	0	54
Duration of proceedings 3 to 4 years	9	2	0	6	0	1	4	4	4	0	30
Duration of proceedings 4 to 5 years	12	1	0	3	2	0	1	3	2	0	24
Duration of proceedings 5 to 6 years	6	1	0	1	1	2	2	6	3	0	22
Duration of proceedings 6 to 7 years	0	1	0	1	0	0	1	2	0	0	5
Duration of proceedings 7 to 8 years	3	0	0	0	4	0	2	9	9	0	27
Duration of proceedings 8 to 9 years	1	0	0	0	0	0	2	0	0	0	3
Duration of proceedings 9 to 10 years	0	0	0	0	1	0	0	0	1	0	2
Duration of proceedings more than 10 years	0	2	0	0	2	0	0	5	1	0	10
Total number of opened criminal investigations	218	12	0	42	15	9	35	63	35	0	429
Suspended criminal investigations (as per 31.12.2022)	292	6	3	39	0	2	8	23	16	0	389
Pending preliminary investigations (as per 31.12.2022)	148	6	8	8	13	55	13	8	3	43	305
Indictments filed	12	0	0	6	0	0	2	1	0	0	21
Indictments filed in accelerated proceedings	3	0	0	0	0	0	0	0	1	0	4
Referral of summary penalty order to court	13	0	0	0	0	0	0	1	0	0	14

* The figures refer to the number of proceedings.

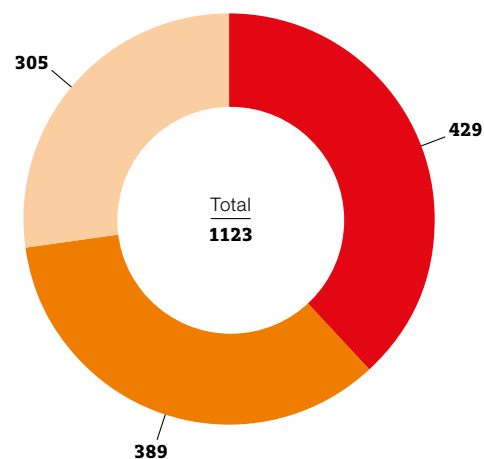
Completions
by type (total OAG)

- No-proceedings decision
- Abandonment of proceedings
- Transfer / delegation / forwarding / referral back to canton
- Summary penalty order*
- Investigations combined
- Decisions that have become legally binding



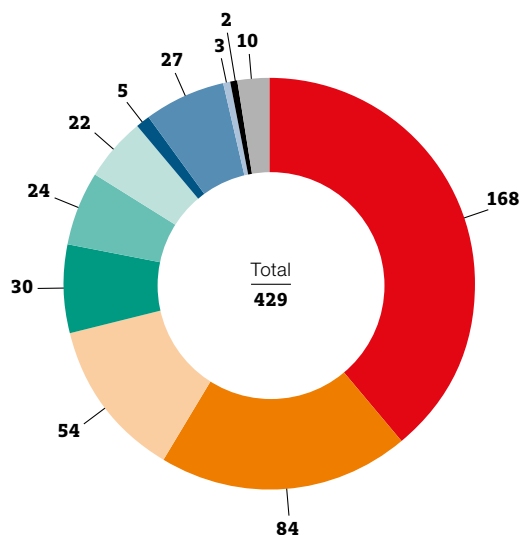
Pending as per 31.12.2022
(total OAG)

- Opened investigations
- Suspended investigations
- Pending preliminary investigations



Opened criminal investigations (as per 31.12.2022)
by duration of proceedings (total OAG)

- up to 1 year
- 1 to 2 years
- 2 to 3 years
- 3 to 4 years
- 4 to 5 years
- 5 to 6 years
- 6 to 7 years
- 7 to 8 years
- 8 to 9 years
- 9 to 10 years
- more than 10 years

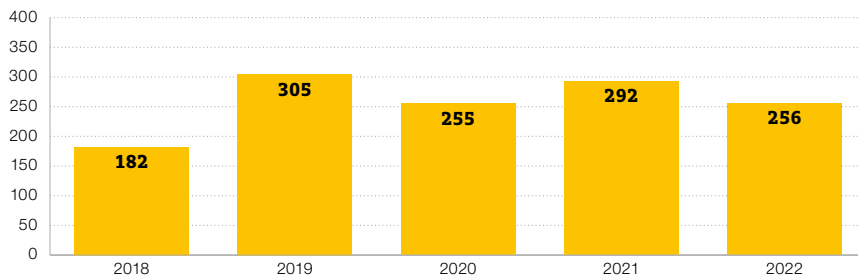


Criminal investigations Development 2018–2022 (total OAG)

	2018	2019	2020	2021	2022
Newly opened criminal investigations	182	305	255	292	256
Criminal investigations completed					
No-proceedings decision	176	335	377	362	429
Abandonment of proceedings	152	175	114	141	179
Transfer /delegation/forwarding/referral back to canton	128	130	171	240	275
Summary penalty order	–	–	–	–	129
Investigations combined	–	–	–	–	121
Decisions that have become legally binding	–	–	–	–	13
Total number of criminal investigations completed	–	–	–	–	1146
Opened criminal investigations (as per 31.12.)					
Duration of proceedings up to 1 year	–	–	–	–	168
Duration of proceedings 1 to 2 years	–	–	–	–	84
Duration of proceedings 2 to 3 years	–	–	–	–	54
Duration of proceedings 3 to 4 years	–	–	–	–	30
Duration of proceedings 4 to 5 years	–	–	–	–	24
Duration of proceedings 5 to 6 years	–	–	–	–	22
Duration of proceedings 6 to 7 years	–	–	–	–	5
Duration of proceedings 7 to 8 years	–	–	–	–	27
Duration of proceedings 8 to 9 years	–	–	–	–	3
Duration of proceedings 9 to 10 years	–	–	–	–	2
Duration of proceedings more than 10 years	–	–	–	–	10
Total number of opened criminal investigations	407	395	428	423	429
Suspended criminal investigations (as per 31.12.)	264	307	345	392	389
Pending preliminary investigations (as per 31.12.)	456	501	481	598	305
Indictments filed	10	17	29	14	21
Indictments filed in accelerated proceedings	1	7	4	6	4
Referral of summary penalty order to court	13	23	10	27	14

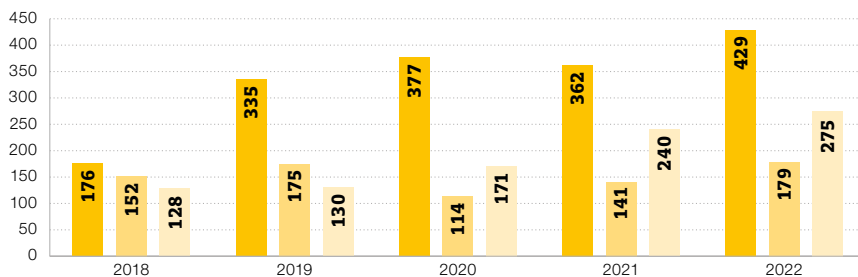
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Newly opened



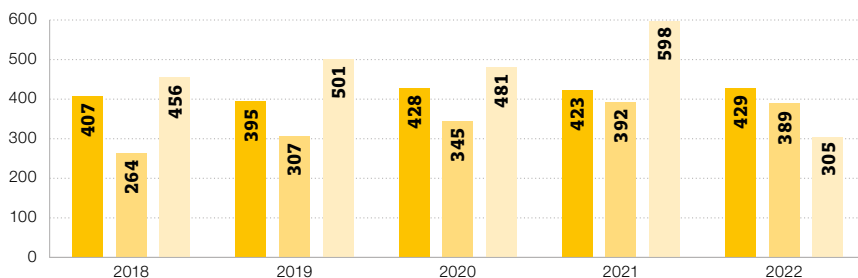
Completions

- No-proceedings decision
- Abandonment of proceedings
- Transfer / delegation / forwarding / referral back to canton



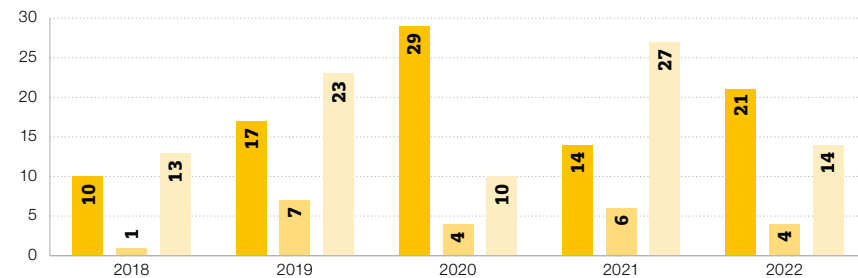
Pending as per 31.12.

- Opened investigations
- Suspended investigations
- Pending preliminary investigations



Indictments

- Indictments filed
- Indictments filed in accelerated proceedings
- Referral of summary penalty order to court

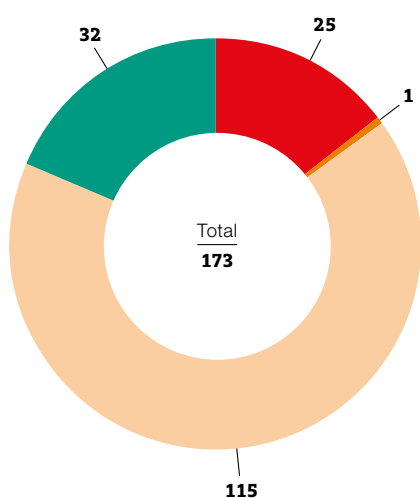


Requests received for mutual legal assistance 2022

	ST	KO	RH	TE	VO	CY	AW	GW	IK	Total OAG
Requests for mutual legal assistance accepted	4	5	99	4	0	1	7	18	10	148
Mutual legal assistance proceedings completed										
Returned to FOJ for delegation to canton	0	0	25	0	0	0	0	0	0	25
Mutual legal assistance refused	0	0	1	0	0	0	0	0	0	1
Mutual legal assistance granted	5	3	77	6	0	2	5	8	9	115
Other completions (e. g. dismissal, withdrawal, etc.)	2	3	19	1	0	0	1	4	2	32
Total of mutual legal assistance proceedings completed	7	6	122	7	0	2	6	12	11	173
Pending mutual legal assistance proceedings (as per 31.12.2022)										
Requests received	2	0	5	1	0	0	0	1	0	9
Requests being examined	1	2	21	0	0	1	2	12	2	41
Mutual legal assistance procedures being executed	3	9	73	6	7	0	10	19	13	140
Objection proceedings	0	0	0	0	0	0	0	0	1	1
Total of pending mutual legal assistance proceedings	6	11	99	7	7	1	12	32	16	191
Duration of proceedings up to 1 year	0	4	59	4	0	1	5	14	7	94
Duration of proceedings 1 to 2 years	2	0	30	1	0	0	2	5	4	44
Duration of proceedings 2 to 3 years	2	0	8	1	0	0	0	4	3	18
Duration of proceedings 3 to 4 years	0	2	0	1	1	0	2	2	1	9
Duration of proceedings 4 to 5 years	1	2	1	0	6	0	1	2	1	14
Duration of proceedings more than 5 years	1	3	1	0	0	0	2	5	0	12

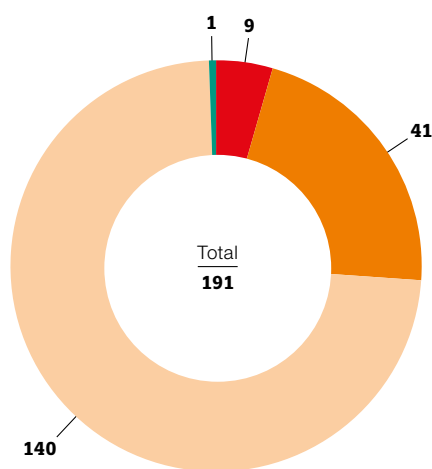
Completions
by type (total OAG)

- Returned to FOJ for delegation to canton
- Mutual legal assistance refused
- Mutual legal assistance granted
- Other completions (e. g. dismissal, withdrawal, etc.)



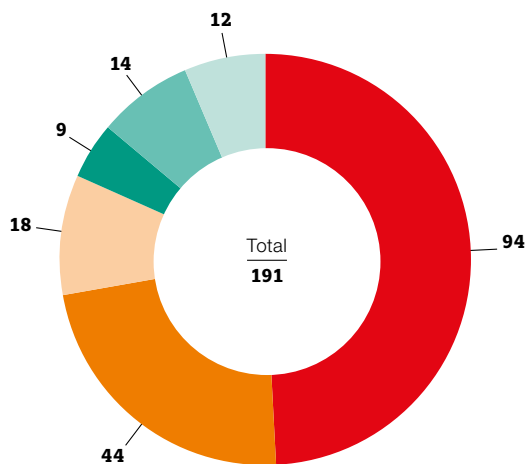
Pending as per 31.12.2022
(total OAG)

- Requests received
- Requests being examined
- Mutual legal assistance procedures being executed
- Objection proceedings



Pending mutual legal assistance proceedings (as per 31.12.2022)
by duration of proceedings (total OAG)

- up to 1 year
- 1 to 2 years
- 2 to 3 years
- 3 to 4 years
- 4 to 5 years
- more than 5 years

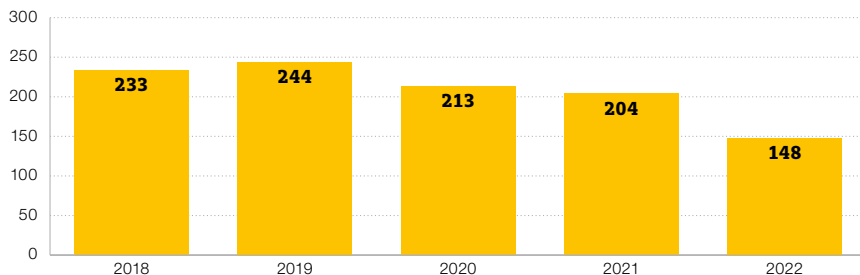


Requests received for mutual legal assistance Development 2018–2022 (total OAG)

	2018	2019	2020	2021	2022
Requests for mutual legal assistance accepted	233	244	213	204	148
Mutual legal assistance proceedings completed					
Returned to FOJ for delegation to canton	22	30	20	27	25
Mutual legal assistance refused	4	6	6	6	1
Mutual legal assistance granted	146	165	209	169	115
Other completions (e. g. dismissal, withdrawal, etc.)	51	47	34	49	32
Total of mutual legal assistance proceedings completed	223	248	269	251	173
Pending mutual legal assistance proceedings (as per 31.12.)					
Requests received	21	14	10	5	9
Requests being examined	90	70	50	39	41
Mutual legal assistance procedures being executed	199	226	183	147	140
Objection proceedings	3	7	6	7	1
Total of pending mutual legal assistance proceedings	313	317	249	198	191
Duration of proceedings up to 1 year	–	–	–	–	94
Duration of proceedings 1 to 2 years	–	–	–	–	44
Duration of proceedings 2 to 3 years	–	–	–	–	18
Duration of proceedings 3 to 4 years	–	–	–	–	9
Duration of proceedings 4 to 5 years	–	–	–	–	14
Duration of proceedings more than 5 years	–	–	–	–	12

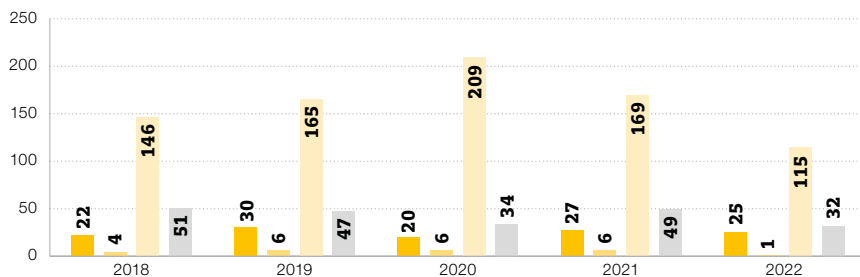
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Requests for mutual legal assistance accepted



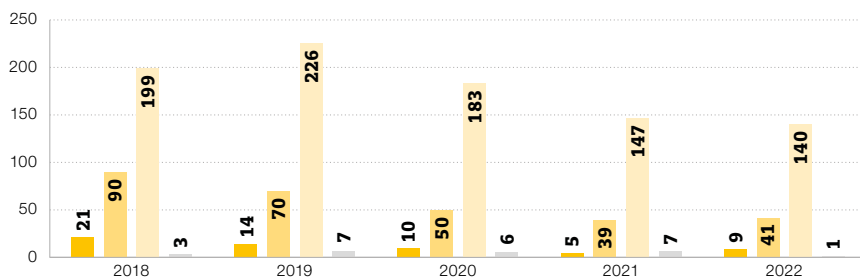
Completions

- Returned to FOJ for delegation to canton
- Mutual legal assistance refused
- Mutual legal assistance granted
- Other completions (e.g. dismissal, withdrawal, etc.)



Pending as per 31.12.

- Requests received
- Requests being examined
- Mutual legal assistance procedures being executed
- Objection proceedings



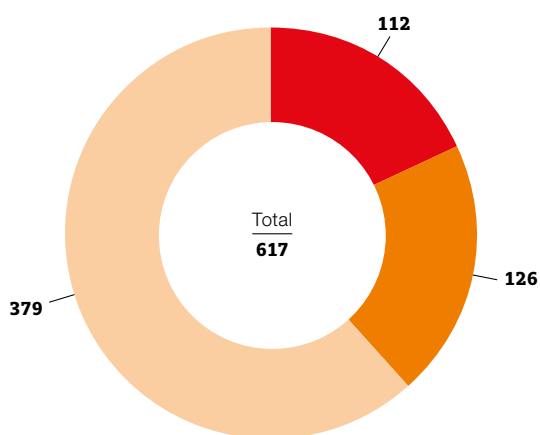
Bulk business cases (only relates to ST offences) 2022

New bulk business cases	
Counterfeit money	112
Explosives	126
Offences against public officials	379
Total of new bulk business cases	617
Bulk business cases completed	
Counterfeit money	98
Explosives	126
Offences against public officials	327
Total of bulk business cases completed	551
Pending bulk business cases (as per 31.12.2022)	
Counterfeit money	21
Explosives	5
Offences against public officials	67
Total of pending bulk business cases	93
Duration of proceedings up to 3 months	69
Duration of proceedings 3 to 6 months	9
Duration of proceedings 6 to 9 months	5
Duration of proceedings 9 to 12 months	3
Duration of proceedings more than 12 months	7

New entries

by category (total ST)

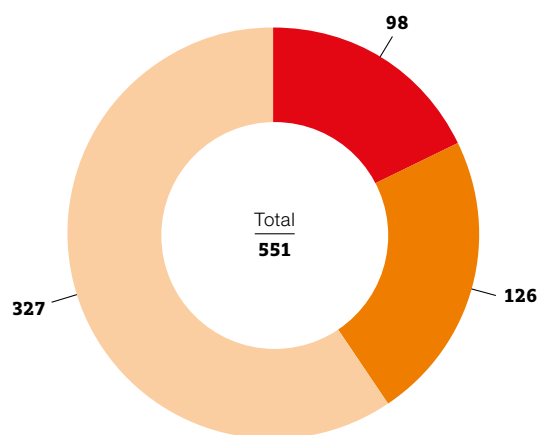
- Counterfeit money
- Explosives
- Offences against public officials



Completions

by category (total ST)

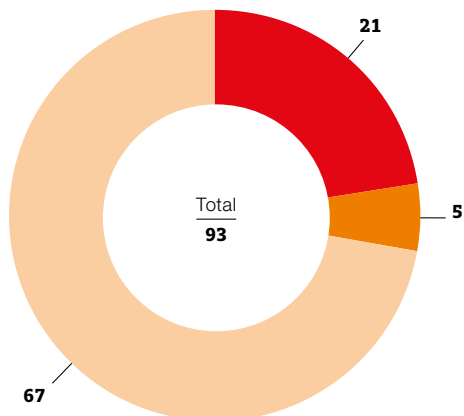
- Counterfeit money
- Explosives
- Offences against public officials



Pending as per 31.12.2022

by category (total ST)

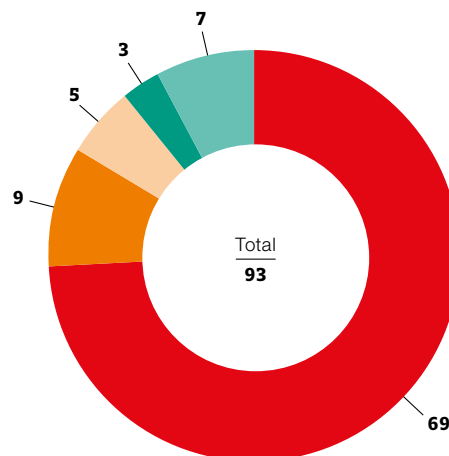
- Counterfeit money
- Explosives
- Offences against public officials



Pending as per 31.12.2022

by duration of proceedings (total ST)

- up to 3 months
- 3 to 6 months
- 6 to 9 months
- 9 to 12 months
- more than 12 months



Bulk business cases (only relates to ST offences) Development 2018–2022

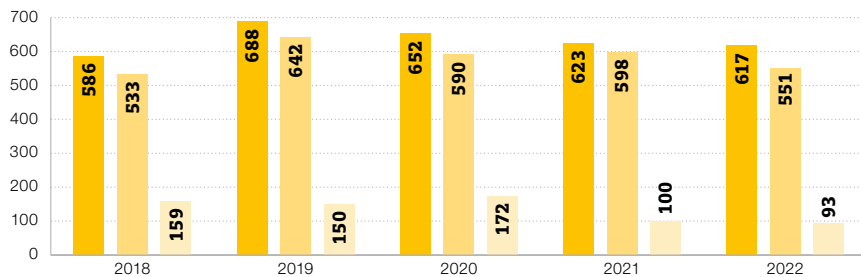
	2018	2019	2020	2021	2022
New bulk business cases					
Counterfeit money	–	–	–	–	112
Explosives	–	–	–	–	126
Offences against public officials	–	–	–	–	379
Total of new bulk business cases	586	688	652	623	617
Bulk business cases completed					
Counterfeit money	169	181	181	136	98
Explosives	157	240	181	159	126
Offences against public officials	–	–	–	–	327
Miscellaneous (including offences against public officials)	207*	221	228	303	–
Total of bulk business cases completed	533	642	590	598	551
Pending bulk business cases (per 31.12.)					
Counterfeit money	–	–	–	–	21
Explosives	–	–	–	–	5
Offences against public officials	–	–	–	–	67
Total of pending bulk business cases	159	150	172	100	93
Duration of proceedings up to 3 months	–	–	–	–	69
Duration of proceedings 3 to 6 months	–	–	–	–	9
Duration of proceedings 6 to 9 months	–	–	–	–	5
Duration of proceedings 9 to 12 months	–	–	–	–	3
Duration of proceedings more than 12 months	–	–	–	–	7

As certain statistics have only been collected since 2022, some of the comparative figures are not available for the previous years.

* including aviation

Bulk business cases (only relates to ST offences)

- New entries
- Completions
- Pending



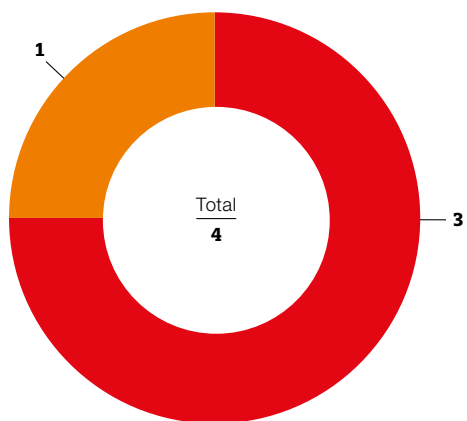
Objections in the Federal Criminal Court 2022

	ST	KO	RH	TE	VO	CY	AW	GW	IK	ZEB	Total OAG
Objections filed by the OAG in the Federal Criminal Court											
Objections filed in the report year	1	0	0	0	0	0	0	0	0	0	1
Objections decided in the report year (some raised the previous year)	1	0	0	0	1	0	1	1	0	0	4
Granted or granted in part	0	0	0	0	1	0	1	1	0	0	3
Rejected or not considered	1	0	0	0	0	0	0	0	0	0	1
No longer relevant	0	0	0	0	0	0	0	0	0	0	0
Objections filed against the OAG in the Federal Criminal Court											
Objections filed in the report year	12	1	35	4	3	1	21	43	15	24	159
Objections decided in the report year (some raised the previous year)	18	1	26	5	2	1	15	45	18	24	155
Granted	4	0	5	1	0	0	0	2	0	0	12
Rejected, rejected in part or not considered	12	1	18	4	2	1	14	38	16	24	130
No longer relevant	2	0	3	0	0	0	1	5	2	0	13

Objections filed by the OAG in the Federal Criminal Court
(total OAG)

Objections decided in the report year
(some raised the previous year)

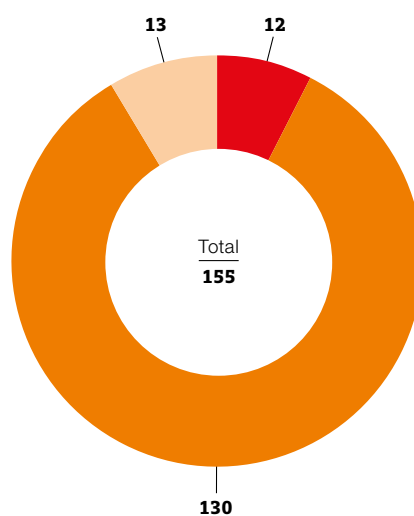
- Granted or granted in part
- Rejected or not considered
- No longer relevant



Objections filed against the OAG in the Federal Criminal Court
(total OAG)

Objections decided in the report year
(some raised the previous year)

- Granted
- Rejected, rejected in part or not considered
- No longer relevant



Main proceedings and summary penalty orders 2022

	ST	KO	RH	TE	VO	CY	AW	GW	IK	Total OAG
Indictments and transfers of summary penalty orders										
Number of accused	21	0	0	0	0	0	7	5	0	33
Convicted	16	0	0	0	0	0	3	5	0	24*
Acquitted	5	0	0	0	0	0	4	0	0	9**
Dismissed by the Federal Criminal Court	0	0	0	0	0	0	0	0	0	0
Accelerated proceedings										
Number of accused	7	0	0	0	0	0	0	0	0	7
Convicted	5	0	0	0	0	0	0	0	0	5
Returned	2	0	0	0	0	0	0	0	0	2
Summary penalty orders										
Summary penalty orders*** per accused, in legal force, including bulk cases	325	1	0	5	0	0	2	4	4	341

* Of the 24 convictions, 14 are not yet in legal force.

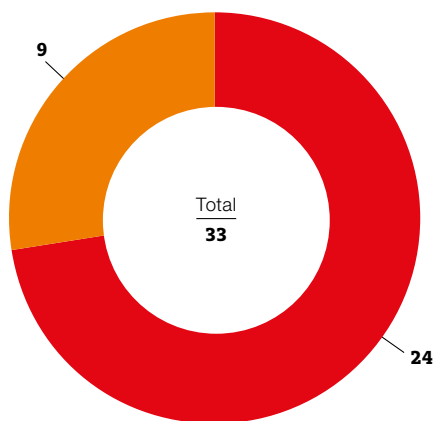
** Of the 9 acquittals, 8 are not yet in legal force.

*** A summary penalty order can only be imposed on one person.
It may therefore be possible that several penalty orders are issued
in any single case.

Indictments and transfers of summary penalty orders
(total OAG)

Number of accused

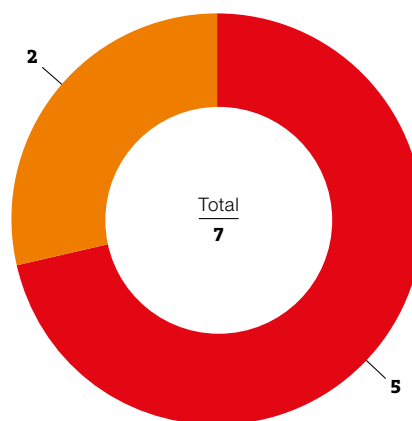
- Convicted
- Acquitted
- Dismissed by the Federal Criminal Court



Accelerated proceedings
(total OAG)

Number of accused

- Convicted
- Returned

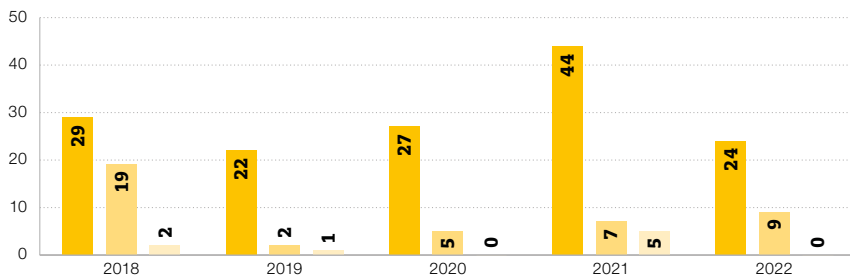


Main proceedings and summary penalty orders Development 2018–2022 (total OAG)

	2018	2019	2020	2021	2022
Indictments and transfers of summary penalty orders					
Number of accused	50	25	32	56	33
Convicted	29	22	27	44	24
Acquitted	19	2	5	7	9
Dismissed by the Federal Criminal Court	2	1	0	5	0
Accelerated proceedings					
Number of accused	2	6	4	8	7
Convicted	2	6	4	7	5
Returned	0	0	0	1	2
Summary penalty orders					
Summary penalty orders per accused, in legal force, including bulk cases	170	228	203	294	341

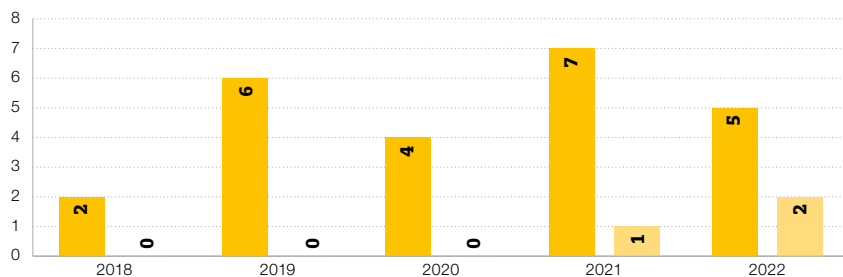
Indictments and transfers of summary penalty orders

Number of accused
 ■ Convicted
 ■ Acquitted
 ■ Dismissed by the Federal Criminal Court



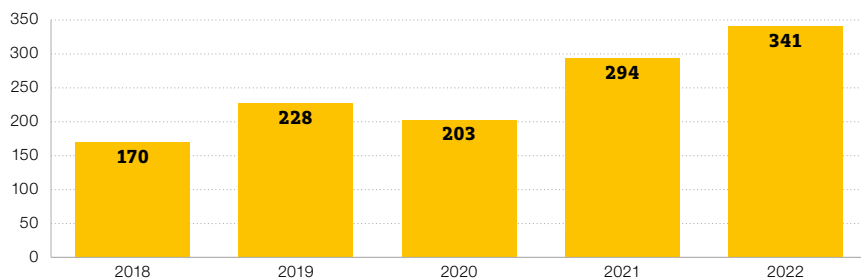
Accelerated proceedings

Number of accused
 ■ Convicted
 ■ Returned



Summary penalty orders

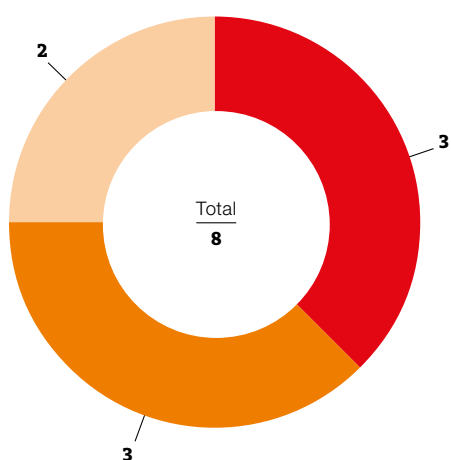
■ Summary penalty orders per accused, in legal force, including bulk cases



Appeals filed by the OAG in the Higher Appeals Chamber of the Federal Criminal Court (total OAG)

Appeals decided in the report year
(some raised the previous year)

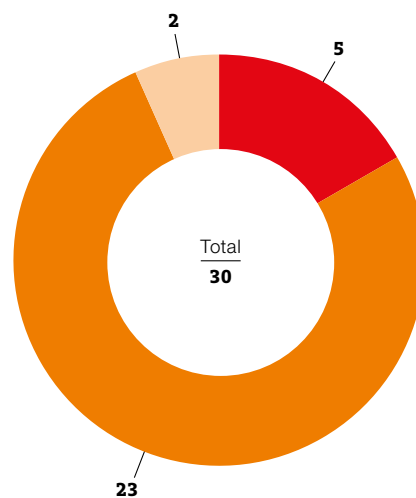
- Granted or granted in part
- Rejected or not considered
- No longer relevant



Appeals filed against the OAG in the Higher Appeals Chamber of the Federal Criminal Court (total OAG)

Appeals decided in the report year
(some raised the previous year)

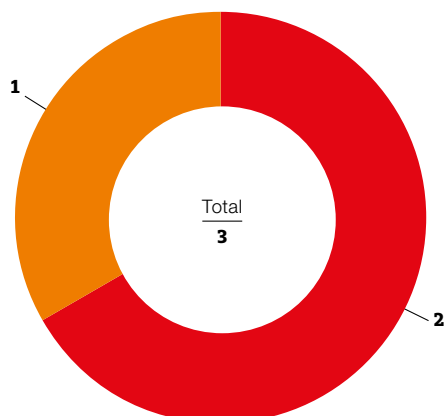
- Granted
- Rejected, rejected in part or not considered
- No longer relevant



Cross-appeals filed by the OAG in the Higher Appeals Chamber of the Federal Criminal Court (total OAG)

Cross-appeals decided in the report year
(some raised the previous year)

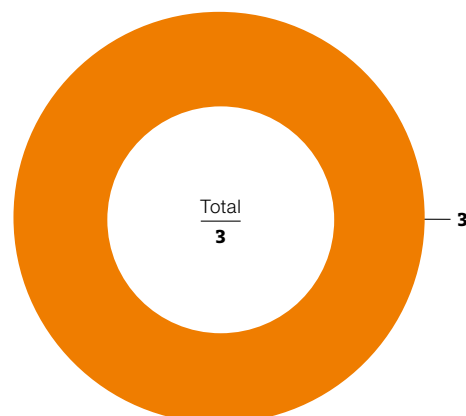
- Granted or granted in part
- Rejected or not considered
- No longer relevant



Cross-appeals filed against the OAG in the Higher Appeals Chamber of the Federal Criminal Court (total OAG)

Cross-appeals decided in the report year
(some raised the previous year)

- Granted
- Rejected, rejected in part or not considered
- No longer relevant



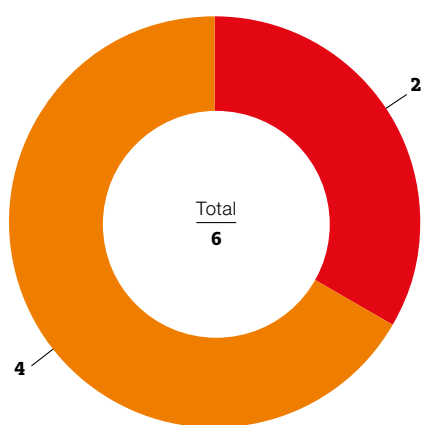
Objections in the Federal Supreme Court 2022

	ST	KO	RH	TE	VO	CY	AW	GW	IK	ZEB	Total OAG
Objections filed by the OAG in the Federal Supreme Court											
Objections filed in the report year	1	0	0	2	0	0	2	1	0	0	6
Objections decided in the report year (some filed the previous year)	1	0	0	1	0	0	1	1	2	0	6
Granted or granted in part	0	0	0	0	0	0	1	1	0	0	2
Rejected or not considered	1	0	0	1	0	0	0	0	2	0	4
No longer relevant	0	0	0	0	0	0	0	0	0	0	0
Objections filed against the OAG in the Federal Supreme Court											
Objections filed in the report year	3	1	7	3	0	0	3	17	12	0	46
Objections decided in the report year (some filed the previous year)	8	0	7	1	0	0	4	17	12	0	49
Granted	1	0	0	0	0	0	0	3	0	0	4
Rejected, rejected in part or not considered	7	0	6	1	0	0	4	14	11	0	43
No longer relevant	0	0	1	0	0	0	0	0	1	0	2

Objections filed by the OAG in the Federal Supreme Court
(total OAG)

Objections decided in the report year
(some filed the previous year)

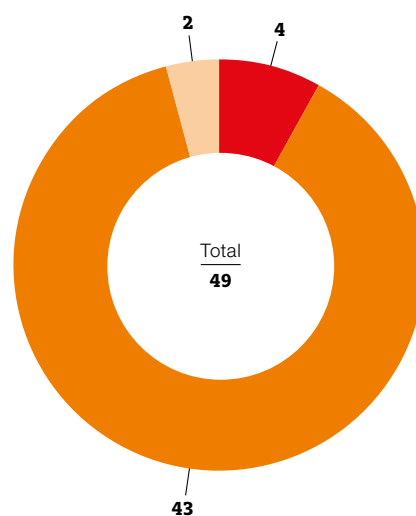
- Granted or granted in part
- Rejected or not considered
- No longer relevant



Objections filed against the OAG in the Federal Supreme Court
(total OAG)

Objections decided in the report year
(some filed the previous year)

- Granted
- Rejected, rejected in part or not considered
- No longer relevant



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