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# FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in  
central governments (top executive functions) and  
law enforcement agencies

## EVALUATION REPORT

# SWITZERLAND



Adopted by GRECO  
at its 97th Plenary Meeting (Strasbourg, 17-21 June 2024)



Group of States against Corruption  
Groupe d'États contre la corruption

COUNCIL OF EUROPE



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## **I. EXECUTIVE SUMMARY**

1. This report assesses the effectiveness of the framework in place in Switzerland to prevent corruption among persons with top executive functions (PTEFs: members of the Federal Council, the Federal Chancellor, the vice-chancellors, Secretaries General, heads of information and personal advisers to members of the Federal Council) and members of the law enforcement authorities assessed, namely the federal criminal police (PJF) and the Operations and Prosecution Directorates of the Federal Office for Customs and Border Security (FOCBS). It is designed to encourage discussion in the country on ways of strengthening transparency, integrity and accountability in public life.

2. Switzerland has a framework that is by and large adequate for tackling and preventing corruption, and the rules on access to information, public consultation and transparency of the legislative process are exemplary. However, although Switzerland is among the top countries in indices for good governance and perceptions of corruption, and its population has considerable confidence in its institutions, the corruption risks in the two fields being assessed have not specifically been analysed in detail.

3. The Federal Council's anti-corruption Strategy could be more ambitious and concrete in terms of goals and substance. It is monitored to some extent by the Interdepartmental Working Group on Combating Corruption, which nevertheless lacks the independence and resources to do so. GRECO therefore calls for substantial strengthening of this body, an integrity risk assessment and measures aimed specifically at PTEFs, including the key issues of lobbying and revolving doors. The Federal Chancellor and members of the Federal Council should be subject to institutional checks like other PTEFs. Withdrawals from meetings of the Federal Council should be made public, and transparency regarding PTEFs' business and financial interests must be improved, not least to reveal potential conflicts of interest. Lastly, PTEF training in ethics should be developed, and arrangements should be introduced for supervision and penalties regarding observance of rules of conduct by PTEFs.

4. Many of the existing rules and measures in the FOCBS and PJF contribute to preventing corruption, but the issue has not been adequately acknowledged here. Dedicated strategies could be used to target and co-ordinate policies more effectively and adopt a more proactive approach in this field. In addition, the FOCBS should draw up a specific code of conduct for its staff and both the PJF and the FOCBS should introduce special arrangements for confidential guidance on issues of ethics and integrity. Although the system of protection for whistleblowers works adequately for reports from federal employees, a certain reluctance to blow the whistle is apparent. GRECO therefore calls on the FOCBS and PJF to take additional steps to raise awareness. Lastly, existing good practice for ensuring that women are adequately represented in these two agencies should be taken further.

## II. INTRODUCTION AND METHODOLOGY

5. Switzerland joined GRECO in 2006 and has been evaluated under GRECO's First and Second (September 2007), Third (May 2011) and Fourth (June 2016) Evaluation Rounds. The resulting evaluation reports, as well as the subsequent compliance reports, are available on GRECO's website ([www.coe.int/greco](http://www.coe.int/greco)). The Fifth Evaluation Round started on 1 January 2017.<sup>1</sup>

6. This report sets out to assess the effectiveness of the measures taken by the Swiss authorities to prevent corruption and promote integrity in the senior ranks of central government (top executive functions) and law enforcement agencies. It presents a critical analysis of the situation, based on its examination of the steps taken by those concerned and the results achieved. It highlights certain gaps and makes recommendations for improvements. In keeping with the practice of GRECO, the recommendations are addressed to the authorities, via the Head of the Swiss delegation in GRECO. They will then decide which national institutions/bodies are to be responsible for taking the requisite action. Switzerland is required to report back on the action taken in response to GRECO's recommendations within 18 months of the report's adoption.

7. To prepare this report, a GRECO evaluation team (hereinafter the "GET") carried out an on-site visit to Switzerland from 25 to 29 September 2023. Switzerland's responses to the evaluation questionnaire, as well as other information received by GRECO, including from government institutions and civil society, were also taken into account. The GET was composed of Ms Dominique Dassonville, First Advisor to the Department of Legal Affairs, Belgian Senate, Federal Parliament (Belgium), Mr Andrei Furdui, Director, Department for Crime Prevention, Ministry of Justice (Romania), Mr Frédéric Gutierrez Le Saux, divisional police commissioner, head of the Frontier Police, Immigration and Road Safety Department (Andorra) and Ms Patricia Weicker, assistant to the Ombudsman of the Grand-Duchy of Luxembourg (Luxembourg). The GET was also assisted by Ms Sophie Meudal-Leenders of the GRECO secretariat.

8. The GET talked to representatives of the following bodies: Federal Office of Justice (FOJ), Federal Department of Justice and Police (FDJP), Federal Department of Foreign Affairs (FDFA), Federal Department of Finance (FDF), Interdepartmental Working Group on Combating Corruption (IDWG), Federal Personnel Office (OPPER), Federal Chancellery (FCh), Personal Security Clearance Units of the Federal Chancellery (FCh) and the Federal Department of Defence, Civil Protection and Sport (DDPS), Federal Office for Customs and Border Security (FOCBS), Swiss Federal Audit Office (SFAO), secretariats of the Control Committees (CC) of both Houses of Parliament and of the Immunities Committee of the National Council (IC-N), Federal Office of Police (fedpol), and the federal criminal police (PJF). The GET also met representatives of academia, the media, civil society and trade unions.

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<sup>1</sup> More information on the methodology used appears in the evaluation questionnaire, which is available on GRECO's [website](http://www.coe.int/greco).

### III. CONTEXT

9. Switzerland has been a member of GRECO since 2006. Since then, it has undergone four evaluation rounds on different aspects of preventing and combating corruption.<sup>2</sup> Switzerland has performed well in implementing GRECO's recommendations: 92% of the recommendations made in the report on the First and Second Evaluations Rounds have been fully implemented, while 73% of the Third Round recommendations and 42% of the Fourth Round recommendations have been implemented. It should nevertheless be noted that the Fourth Evaluation Round compliance procedure is still under way.

10. Switzerland's institutions operate in a manner that distinguishes them in many respects from traditional democracies. Power is shared between national government, the cantons and the municipalities, with each element enjoying a considerable degree of independence. Federalism ensures cohesion in a country with many individual regional characteristics and four linguistic cultures. Another distinctive element is that "voters can seek amendments to the Constitution at any time and prevent a law from coming into force if they can muster a majority of like-minded people".<sup>3</sup> Instruments of direct democracy and consensus in decision-making play their part in the quest for balance that characterises Swiss democracy. The consequences of this institutional originality are fully accepted, and the index of public confidence in the country's institutions is very high. Switzerland is even the highest-ranked OECD country in terms of trust in government<sup>4</sup>. More generally, despite a slight dip in its rating in 2022 and 2023, Switzerland has consistently ranked in the top ten countries in Transparency International's Corruption Perceptions Index.<sup>5</sup> It also ranks highly in the World Bank's Worldwide Governance Indicators (96.63/100)<sup>6</sup> and the Index of Public Integrity (IPI) (8.9/10).<sup>7</sup> At the national level, the Institutional Trust Index compiled by the Zurich Federal Institute of Technology, based on a poll of a representative sample of the Swiss population, shows that Swiss institutions and authorities, including the Federal Council, the police and the army, "have enjoyed a high and generally increasing level of trust for years".<sup>8</sup>

11. This very positive backdrop nevertheless has some weak points, already noted in the report for the Fourth Evaluation Round, which are still a concern. The organisation of the system itself allows subtle pressure to be exerted on politicians, since Switzerland is one of the countries where the influence of interest groups is least regulated<sup>9</sup>. There are still some legislative shortcomings, and the need to question the system or put additional safeguards in

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<sup>2</sup> First Evaluation Round: Independence, specialisation and means available to national bodies engaged in the prevention of and fight against corruption; extent and scope of immunities. Second Evaluation Round: Identification, seizure and confiscation of the proceeds of corruption; public administration and corruption; prevention of legal persons being used as shields for corruption; tax and financial legislation to counter corruption; links between corruption, organised crime and money laundering. Third Evaluation Round: Incrimination of corruption; transparency of party funding. Fourth Evaluation Round: Corruption prevention in respect of members of parliament, judges and prosecutors.

<sup>3</sup> Walter Thurnherr, former Federal Chancellor, in *The Swiss Confederation: A Brief Guide, 2023*, Federal Chancellery.

<sup>4</sup> [General government - Trust in government - OECD Data](#)

<sup>5</sup> [2023 Corruption Perceptions Index: Explore the... - Transparency.org](#). With a score of 82/100, Switzerland ranked sixth in 2023.

<sup>6</sup> [WGI 2022 Interactive > Interactive Data Access \(worldbank.org\)](#)

<sup>7</sup> [Switzerland · Corruption Risk Forecast](#)

<sup>8</sup> Interdepartmental Working Group on Combating Corruption, *Activity Report (2018-2020)*, p. 4

<sup>9</sup> [Petit manuel de la corruption «Made in Switzerland» | Public Eye](#)

place is still not seen as a priority by the authorities, as will be apparent from certain passages below.

#### IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

##### System of government and top executive functions

###### *System of government*

12. Switzerland is a federal state made up of 26 cantons and 2,131 municipalities; its constitutional structure has not fundamentally changed since the first Federal Constitution of 1848. The Swiss political system is characterised in particular by instruments of direct democracy<sup>10</sup> and the absence of a majority party: the largest parties in Switzerland never get more than 30% of the vote and seldom more than 20%. These features compel the government and parliament to seek compromise and consensus or else be seen to fail by the public.

13. Switzerland is the only country in the world to be run by a collegial government. Since 1848 the federal government, the Federal Council, has always consisted of just seven members. Each member is the head of a federal department,<sup>11</sup> which, in comparison with other countries, is the equivalent of one or more ministries. Since 1848, only 121 people have been members of the Swiss Government. The organisation and operation of the Federal Council is governed mainly by the Federal Constitution of 28 April 1999,<sup>12</sup> the Government and Administration Organisation Act of 21 March 1997 (GAOA<sup>13</sup>), the Government and Administration Organisation Ordinance of 25 November 1998 (GAOO<sup>14</sup> and the Order of 29 November 2013 on the organisation of the Federal Council (Org CF<sup>15</sup>).

14. The members of the Federal Council are elected – or re-elected – every four years by the Federal Assembly (Parliament) following each general election to the National Council (one of the two houses of parliament, the Council of States being the other).<sup>16</sup> They divide the departments between themselves after the elections (GAOA section 35). The latest elections to the Federal Assembly took place on 22 October 2023, subsequent to the on-site visit. This new Assembly elected the seven members of the Federal Council in December. The new Federal Council took office on 1 January 2024.

15. The seven members of the Federal Council have equal standing: there is no “head of government” or “prime minister”. The Federal Council is the highest executive authority of the Confederation. Although, in law, the only condition for being elected to the Federal Council is to be eligible for the National Council, members of the Federal Council are usually drawn from the members of the federal parliament. They can stand for re-election, and there is no limit on the number of terms they can serve. In practice, members of the Federal Council

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<sup>10</sup> At the federal level a popular initiative, if supported by 100 000 citizens, can call for amendment of the Federal Constitution, while an optional referendum allows 50 000 citizens to call for the organisation of a popular vote on a law passed by the federal parliament.

<sup>11</sup> For the names and structure of the seven federal departments, see <https://www.admin.ch/gov/en/start/departments.html>

<sup>12</sup> <https://www.fedlex.admin.ch/eli/cc/1999/404/en>

<sup>13</sup> [https://www.fedlex.admin.ch/eli/cc/1997/2022\\_2022\\_2022/en](https://www.fedlex.admin.ch/eli/cc/1997/2022_2022_2022/en)

<sup>14</sup> SR 172.010.1 - Government and Administration Org... | Fedlex

<sup>15</sup> <https://www.fedlex.admin.ch/eli/cc/2013/812/fr>

<sup>16</sup> Cf. Articles 174 to 177 of the Federal Constitution:

[https://www.fedlex.admin.ch/eli/cc/1999/404/en#tit\\_5/chap\\_3](https://www.fedlex.admin.ch/eli/cc/1999/404/en#tit_5/chap_3)



who stand for re-election are elected in almost all cases. Members of the Federal Council usually remain in office until they decide to step down.

16. The Federal Constitution (Article 175.4) states that, in electing the Federal Council, care must be taken to ensure that the various geographical and language regions of the country are appropriately represented. The seats are usually allocated by using what is known in Switzerland as “the magic formula”: the three largest parties are each entitled to two seats and the fourth largest to one seat.<sup>17</sup> However, this practice has no basis in law. The four parties represented in the Federal Council for the 2023-2027 legislative period totalled 74.5% of votes cast in the most recent federal parliamentary elections (UDC 27.93%, PS 18.27%, PLR 14.25%, Le Centre 14.06%). The Swiss Government therefore still represents a sizeable majority of the population.

17. At the time of writing, the Federal Council consists of four men and three women. It has also consisted of four women and three men in the past. The GET notes that there are no written rules aimed at promoting gender equality in the Federal Council’s composition. That said, the standards of Recommendation [Rec\(2003\)3 of the Committee of Ministers on balanced participation of women and men in political and public decision making](#), according to which representation of either women or men in any decision-making body in political or public life should not fall below 40%, have been met in practice since 2008.

18. The [President of the Confederation](#) chairs the Federal Council (Constitution, Article 176.1). In practice, the seven members of the Federal Council are elected President of the Confederation by the Federal Assembly in turn, based on seniority, for a one-year term. The Federal Assembly elects one of the members of the Federal Council [Vice-President of the Federal Council](#), also for a one-year term: this person is normally elected President of the Confederation the following year, even if this practice has no basis in law. Neither the President nor the Vice-President of the Federal Council can be re-elected to the same position the following year. Nor can the outgoing President be elected Vice-President. While chairing the Federal Council, the President of the Confederation remains in charge of their department during the year of presidential office and is therefore simply *primus inter pares* among the members of the Federal Council, in keeping with the collegial principle. Despite the title, the President of the Confederation is not the head of state. This position is filled by the Federal Council as a whole.

19. The law states that the President of the Confederation shall head the Federal Council (GAOA section 25.1) and grants the President various powers in connection with this position (cf. GAOA section 25.2; Org CF section 9). The President of the Confederation is authorised, under powers delegated by the Federal Council, to decide on matters of a mainly procedural nature (GAOA section 26.4; Org CF section 10). These can include ratification of international agreements approved by Parliament, accreditation of ambassadors, acknowledgements and congratulations upon presidential elections and royal accessions. The Federal Council is informed of these presidential decisions, which are entered in the minutes of the next Federal

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<sup>17</sup> Following the latest elections in October 2023, the use of this magic formula, based on an agreement between the main parties, no longer seems to have unanimous support in the media, a section of which considers this allocation of Federal Council seats to be “out of touch with reality” ([La formule plus si "magique" de la répartition des sièges du Conseil fédéral - rts.ch - Dialogue \[The not so 'magic' formula for allocating seats in the Federal Council\], rts.ch; Un Conseil fédéral qui fait très moyennement rêver \[Hardly the Federal Council of your dreams\], Le Matin](#)).

Council meeting and indicated as such (Org CF section 5.4); they constitute Federal Council decisions in their own right. The President of the Confederation may also order precautionary measures to be taken in urgent cases or decide in the Federal Council's stead if it is not possible to arrange a Federal Council meeting. These decisions must be submitted retrospectively to the Federal Council for approval (GAOA section 26, paragraphs 1 to 3).

20. GRECO decided that a head of state would be covered by the Fifth Evaluation Round under the "central government (top executive functions)" topic where that individual actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure and taking decisions on the appointment of individuals to top executive functions.

21. The GET notes that in Switzerland the President of the Confederation does not perform the functions of a head of state, which are discharged by the Federal Council as a whole. Since the members of the Federal Council are covered by this assessment in their capacity as PTEFs, the functions of head of state do not require specific explanation.

22. The Federal Chancellery is the general administrative office of the Federal Council. It is headed by a Federal Chancellor<sup>18</sup> (Constitution, Article 179; GAOA section 30.1), who is elected by the Federal Assembly for a renewable four-year term. The election takes place after the election of the Federal Council and under the same procedure. The duty of the Federal Chancellor is to support the Federal Council and the President of the Confederation and fulfil the responsibilities to the Federal Assembly assigned to them by the Constitution and the law. The Federal Chancellor must advise and support the Federal Council in the performance of its governmental duties and its management of the Federal Administration (overall management, co-ordination, supervision and planning; cf. GAOA section 32 onwards and section 34.2) and in the matter of public information. The Federal Chancellor may request information from the departments in order to fulfil their tasks. They also participate in the deliberations of the Federal Council in an advisory capacity and has the right to make proposals regarding the exercise of its duties by the Federal Chancellery. The Federal Chancellor can freely exercise all their powers under the Constitution, the law, a delegation of authority or on behalf of the Federal Council.

23. The vice-chancellors, of whom there are currently two, deputise for the Federal Chancellor (GAOA section 31.2). The position of Federal Council spokesperson (GAOA section 10a) is currently held by a vice-chancellor. The vice-chancellors are usually present at the discussions of the Federal Council unless the latter decides otherwise. Unlike the Federal Chancellor, they are not elected by the Federal Assembly but are appointed by the Federal Council.

24. The Federal Council reaches its decisions as a collegial body (Constitution, Article 177.1; GAOA section 12.1), by a majority vote, with a quorum of four. In the event of a tie, the vote of the President of the Confederation counts as two votes, except in the case of

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<sup>18</sup> For the powers of the Federal Chancellor, see Title 2, Chapter 3 of the GAOA: [https://www.fedlex.admin.ch/eli/cc/1997/2022\\_2022\\_2022/en#tit\\_2/chap\\_3](https://www.fedlex.admin.ch/eli/cc/1997/2022_2022_2022/en#tit_2/chap_3)

elections (GAOA section 19). Members of the Federal Council are duty-bound to support the decisions of this collegial body (GAOA section 12.2).

25. Decisions on matters that have been delegated to a department or to the Federal Chancellery are taken by the member of the Federal Council who heads that department or by the Federal Chancellor alone. The Federal Council may nevertheless take back responsibility for a matter or give instructions to the administrative unit responsible, under its powers of intervention or transfer.

26. With the collegial principle, responsibility for government policy lies jointly and severally with the seven members of the Federal Council. The Federal Council is responsible for policy to the Federal Assembly, which exercises oversight over the conduct of business by the Federal Council and the Federal Administration (Constitution, Article 169.1). As regards the accountability of the members of the Federal Council (see below paragraphs 119, 129 onwards).

27. As stated above, the Federal Administration is organised into seven departments, each headed by a member of the Federal Council (Constitution, Article 178.2), on top of which there is the Federal Chancellery, which is the Federal Council's general administrative office (GAOA section 2.2, in conjunction with section 30.1). Each member of the Federal Council, as head of department, bears political responsibility for running their department (GAOA section 37.1). They lay down the guidelines for running the department, delegates where necessary the performance of some of the department's tasks to administrative units and employees under its authority and determines the organisation of the department in line with the GAOA. The head of department is directly accountable to the Federal Council and is responsible for supervising proper execution of the tasks assigned to the Federal Administration. These principles also apply to the Federal Chancellor, who is head of the Federal Chancellery (GAOA sections 31.1 and 37.1). As heads of department, members of the Federal Council also each have an official deputy who is another member of the Council.

28. In addition, each of the seven departments has a general secretariat as its general administrative office. The general secretariat is headed by a secretary general. It also includes a head of information (sometimes as a job-share) and the personal staff of the member of the Federal Council, usually two in number. Each department contains a number of offices, which are the Federal Administration's main administrative units. Each office is run by an office director. An office may be called a state secretariat, and its director may then have the title of state secretary if the office is responsible for important fields of responsibility of a department (GAOA, section 45a). The status of a secretary of state is the same as that of an office director: the title of state secretary is intended, among other things, to facilitate formal contacts at the international level. Secretaries of state are not members of the government.

29. All these individuals (vice-chancellors, secretaries general, heads of information, personal staff, office directors and state secretaries) are basically public employees, and their position in terms of appointment, termination, pay, etc. comes under the normal rules of the Federal Employees Act (LPers). However, there are some specific rules governing appointment and termination of employment (see below).

30. Lastly there are the “contact officers” who work in the departments’ general secretariats and manage contacts with the federal offices and administrative units under the departments. These officers come under the Federal Employees Act. Because of their proximity to heads of department, may in practice exercise some influence over the latter’s decision-making; however, these are first and foremost administrative rather than policy positions. Contact officers usually remain in post when the head of department changes, unlike heads of information, secretaries general and personal staff.

31. The GET notes that recruitment and termination of secretaries general, of departments’ heads of information and of personal staff of members of the Federal Council is contingent on the political situation and at the discretion of members of the Federal Council. This is not the case for the holders of other managerial posts in the departments, such as office directors, state secretaries and contact officers. These individuals remain in place, even if the head of department changes. For the purposes of this report, the following are therefore taken to be PTEFs: members of the Federal Council, the Federal Chancellor, vice-chancellors, secretaries general, heads of information, and personal advisers to members of the Federal Council.

#### *Status and remuneration of persons with top executive functions at national level*

##### Status

32. As stated above, members of the Federal Council are elected, or re-elected, for a four-year term by the Federal Assembly in the session following each general election to the National Council (Constitution: Articles 168.1 and 175.2; Parliament Act, section 132). Generally speaking, an election to fill a vacant seat in the course of a parliament takes place in the session following receipt of the holder’s letter of resignation, an unexpected vacancy or a declaration of incapacity for office. If a member of the Federal Council is elected in the course of a parliament, their term will run to the end of the parliamentary term.

33. The Federal Chancellor is elected or re-elected by the Federal Assembly for a four-year term of office (Constitution, Articles 145 and 168.1). The election follows the procedure applying to election of the Federal Council.

34. The Federal Chancellor and members of the Federal Council cannot hold parliamentary office at the same time. If a new member of the Federal Council was sitting in the Federal Assembly prior to their election to the Federal Council, which is usually the case, custom dictates that this member should refrain from participating as a member of parliament in the proceedings of the committees and councils once they have accepted election to the Federal Council. The newly elected member of the Federal Council, once having accepted election, must take immediate steps to relinquish any previous positions and professional activities (cf. Memorandum for the Federal Chancellor and members of the Federal Council, paragraph 1.2). This is a well-established practice, which is also referred to in doctrine<sup>19</sup>.

35. Except in the case of incapacity (cf. Parliament Act, section 140a), there is no procedure for removing the Federal Chancellor or members of the Federal Council from office in the course of parliament. If the Federal Assembly declares that the Federal Chancellor or a

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<sup>19</sup> See for instance Sägerser, Kommentar RVOG, 2nd edition, ad. Section 60 GAOA, no 40 and 43.

member of the Federal Council is unable to continue in office, the relevant position becomes vacant. Incapacity can be presumed only if the following conditions are met: a) the person concerned is manifestly no longer able to continue in office because of serious health problems or other reasons preventing them from holding the post; b) this situation is expected to continue for some time; c) the person concerned has failed to tender a valid resignation within a reasonable period. Only the Federal Council or the Office of the Federal Assembly can table a motion declaring the incapacity of the Federal Chancellor or a member of the Federal Council. The power to rule on such motions lies solely with the Federal Assembly.

36. Vice-chancellors and secretaries general are appointed by the Federal Council (LPers section 3 in conjunction with the Federal Employees Order (OPers), section 2.1.e). Heads of information and personal staff, on the other hand, are appointed by the secretary general of the relevant department and their employment contracts are between the secretary general responsible and the head of information or member of personal staff. The employment of vice-chancellors, secretaries general, heads of information and personal staff is governed by the Federal Employees Act (LPers).

37. As for the recruitment process, the Federal Council directives concerning appointment of senior executives by the Federal Council,<sup>20</sup> which provide for public advertising of vacancies and for a selection process, normally apply to secretaries general. However, it is up to the head of department to decide whether and to what extent the basic elements laid down in the directives should apply. Vacancies for heads of information and members of personal staff are advertised publicly (OPers section 22).

38. The GET welcomes the fact that, for recruitment of senior personnel working with members of the Federal Council, vacancies are normally advertised publicly and the process involves a selection board. It nevertheless notes that members of the Federal Council may depart from these rules if they deem it necessary. The interviews during the visit confirmed that such exceptions did occur in practice, which some of the interviewees put down to a shortage of time. The GET notes that GRECO accepts in its reports that the working relationship between members of the government and their personal staff must be based on trust, which to some extent justifies departing from the principles of objectivity and transparency during recruitment. It further notes that the PTEFs working for members of the Federal Council are subject to the highest level of personal security clearance (see below), which offers reliable safeguards regarding integrity. It nevertheless invites the Swiss authorities to ensure that exceptions to the Federal Council directives on appointment of senior executives are as few as possible.

39. Section 26 of the Federal Employees Order (OPers)<sup>21</sup> governs termination of employment contracts with vice-chancellors, secretaries general, heads of information and personal staff.

40. The employment contract signed with the vice-chancellors states that cessation of all constructive co-operation with the Federal Chancellor is grounds for normal termination of the contract by the employer under LPers section 10.3.f. If termination of the contract is moved within the Federal Council, the factors seeming to preclude all constructive co-

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<sup>20</sup> <https://www.fedlex.admin.ch/eli/fga/2014/2115/fr>

<sup>21</sup> <https://www.fedlex.admin.ch/eli/cc/2001/319/fr>

operation must be set out in the motion, and the person concerned must be able to give the Federal Council their opinion in writing.

41. The employment contract signed with secretaries general, departments' heads of information and personal staff states that there are grounds for normal termination of the employment contract by the employer if the head of department no longer wishes to continue working with these persons. The member of the Federal Council can therefore exercise discretion. Furthermore, for personal staff, the departure of a head of department following resignation or a change of department is also grounds for terminating their contracts. Such termination is not automatic for secretaries general and heads of information.

### Remuneration

42. The remuneration and additional allowances of the Federal Chancellor and members of the Federal Council are governed by the federal law on salaries and pensions of members of the judiciary and senior members of government<sup>22</sup> and the order of the Federal Assembly on the salaries and pensions of members of the judiciary and senior members of government.<sup>23</sup> The gross annual income of a member of the Federal Council is 472 958 francs, or €498 041 (as at 1 January 2024).<sup>24</sup> The gross annual income of the Federal Chancellor is 81.6% of the gross annual income of a member of the Federal Council, namely 385 934 francs (€391 520, as at 1 January 2024). These salaries are adjusted for inflation, as are all salaries paid to federal employees, but there is no salary increase in real terms.

43. In addition to their gross annual salaries, members of the Federal Council receive a lump sum of 30 000 francs (€31 587 as at 1 January 2024; not index-linked), called an "expense allowance", to cover expenses. The President of the Confederation also receives an additional 12 000 francs (€12 635) for their year in office, together with the sum of 5 000 francs (€5 264) to support charities and persons in need. This "presidential fund" is provided for in paragraph 3.10 of the Memorandum for the Federal Chancellor and members of the Federal Council.

44. A full list of allowances in addition to the above sums is given in Appendix 2, "Rules concerning expenses of the Federal Council and the Federal Chancellor", of the Memorandum for the Federal Chancellor and members of the Federal Council. Telecommunication costs (landline, mobile phone and broadband connection) are covered. The Federal Chancellor and members of the Federal Council are each entitled to an official state car and a car for their private use. For the latter they are billed 0.8% of the car's purchase price per month. Members of the Federal Council also receive an annual first-class CFF rail pass (worth 6 520 francs, or €6 613). Members of the Federal Council can use federal aeroplanes and helicopters for official travel. This rule also applies to the persons that they nominate to travel with them. The Federal Council has also decided that, from 2025, it will no longer receive annual season tickets from the Swiss Alpine Cableways (worth around CHF 4 000 or €4 057 per person)<sup>25</sup>.

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<sup>22</sup> [RS 172.121 - Federal law of 6 October 1989 on the salaries and pensions of members of the judiciary and senior members of government \(admin.ch\)](#)

<sup>23</sup> [RS 172.121.1 - Order of 6 October 1989 on the salaries and pensions of members of the judiciary and senior members of government \(admin.ch\)](#)

<sup>24</sup> <https://www.admin.ch/gov/en/start/federal-council/tasks/from-election-to-departure.html>

<sup>25</sup> [https://www.admin.ch/gov/fr/accueil/documentation/communiques.msg-id-100559.html#:~:text=Les%20Remont%C3%A9s%20m%C3%A9caniques%20suisses%20\(RMS,aux%20autorit%C3%A9s%20cantonales%20et%20communales](https://www.admin.ch/gov/fr/accueil/documentation/communiques.msg-id-100559.html#:~:text=Les%20Remont%C3%A9s%20m%C3%A9caniques%20suisses%20(RMS,aux%20autorit%C3%A9s%20cantonales%20et%20communales)

45. The remuneration and additional allowances of federal employees are governed by the Federal Employees Act (LPers)<sup>26</sup> and its orders, in particular OPers.<sup>27</sup> Salaries of PTEFs other than members of the Federal Council come under the same salary scale that applies to all federal employees. This is available to the public (OPers section 36)<sup>28</sup> and shows the maximum amount that can be attained in each salary grade provided that performance is satisfactory. The pay of secretaries general of departments and of the vice-chancellors is (as at 1 January 2024) between Grade 31 (maximum gross annual salary of 224 015 francs, or €235 653) and Grade 38, the highest grade (maximum gross annual salary of 401 239 francs, or €422 085). The starting salary (or basic salary) will be less than this. It is determined on the basis of each individual's qualifications and experience and, where appropriate, the labour market situation. The basic salary evolves according to performance. Above-average performance and special assignments may be rewarded with special bonuses. These can be no more than 5% of the salary grade maximum or, if the individual has already reached this maximum, 10% of the salary grade maximum. The salaries of secretaries general are set by the Federal Council. For other staff, they are set by the relevant member of the Federal Council, and the Federal Council is notified. In principle, the job description and the corresponding salary grade are official documents within the meaning of the law on the principle of transparency in public administration.

46. The salary system of the Federal Administration allows for some supplements, such as a residence allowance, a family allowance (between 250 and 380 francs per child per month), job-related supplements, assistance with childcare and granting of paternity leave. In addition, a lump-sum allowance for entertainment expenses is possible, especially for employees coming directly under a head of department or the Federal Chancellor who have regular entertainment expenses (O-OPers section 50<sup>29</sup>).

47. In the Federal Administration the average gross annual salary for a full-time post was 126 554 francs, or €133 089, in 2022. Federal Administration salaries are competitive. The median salary in Switzerland is approximately 80 000 francs, or €84 131.<sup>30</sup>

### **Anti-corruption and integrity policy, regulatory and institutional framework**

#### *Anti-corruption and integrity policy, risk management mechanisms*

48. On 25 November 2020 the Federal Council adopted the Federal Council's Anti-Corruption Strategy (2021-2024),<sup>31</sup> produced by the Interdepartmental Working Group (IDWG) on Combating Corruption. It sets out 11 goals and 42 measures, from prevention to prosecution to international co-operation. The IDWG is responsible for monitoring and promotes implementation of the measures by organising exchange of information on progress made and by encouraging joint action by the relevant federal offices. The Strategy contains a

<sup>26</sup> [RS 172.220.1 - Federal Employees Act \(LPers\) of 24 March 2000 \(admin.ch\)](#)

<sup>27</sup> [RS 172.220.111.3 - Federal Employees Order \(OPers\) of 3 July 2001 \(admin.ch\)](#)

<sup>28</sup> <https://www.epa.admin.ch/epa/fr/home/themes/systeme-salarial.html>

<sup>29</sup> [RS 172.220.111.31 - FDF order of 6 December 2001 on the Federal Employees Order \(O-OPers\) \(admin.ch\)](#)

<sup>30</sup> Cf. Federal Statistical Office website for 2022 income in Switzerland:  
<https://www.bfs.admin.ch/bfs/en/home/statistics/work-income/wages-income-employment-labour-costs.html>

<sup>31</sup> [https://www.eda.admin.ch/eda/en/fdfa/fdfa/publikationen.html/content/publikationen/en/eda/schweizer-aussenpolitik/Strategie\\_BR\\_gegen\\_Korruption\\_2021-2024](https://www.eda.admin.ch/eda/en/fdfa/fdfa/publikationen.html/content/publikationen/en/eda/schweizer-aussenpolitik/Strategie_BR_gegen_Korruption_2021-2024)

raft of measures affecting PTEFs, such as Measure 1 (“The heads of the federal departments and senior management will lead by example and regularly remind their staff of the obligations of federal employees under the FPersO and the Federal Administration Code of Conduct”) and Measure 10 (“The waiting period under Art. 94b FPersO for public servants taking up private employment will be applied more frequently in order to avoid conflicts of interest”). Measure 4 also stipulates that questions of conflict of interest must be raised at the annual appraisal interview of departmental secretaries-general, heads of communication and personal assistants (see paragraph 140 below). In accordance with measure 8, an external study has also been carried out into the legal possibilities of introducing an obligation to declare for holders of positions exposed to increased risks of corruption. This study provides a starting point for the discussions currently underway on the possible introduction of a reporting obligation (see paragraph 125 below). In addition, measure 6 instructs the IDWG to draw up guidelines aimed at identifying the functions that are particularly exposed to the risk of corruption within the federal administration before the end of 2024 (see paragraph 50 below). Finally, under Measure 5, managers in the federal administration must be made aware of the prevention of corruption as part of their training and further training.

49. The Federal Finance Administration coordinates an enterprise risk management system (ERMS)<sup>32</sup> for the federal administration as a whole, the Federal Council, the seven federal departments, their 73 administrative units (including the federal offices), and the Federal Chancellery. The ERMS is based on the ISO 31000 international standard for risk management. It is regularly audited by the Swiss Federal Audit Office (SFAO) and the “working group on risk management” set up by the control committees (CC) of both chambers of parliament. The ERMS encompasses every type of risk to the Federal Administration as laid down, on the one hand, in the “directives on the Confederation’s risk management policy” and, on the other hand, in the “directives on risk management by the Confederation”<sup>33</sup>. It therefore covers the Federal Administration’s strategic risks in general; these can interface with related management fields such as the internal control system, information security, business continuity and integrity. Although these fields are each managed individually, regular exchanges take place between them and risk management. Generally speaking, the risk management process is the main tool used to identify, assess and manage/mitigate potential risks, including risks to public integrity. Corruption risks lie at the interface between the internal control system (ICS), which focuses on the operational risks of finance-related business processes, and risk management. It takes place across the Federal Administration, with a bottom-up and top-down approach, as part of a twice yearly standard procedure or whenever circumstances so require.

50. The GET takes note of the Federal Council’s anti-corruption Strategy, the first that it has produced. Covering 2021-2024, it focuses largely on the Federal Council’s areas of responsibility and presents measures specifically directed at the Federal Administration. Goal 2 lays down a risk-based approach. The Interdepartmental Working Group (IDWG) on Combating Corruption is tasked to develop guidelines, in addition to the internal control system, for identifying the roles within the Federal Administration most exposed to the risk of corruption. The implementation of this Strategy will be evaluated by an independent body, and at the end of 2024 the Federal Council will review the progress made and decide on how to further develop the Strategy.

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<sup>32</sup> ERMS website:

[https://www.efv.admin.ch/efv/fr/home/themen/finanzpolitik\\_grundlagen/risiko\\_versicherungspolitik.html](https://www.efv.admin.ch/efv/fr/home/themen/finanzpolitik_grundlagen/risiko_versicherungspolitik.html)

<sup>33</sup> [https://www.efv.admin.ch/efv/fr/home/themen/finanzpolitik\\_grundlagen/risiko\\_versicherungspolitik.html](https://www.efv.admin.ch/efv/fr/home/themen/finanzpolitik_grundlagen/risiko_versicherungspolitik.html)



51. The GET considers that the Federal Council's anti-corruption Strategy could be more ambitious and concrete in terms of goals and substance, as confirmed by some of the individuals the team interviewed during its visit. Measure 6 of the Federal Council's anti-corruption Strategy does indeed instruct the IDWG to draw up guidelines aimed at identifying the functions that are particularly exposed to the risk of corruption within the federal administration by the end of 2024. However, the enterprise risk management system does not specifically deal with corruption risks unless they are of a certain extent or involve systemic errors. It is mostly focused on the principles of sound management. The Strategy contains no measures aimed specifically at PTEFs apart from stating that they should lead by example. It does not address or deals insufficiently with key issues for integrity in top executive functions, such as lobbying and revolving doors, despite known instances (see below). Lastly, it is not always sufficiently monitored by the IDWG, whose role will be considered later. Therefore, **GRECO recommends that regular risk assessment be undertaken specifically covering risks to the integrity of persons with top executive functions, and that specific measures for these persons be added to the Federal Council's anti-corruption Strategy.**

52. One of the main measures for preventing corruption among the Federal Administration's senior executives is personal security clearance (PSC). PSC checks entail the gathering of relevant information on an individual's lifestyle, including relations with friends and family, their financial position, contacts abroad and any illegal activities threatening internal or external security. The purpose is to ascertain that the individual undergoing these checks is not a security risk: there must be no doubts as to their probity and trustworthiness, and the person's lifestyle must not render them vulnerable to blackmail or bribery or be such as to tarnish the person's own reputation or that of their employer. The details of these checks are laid down in the Personal Security Clearance Order (OCSP).<sup>34</sup> There are two levels: basic and enhanced control, the latter possibly including interviews. These checks are repeated every five to ten years, or three to five years respectively.

53. Vice-chancellors, secretaries general and the personal staff of members of the Federal Council require the highest level of PSC, namely enhanced security checks with interview.<sup>35</sup> PSC for vice-chancellors is conducted by the Personal Security Clearance Department of the Federal Department of Defence, Civil Protection and Sport, DDPS. The PSC for other PTEFs is carried out by Personal Security Clearance Department of the Federal Chancellery. During these checks, information is collected on, among other things, the individual's personal circumstances, personal connections, outside activities (paid or unpaid) and personal finances. The individual is required to provide written records, such as income tax returns, and is interviewed in person. The initial clearance checks must cover the ten years preceding the start of the clearance procedure. These checks must be repeated after five to ten years, although they may be repeated earlier if there is reason to believe that new risks have emerged or that criminal proceedings have been brought against the individual concerned. The information collected, the risk assessment and the results of the checks are recorded in the personal security clearance information system (SICSP/SIBAD; section 45 of the law on information security, LSI<sup>36</sup>). The latter is a military information system that is not available to the public. Results of checks are not disclosed to the public.

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<sup>34</sup> <https://www.fedlex.admin.ch/eli/cc/2023/736/fr>

<sup>35</sup> For further information on the other clearance levels please refer to the section on law enforcement agencies below.

<sup>36</sup> [RS 128 - Loi fédérale du 18 décembre 2020 sur la... | Fedlex \(admin.ch\)](#)

54. Under section 27.2 and 34 of the LSI and Annex 7 OCSP, some data can be collected through the Federal Intelligence Service (FIS) from the following sources: registers of the federal and cantonal security and prosecution bodies; criminal records; registers of cantonal prosecution and bankruptcy offices and of residents' registration offices; investigations into individuals subject to security clearance conducted by the relevant cantonal police force at the request of the clearance authorities; requests to the relevant courts and prosecution/enforcement authorities for information and files concerning current or past criminal proceedings and enforcement of penalties; interviews of third parties, with the consent of the individual concerned; and interviews of the individual concerned.

55. The Federal Chancellor and members of the Federal Council do not undergo PSC checks. However, the authorities argue that because election to the Federal Council is a fairly rare event in Swiss political life – only 121 people have been elected over the past 175 years – the media will thoroughly investigate the candidates that the political parties put forward for this position.<sup>37</sup> Prior to the election, the parties' official candidates (there are usually two for each vacancy) have to attend a hearing by the other main political parties. These hearings are not public.

56. The GET welcomes the fact that most PTEFs are subject to enhanced security checks with a hearing, namely the highest level of clearance, and that these checks are repeated at least every five years. These checks are intended to verify, among other things, that the individual has shown integrity, and they cover their financial position, outside activities, inner circle and personal connections. The GET notes that the Federal Chancellor and members of the Federal Council are not subject to these checks. The Swiss authorities made it clear that this situation was deliberate and arose from the fact that these individuals were elected by the Federal Assembly. They believe that the fact that the media investigate candidates, who are screened by their political parties and then attend a hearing by the other political parties, provides adequate safeguards regarding their integrity, as shown by the case cited in footnote 37. However, the GET was informed during its visit of another case concerning a candidate not elected to the Federal Council, who was subsequently convicted for having accepted an improper advantage.<sup>38</sup> The facts resulting in his conviction were not uncovered during his candidacy, which shows that the existing system is not foolproof. In the GET's view, subjecting the Federal Chancellor and members of the Federal Council to institutional checks to identify and manage potential conflicts of interest at an early stage, or to enhanced security clearance checks in the same way as other PTEFs would undoubtedly offer additional safeguards as to their ability to perform their duties impartially. Therefore, **GRECO recommends that the Federal Chancellor and members of the Federal Council undergo institutional checks upon their election to ensure their integrity.**

#### *Institutional framework*

57. As regards prevention of corruption, Switzerland has a decentralised system in which the various bodies co-operate as required. In response to GRECO's recommendation in the

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<sup>37</sup> In 2011, a frontrunner for election to the Federal Council was ruled out one week before the election in response to newspaper revelations. In the wake of this case, political parties started to examine the past of their candidates themselves in order to avoid muckraking in the press or during interviews.

<sup>38</sup> The offence dates back to 2015 and the candidacy for the Federal Council to 2017. The sentence became final in 2023.

joint report for the First and Second Evaluation Rounds, the Federal Council set up the Interdepartmental Working Group (IDWG) on Combating Corruption in 2008. It is Switzerland's preventive anti-corruption body for the purposes of the relevant multilateral conventions.

58. The IDWG includes all Federal Administration offices involved in anti-corruption activities and representing all federal departments, together with the Office of the Attorney General of Switzerland. A committee<sup>39</sup> plans its work and issues strategic guidelines. The chair and secretariat of the IDWG and its committee are provided by the Federal Department of Foreign Affairs (FDFA), which funds 90% of the full-time posts of IDWG chair, secretary and Committee chair, together with the group's work. The IDWG does not have its own budget. It has operational independence, but because it forms part of the FDFA, its parliamentary records and reports come under the corresponding management structure.

59. Under its remit the IDWG is tasked by the Federal Council with improving the exchange and flow of information between the different federal offices, cantons and municipalities as well as representatives of the private sector, civil society and academia. It does this by organising workshops on preventing corruption in specific fields. The IDWG also provides a platform for discussing developments in international anti-corruption conventions and forums and co-ordinating Switzerland's stance at international level. In addition, the IDWG has been made responsible by the Federal Council for running an information network on corruption in association with the cantons. Lastly, it is required to report regularly to the Federal Council on its activities and on developments in the anti-corruption field. Its activity reports are published on its website.<sup>40</sup>

60. The GET notes that the IDWG is not independent regarding its budget and that it has limited resources, its operating costs being nevertheless covered by the departments concerned. It has no full-time staff, and, according to the information gathered during the on-site visit, two of the three people assigned to it at the FDFA have a transferrable status and generally change every four years, which makes it harder to run and precludes institutional memory. That said, the position of secretary to the IDWG became permanent in 2018 and, according to the authorities, the other members of the IDWG and the committee also are generally on permanent positions. The IDWG's work seems to be confined principally to organising a dozen or so meetings every year. This view is shared by civil society and the Federal Audit Office, which carried out an audit of the IDWG in 2018.<sup>41</sup> In this audit, it found the body's effectiveness and performance to be unsatisfactory, since it did not have, among other things, the necessary resources, skills, authority and independence to fulfil its remit adequately and actively improve action to tackle corruption. Despite these criticisms, the Federal Council renewed the IDWG's remit in 2018 without any substantial increase in its resources. The authorities point out that since 2018, the IDWG has nevertheless seen a significant increase in its activities. For example, it has drawn up the Federal Council's first

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<sup>39</sup> This committee brings together representatives from the general secretariat of the Federal Department of Home Affairs (GS-FDHA), the Federal Office of Justice (FOJ), the Federal Office of Police (Fedpol), the Federal Office for Defence Procurement (armasuisse), the Federal Personnel Office (FOPER), the Federal Office for Buildings and Logistics (FOBL), the State Secretariat for Economic Affairs (SECO), the Federal Roads Office (FEDRO) and the Office of the Attorney General of Switzerland (OAG).

<sup>40</sup> <https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/financial-centre-economy/corruption/working-group-combating-corruption.html>

<sup>41</sup> <https://www.efk.admin.ch/en/audit/combating-corruption-evaluation-of-the-implementation-of-the-federal-councils-resolution-of-19-october-2008-federal-council/>

Anti-Corruption Strategy 2021-2024, which it has been tasked with monitoring, and a Confederation-Cantons network on corruption has been set up. Nonetheless, according to some people interviewed by the GET, the weakness of the IDWG was a perfect illustration of how little importance the Federal Council seemed to attribute to tackling corruption.

61. One of the IDWG's responsibilities is to draw up and then evaluate the Federal Council's anti-corruption Strategy, but according to the information gathered by the GET, very little of substance has been done to the latter end, apart from organisation of workshops on specific themes with representatives from the relevant administrative units, academia and civil society. The interviews conducted on site also confirmed the GET's impression that the Strategy seemed to exist mainly on paper and had very little effect. The IDWG's role seems to consist merely in assessing whether or not the measures laid down in the Strategy have been put into practice and, where necessary, making recommendations for their implementation. It is, however, not in a position to impose the actual introduction of the measures in the various sectors of government or for standardising their implementation. The GET is convinced that the monitoring of the Strategy must be considerably strengthened so that it plays a more decisive part in tackling and preventing corruption. The Federal Audit Office's audit undoubtedly offers pointers in this direction. Consequently, **GRECO recommends that monitoring of the Federal Council's anti-corruption Strategy be improved, by ensuring an independent evaluation of the Strategy and publication of its conclusions.**

#### *Regulatory framework and code of conduct*

62. The Federal Chancellor and members of the Federal Council are issued with a Memorandum<sup>42</sup> dated 5 November 2014 (effective from 1 January 2015), which is regularly updated and lists, among other things, the main statutory provisions relating to their official duties, accompanied by comments. The memorandum also contains some information on professional conduct, which will be set out in greater detail in the relevant sections of this report below. It covers incompatibilities, official secrecy, the duty to withdraw, engagement in a gainful activity after leaving office<sup>43</sup> and participation in political parties. The memorandum is intended for the Federal Chancellor and members of the Federal Council, together with former holders of these positions. It is not legally binding in itself (unlike the statutory provisions to which it refers), but it is applied in practice.

63. The people spoken to by the GET all stressed the usefulness of the Memorandum for the Federal Chancellor and members of the Federal Council, which combined the rules applying to these persons in one document, accompanied by comments. The document is not a code of conduct strictly speaking, and it is not binding, but it is generally believed to be properly applied in practice. Moreover, some of the rules that it contains are in fact binding. The GET notes that GRECO has considered in some of its reports that a document such as the memorandum could serve as a code of conduct. It ought to be supplemented with reference to the rules recommended below (see Recommendations vi and viii in particular) and be coupled with accountability and enforcement mechanisms (see Recommendation x).

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<sup>42</sup> Memorandum for the Federal Chancellor and members of the Federal Council, of 5 November 2014: [https://www.admin.ch/dam/gov/fr/Bundesrat/Von\\_der\\_Wahl\\_bis\\_zum\\_Ruecktritt/Aide-m%C3%A9moire\\_FR.pdf.download.pdf/Aide-m%C3%A9moire\\_FR.pdf](https://www.admin.ch/dam/gov/fr/Bundesrat/Von_der_Wahl_bis_zum_Ruecktritt/Aide-m%C3%A9moire_FR.pdf.download.pdf/Aide-m%C3%A9moire_FR.pdf)

<sup>43</sup> Appendix 1 to the Memorandum: Provisions applying to former Federal Chancellors and former members of the Federal Council

64. Like all other federal employees, vice-chancellors, secretaries general, heads of communication and personal staff of members of the Federal Council are subject to anti-corruption provisions (LPers sections 20-23, OPers sections 91-94d,<sup>44</sup> directive on outside activities and public offices<sup>45</sup>) and the Federal Administration's code of conduct for staff on avoiding conflicts of interest and on the handling of sensitive information, dated 15 August 2012.<sup>46</sup> Any breach of these rules can, after a warning, constitute grounds for dismissal or give rise to disciplinary action.

65. The GET believes that these rules are sufficiently detailed and explanatory for most integrity issues, even if they too should be supplemented with reference to the measures recommended later in this report. They seemed to be well-known and observed in practice, as far as the GET was able to establish during its on-site visit. They are binding, and PTEFs other than the Federal Chancellor and members of the Federal Council are subject to the disciplinary rules of the Federal Employees Order (see paragraph 142). A breach of ethical standards can also be grounds for dismissal. However, when adopting supplementary integrity rules, compiling the rules for PTEFs other than the Federal Chancellor and members of the Federal Council in a single document similar to the Memorandum would definitely provide added value. Therefore, **GRECO recommends that the integrity rules applying to vice-chancellors, secretaries general, heads of information and personal staff of members of the Federal Council be consolidated to serve as a code of conduct and be published.**

#### *Awareness*

66. When taking office, new members of the Federal Council are given a copy of the Memorandum by the Federal Chancellery and briefed on the rules and obligations that apply to them. They can request guidance on issues of ethics and integrity from the Federal Chancellor, who, as head of the Federal Council's general administrative office, has the task of supporting the Federal Council and the President of the Confederation in their work. Such guidance is requested and provided in strict confidentiality. There are no statistics on this subject.

67. For other Federal Administration employees, the online learning module "Preventing corruption; code of conduct" is mandatory. It is currently being revised. The module lasts 45 minutes and is designed to provide information on:

- the basic principles for preventing corruption;
- the attitude and conduct expected by the Federal Administration in terms of preventing corruption;
- how Federal Administration's executives should act to combat corruption.

68. In addition, all employees receive the Federal Administration Code of Conduct. Every year, staff are reminded by the administrative units' personnel offices that they must declare outside activities.

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<sup>44</sup> <https://www.fedlex.admin.ch/eli/cc/2001/319/fr>

<sup>45</sup> [https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalrecht/230\\_nebenbeschaeftigungenrichtlinien.pdf.download.pdf/230\\_nebenbeschaeftigungenrichtlinien\\_f.pdf](https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalrecht/230_nebenbeschaeftigungenrichtlinien.pdf.download.pdf/230_nebenbeschaeftigungenrichtlinien_f.pdf)

<sup>46</sup> [https://www.epa.admin.ch/dam/epa/it/dokumente/aktuell/medienservice/120\\_verhaltenskodex\\_e.pdf.download.pdf/120\\_verhaltenskodex\\_e.pdf](https://www.epa.admin.ch/dam/epa/it/dokumente/aktuell/medienservice/120_verhaltenskodex_e.pdf.download.pdf/120_verhaltenskodex_e.pdf)

69. Anti-corruption specialists in the legal and human resources divisions of the general secretariats and the Federal Chancellery are responsible for providing guidance on questions of ethics and integrity. The authorities have no statistics on the number of requests.

70. The GET notes that members of the Federal Council are briefed by staff of the Federal Chancellery on the applicable rules when they take office. Although it does include the question of incompatibilities, the briefing is general and does not cover ethical issues as such. It is not repeated subsequently. The GET considers that some of the briefing ought to be devoted to these issues and that the briefing should then be repeated on a regular basis. As for confidential guidance, the Federal Chancellor and their staff are available to members of the Federal Council for any issues concerning the rules applicable. The GET considers these arrangements to be satisfactory.

71. As far as other PTEFs are concerned, the GET notes that they have to take an online course on ethics when they take up their posts. The course seems well-designed but would be worth repeating at regular intervals. The arrangements governing confidential guidance for these persons are also deemed satisfactory by the GET. In the light of the above, **GRECO recommends (i) that briefings and/or awareness raising in ethical rules and obligations be strengthened for the Federal Chancellor and members of the Federal Council and (ii) that training be provided on a regular basis for all persons entrusted with top executive functions.**

### **Transparency and oversight of executive activities of central government**

#### *Access to information*

72. The discussions of the Federal Council, its minutes and the documents of the joint reporting procedure<sup>47</sup> are not public (GAOA section 21). There is no right of access to official documents relating to the joint reporting procedure (Freedom of Information Act (FoIA), section 8.1<sup>48</sup>). Moreover, the Federal Council as such is not subject to the FoIA (FoIA section 2.1 notwithstanding). According to the authorities, this is explained by the requirements of the collegial approach: once the Federal Council has taken a decision, all its members (including those who opposed it) have to uphold it. The FoIA applies to the whole of the Federal Administration on the other hand.

73. Pursuant to GAOA section 10.1, the Federal Council ensures that Parliament, the cantons and the general public are suitably informed. It ensures that coherent information on its assessments, plans, decisions and measures is provided promptly and regularly (GAOA section 10.2). When it takes decisions, the Federal Council determines which documents are to or may be published in official organs or in another form.

74. Under the Publications Act (PublA),<sup>49</sup> certain enactments of the Federal Council have to be published in the Official Compendium, such as Federal Council orders, or in the Federal Gazette, such as dispatches and drafts of laws and federal decrees. The Federal Council may also order publication in the Federal Gazette of its other reports, directives, decrees and

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<sup>47</sup> A Federal Council decision-making process that enables each head of department to submit their proposals prior to a Federal Council meeting.

<sup>48</sup> <https://www.fedlex.admin.ch/eli/cc/2006/355/en>

<sup>49</sup> <https://www.fedlex.admin.ch/eli/cc/2004/745/en>

announcements if they have significant external consequences or are of considerable general importance.

75. The GET notes that exceptions to transparency and the right of access to information concerning the work of the Federal Council are strictly defined. Although the Federal Council's discussions are not public, and neither are the documents relating to the official joint reporting procedure, members of the Federal Council are subject to the FOIA when acting as heads of department, since the Federal Administration as a whole is covered by this act. Preparatory documents for the joint reporting procedure are also public for the purposes of transparency of the legislative process. The courts have adopted the position that applications for access can cover electronic agendas and instant-messaging discussions of members of the Federal Council.<sup>50</sup> The GET further notes that the procedure and deadlines for replying to applications for access are clear – the deadline is 20 days, which can be extended in rare cases that are clearly defined, with mediation by the Federal Data Protection and Information Commissioner (FDPIC) within 30 days in the event of disagreement. Lastly, the Federal Council has a proactive policy for communicating its decisions to the press and public as soon as they are taken, before the actual end of the Council's sessions. The day before a session, journalists accredited to the Federal Council receive an embargoed list of the items for discussion. Press releases are issued as soon as the Council has taken its decisions, before the session has actually ended. Each Federal Council session is thus covered by between 10 and 35 press releases and is followed by a press conference. In the light of this information, the GET considers that access to information does not seem to be much of a problem and that broad access to government information and a proactive policy for communicating Federal Council decisions is good practice to be commended.

#### *Transparency of the law-making process*

76. The Federal Council submits its drafts of laws and federal decrees to Parliament by means of a "dispatch". The adoption of the dispatch and its submission to Parliament are the subject of a press release. The drafts and accompanying dispatches are published in the Federal Gazette. The dispatches must include points of view and alternatives discussed at the preliminary stage of the law-making process and how they are viewed by the Federal Council. This requirement is further established in the Federal Council guidelines contained in a memorandum on presentation of Federal Council dispatches,<sup>51</sup> which states that dispatches must contain a section on preliminary proceedings to outline the process that led to the dispatch. In particular this section must: provide information on the preparatory work done; state whether committees of experts have been set up and, where applicable, specify their composition and present their findings; describe the draft sent out for consultation, comment on the consultation process and indicate the points on which there is still divergence of

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<sup>50</sup> Ruling of the Federal Supreme Court [142 II 324 - Federal Supreme Court \(bger.ch\)](#): The Outlook agenda of a senior official constitutes an official document within the meaning of FoIA section 5, and the authority must allow access to it except in the case of information that can be redacted pursuant to FoIA section 7, but the authority must justify the redactions by stating the exception(s) applying.

<sup>51</sup> [https://www.bk.admin.ch/dam/bk/fr/dokumente/sprachdienste/publikationen/Aide-m%C3%A9moire%20messages%20CF/2018\\_00566\\_TD\\_Aide-m%C3%A9moire\\_pr%C3%A9sentation\\_messages\\_CF\\_-\\_Apr%C3%A8s\\_relecture\\_10.18.2018.pdf.download.pdf/Aide-m%C3%A9moire%20sur%20la%20pr%C3%A9sentation%20des%20messages%20du%20Conseil%20f%C3%A9d%C3%A9ral%20\(mars%202022\).pdf](https://www.bk.admin.ch/dam/bk/fr/dokumente/sprachdienste/publikationen/Aide-m%C3%A9moire%20messages%20CF/2018_00566_TD_Aide-m%C3%A9moire_pr%C3%A9sentation_messages_CF_-_Apr%C3%A8s_relecture_10.18.2018.pdf.download.pdf/Aide-m%C3%A9moire%20sur%20la%20pr%C3%A9sentation%20des%20messages%20du%20Conseil%20f%C3%A9d%C3%A9ral%20(mars%202022).pdf)

opinion after the pre-parliamentary process; give reasons in the event of no consultation process.

77. Orders entailing a consultation process must be accompanied by an explanatory report. The requirements governing content and structure of Federal Council dispatches similarly apply to these explanatory reports, which are also published on the publication platform for federal law.<sup>52</sup> Such publication is optional for orders not entailing consultation.

78. The following must be published in the Federal Gazette: Federal Council dispatches and drafts concerning enactments of the Federal Assembly (laws, federal decrees), Federal Council statements on reports and drafts of Federal Assembly committees concerning enactments of the Federal Assembly, and Federal Council directives. The Federal Council may also decide that other reports, statements, agreements, decrees and announcements that it has issued shall be published in the Federal Gazette if they have significant consequences or are of considerable general importance. Federal Council orders, together with other legislative enactments of the federal authorities, such as the departments, must be published in the Official Compendium of Federal Legislation (RO). These enactments also appear in the Classified Compendium of Federal Legislation (RS),<sup>53</sup> which is a revised compendium, arranged under subject headings and updated at regular intervals, containing, among other things, the enactments published in the Official Compendium.

79. Federal issues submitted to a popular vote are covered by explanatory pamphlets sent by post to all eligible voters and published on the Federal Council's web portal<sup>54</sup> at least six weeks before polling day. These leaflets are prepared by the Federal Chancellery together with the relevant department and are submitted to the Federal Council for approval. They include explanations regarding the subject of the vote and the recommendations of the Federal Council, Parliament, the referendum committee or the initiative committee.

80. Reports, studies and assessments produced outside the Federal Administration (in the field of research and development) must normally be published on a web platform.<sup>55</sup> Publication is the responsibility of the departments and offices and must be accompanied by information on the principal, the agent, the costs and the budget to which the costs are charged (order on the organisation of the Federal Chancellery, section 6; ARAMIS Order<sup>56</sup>).

### *Consultation*

81. The consultation process is governed by the Consultation Procedure Act<sup>57</sup> and the Consultation Order.<sup>58</sup> It has the aim, firstly, of allowing the cantons, political parties and interested groups to participate in shaping the Confederation's position and decision-making process and, secondly, of determining whether a federal proposal is substantively accurate, feasible and publicly acceptable. Consultation is mandatory when the drafting concerns, *inter*

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<sup>52</sup> [www.fedlex.admin.ch](http://www.fedlex.admin.ch) > Recueil officiel [Official Compendium]

<sup>53</sup> [https://www.fedlex.admin.ch/en/home?news\\_period=last\\_day&news\\_pageNb=1&news\\_order=desc&news\\_itemsPerPage=10](https://www.fedlex.admin.ch/en/home?news_period=last_day&news_pageNb=1&news_order=desc&news_itemsPerPage=10)

<sup>54</sup> <https://www.admin.ch/gov/en/start/documentation/votes.html>

<sup>55</sup> <https://www.aramis.admin.ch/>

<sup>56</sup> <https://www.fedlex.admin.ch/eli/cc/2013/818/fr>

<sup>57</sup> <https://www.fedlex.admin.ch/eli/cc/2005/542/en>

<sup>58</sup> <https://www.fedlex.admin.ch/eli/cc/2005/543/fr>



*alia*, amendments to the Constitution, draft legislation, and orders and other proposals of major political, financial, economic, ecological, social or cultural importance, which significantly affect the cantons or are implemented to a large extent outside the Federal Administration. An optional consultation may also be held for proposals not meeting these conditions.

82. Mandatory consultations on proposals from the Federal Administration are initiated by the Federal Council, while optional consultations are initiated by the relevant department or the Federal Chancellery. The consultation period is normally at least three months. It may be extended as necessary to take account of holiday periods and public holidays as well as the content and size of the proposal. It may be reduced on an ad hoc basis if the proposal will not brook delay. The opinions expressed by the participants in the consultation are summarised neutrally in a report.

83. The Federal Chancellery manages an online list of planned consultations, which is available to the public and kept up to date.<sup>59</sup> Initiation of a consultation entails publication of a notice in the Federal Gazette and a press release by the Federal Council. The consultation documents are published on the publication platform for federal law.<sup>60</sup> They comprise the proposed legislation that is the subject of the consultation, a general account of the planned amendments compared with existing legislation (for an amending enactment), an explanatory report, a cover letter to the parties consulted, and a list of the latter. The consultation documents must normally be produced in the three official languages. Any individual or organisation can submit an opinion during the consultation.

84. The opinions submitted are made available to the public once the consultation period is over. The summary of the consultation results is publicly available once the authority initiating the consultation has read it. The opinions submitted and the summary of results are published on the publication platform for federal law.<sup>61</sup>

85. The GET believes that the rules on legislative transparency and public consultation are comprehensive. During the on-site visit, representatives of civil society criticised a certain lack of transparency in the process for drafting legislation in departments and offices. In their opinion, for example, not all offices met the statutory obligation to submit a summary of the consultation results that was neutral regarding the opinions submitted. As a result, some reports were rather cursory and already endorsed the solution favoured by the Federal Administration or Federal Council. Furthermore, discussions in the Federal Council were confidential. However, the GET considers that this relative lack of transparency is unlikely to distort the functioning of democracy, since there are reliable safeguards, such as the public nature of meetings of the National Council and Council of States, the consultation process, and frequent use of the instruments of direct democracy. Adopting rules on transparency of contacts with third parties and lobbyists (see below) could also help reduce this lack of openness.

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<sup>59</sup> <https://www.fedlex.admin.ch/fr/consultation-procedures/foreseen>

<sup>60</sup> <https://www.fedlex.admin.ch/fr/consultation-procedures/ongoing>

<sup>61</sup> <https://www.fedlex.admin.ch/fr/consultation-procedures/ended/2023>

### *Third parties and lobbyists*

86. Swiss law has no specific rules on relations between PTEFs and third parties who could influence their decisions. Members of the executive are not required to systematically disclose their contacts with such persons. However, the agendas of PTEFs are official documents in the meaning of section 5 FoIA and may be subject to access requests. A study by Transparency International of the quality of lobbying in Switzerland<sup>62</sup> makes clear that “there is [...] no clear and binding legislative framework to ensure that lobbying observes the principles of transparency, integrity and equality of access”, a shortcoming regularly covered by the media.<sup>63</sup> Such a framework and more transparency are vitally needed to underpin the democratic process and maintain public trust in government. Consequently, **GRECO recommends that (i) provisions be introduced concerning contacts between persons with top executive functions and lobbyists/third parties seeking to influence the legislative work and other activities of the Federal Council; (ii) adequate information be disclosed concerning the purpose of such contacts, such as the identity of the person(s) with whom (or on whose behalf) the contact has taken place, and the subject(s) discussed.**

### *Control mechanisms*

87. The Swiss Federal Audit Office (SFAO), governed by the federal act of the same name (SFAOA), of 28 June 1967,<sup>64</sup> is the supreme financial supervisory body of Switzerland. The SFAO supports the federal parliament in the exercise of its constitutional financial powers and its oversight of the Federal Administration and the administration of justice, and the Federal Council in exercising its supervision of the Federal Administration. It is independent and has its own resources under statutory provisions. It establishes its audit programme every year and notifies the Finance Delegation and Federal Council accordingly. It can refuse to accept special assignments if they jeopardise the independence and impartiality of its future audit activities or the execution of its audit programme.

88. The SFAO’s field of supervision is laid down in SFAOA section 8. It exercises financial oversight according to the criteria of regularity, legality and cost-effectiveness. It conducts performance audits in which it clarifies whether resources are being used cost-effectively, whether there is an appropriate balance between costs and benefits and whether outlays have the expected impact. Some specific auditing tasks are described by way of example in SFAOA section 6.

89. The SFAO draws up a report on each audit that it has completed. It informs the administrative unit audited of its findings in writing. At the same time, it sends the full audit report to the head of the relevant department. It submits the audit report and all the associated documents, including the comments of the unit audited, to the parliament’s Finance Delegation. In parallel with reporting to the Finance Delegation, it notifies the parliamentary control committees, or the control delegation, of the main management failures it has found and informs the department head concerned. It produces interim reports for longer audits.

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<sup>62</sup> <https://transparency.ch/fr/publication/le-lobbying-en-suisse-influences-cachees-interets-croises-acces-privilegie/>

<sup>63</sup> [En Suisse, un lobbyiste de l’industrie à la tête du ministère de l’environnement \[Industry lobbyist heading the environment ministry in Switzerland\] \(lemonde.fr\)](https://www.lemonde.fr/en-suisse/article/2017/06/28/en-suisse-un-lobbyiste-de-l-industrie-a-la-tete-du-ministere-de-l-environnement-1418117.html)

<sup>64</sup> [https://www.fedlex.admin.ch/eli/cc/1967/1505\\_1553\\_1547/fr](https://www.fedlex.admin.ch/eli/cc/1967/1505_1553_1547/fr)

90. In addition, the SFAO runs the system for Federal Administration whistleblowers under section 22a of the Federal Employees Act. This system will be described in detail in the section of this report on law enforcement agencies. The FDFA's Compliance Office also manages a special platform for whistleblowers for specific FDFA activities.

91. The internal audit units of the central Federal Administration are governed by SFAOA section 11. They are responsible for financial oversight in their individual fields and report directly to the management of the department or office to which they are attached, but they perform their specialist tasks independently with their own resources. Their rules of procedure are subject to approval by the Federal Audit Office, which can submit proposals to the Federal Council for the creation of internal audit posts. Internal audit units submit an annual report to the SFAO and the department or office management, providing information on: a) the scope and focus of their audit work; b) key findings and assessments; and c) the state of implementation of key recommendations and, if the latter have not been implemented, the reasons for this. If they find core failures of considerable financial importance or unusual incidents, they immediately notify the department or office management and the SFAO.

92. Some departments (FDFA, DDPS, FDJP) and offices that play a key role (buildings, customs, tax, transport, roads, economy, agriculture, social insurance) have their own internal audit units. There are eleven in all.

93. By way of example, the finance inspectorate of the general secretariat of the Federal Department of Justice and Police (GS-FDJP Internal Audit Unit) is the internal auditing body for this department and the administrative units reporting to it. It assists administrative units with reaching their targets by assessing the effectiveness of risk management, audits management/oversight processes and by helping them to improve. In the planning and execution of audits, it follows EXPERTsuisse's current Swiss auditing standards for annual accounts<sup>65</sup> and the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.<sup>66</sup>

94. The Internal Audit Unit is supervised by the secretary general but discharges its duties independently with its own resources. It exercises financial oversight according to the criteria of regularity, legality and cost-effectiveness and carries out the following duties in line with the priorities set out in the annual auditing programme, which is based on risk analysis: review of the entire financial budget at all stages of implementation; review of internal control systems and appraisal of oversight, management, control and risk-management processes; review of the alignment between organisational structures and business processes; project audits and public procurement audits. If it finds serious failings, the Internal Audit Unit sends the head of department an interim report with proposals, and it also notifies the SFAO at once. If a recommendation also concerns the work of other offices or comes within another body's field of supervision, these authorities are notified. The head of the FDJP decides whether the parliamentary control committees and the general public should also be informed. The Internal Audit Unit and the SFAO regularly exchange information and views on problems and developments pending.

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<sup>65</sup> <https://www.expertsuisse.ch/fr-ch/normes-daudit>

<sup>66</sup> <https://www.theiia.org/en/standards/>

95. Parliamentary oversight of the Federal Council and/or Federal Administration is exercised in various ways.

96. The control committees (CCs) are standing committees of the Federal Assembly responsible for exercising parliamentary oversight, including the conduct of business by the Federal Council and the Federal Administration. Their remit is laid down in Article 169 of the Constitution and sections 26 and 52 of the Parliament Act (ParlA). Their oversight focuses on the criteria of legality, expediency and effectiveness. They make recommendations to the responsible authority and monitor their implementation. They can also submit to the Federal Council a motion (instructing it to draft a statutory amendment) or a postulate (instructing it to consider such an amendment). Motions have to be passed by both chambers of parliament, whereas postulates have to be passed by only one of the chambers. Oversight may be exercised at any time, distinct from the Federal Administration's internal oversight. By way of example, the 2022 CC annual programme included 30 ongoing inspections, 14 follow-up inspections, 15 inspections of units and 109 other items.

97. To carry out their oversight, CCs have broader information rights beyond parliamentary committees' general right to information (ParlA section 150): they are able, for example, to deal directly with any authorities, bodies and other agencies entrusted with the tasks of the Confederation and to obtain the information and documents from them that they require (ParlA section 153.1). They decide themselves whom they wish to question and do not require the Federal Council's consent. However, they must notify the Federal Council accordingly, and the latter may, where appropriate, request to be consulted beforehand (ParlA section 153). Persons in the service of the Confederation cannot invoke official secrecy as grounds for refusing to give evidence to CCs. To ensure that the individuals questioned can speak freely, their superiors do not have access to the records of hearings. Lastly, provided it is necessary for oversight, CCs may obtain, on a voluntary basis, information and documents from persons and bodies outside the Federal Administration (for example, from representatives of the cantons or from private individuals).

98. CCs may also inspect certain "documents on which the Federal Council relied directly when taking a decision", that is, the federal departments' accompanying reports, with two restrictions: they cannot inspect the minutes of Federal Council meetings or request information classified as secret in the interests of state security or intelligence (these documents may, however, be inspected by the control delegation). They may also summon persons required to provide information, including individuals formerly in the service of the Confederation.

99. The control delegation (CD) exercises parliamentary oversight over state activities in the fields of civil and military intelligence, state security and all other confidential matters. It has a very broad right to information, including an absolute right to demand all the information that it needs, including the documents on which the Federal Council has relied directly when taking a decision, the minutes of Federal Council meetings, and documents that must be classified as confidential in the interests of state security or the intelligence services or the disclosure of which to unauthorised persons may be seriously detrimental to national interests. The control delegation is also entitled to deal with any authorities, bodies and other

agencies entrusted with the tasks of the Confederation. It can also question individuals as witnesses. Neither official secrecy nor military secrecy can be objected.

100. The CCs and CD publish annual reports;<sup>67</sup> their inspection reports are also published. As part of their work, the CCs generally examine the activity of the Federal Council as the supreme executive authority of the Confederation and of the administrative units concerned. The activities of the members of the Federal Council as such are examined from the point of view of their institutional roles as members of the supreme executive authority and as heads of department in the dossiers examined.

101. The Federal Assembly can also appoint a joint parliamentary investigation committee (PInC) of both chambers if events of importance require investigation (ParIA section 163). However, little use is made of such committees: there have only been six since 1964. In 2023, for example, the Federal Assembly decided to set up a PInC to investigate the role of the federal authorities in the takeover of Credit Suisse by UBS. Work on this is currently underway. A PInC is appointed by simple federal decree, tabled through a parliamentary initiative. The PInC has the same right to information as the control delegations. Among other things it can question individuals as witnesses and obtain minutes of Federal Council meetings and the associated documents. In addition, it can appoint an investigating officer to gather evidence.<sup>68</sup>

### **Conflicts of interest**

102. For the Federal Chancellor and members of the Federal Council, conflicts of interest are governed first and foremost by constitutional, statutory and regulatory provisions relating to incompatibilities, withdrawal and acceptance of gifts. The rules on incompatibilities and accepting gifts will be explained below. It is up to the Federal Council as a collegial body to ensure that these rules are observed.

103. The SFAOA requires participants in Federal Council meetings – that is, the members of the Federal Council, the Federal Chancellor and the vice-chancellors – to withdraw if they have an immediate personal interest in the matter at hand (SFAOA section 20.1). If the Council is making a ruling or deciding on an appeal, the withdrawal provisions of the Administrative Procedure Act (APA, sections 10, 45, 59 and 76)<sup>69</sup> apply. The duty of withdrawal entails an obligation to declare existing or potential conflicts of interest to the Federal Council so that it can, if necessary, decide whether withdrawal is necessary. The procedure is laid down in the order on the organisation of the Federal Council (Org CF). The President of the Confederation notes the withdrawal of the Federal Chancellor, vice-chancellor or member of the Federal Council concerned. If the President himself or herself is required to withdraw, the vice-president notes the withdrawal. In the event of any dispute over withdrawal, the Federal Council decides in the absence of the person concerned. The person required to withdraw cannot participate in preparation of the decision or in the joint reporting procedure for the matter in hand. The matter is then usually assigned to the person's deputy. The person required to withdraw cannot attend the discussions or participate in the decision-making. Since the Federal Council's discussions are not public, conflicts of interest and cases of

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<sup>67</sup> <https://www.parlament.ch/fr/organe/commissions/commissions-surveillance/commissions-gestion-cdg/rapports>

<sup>68</sup> For further information: <https://www.parlament.ch/en/%C3%BCber-das-parlament/parlamentsw%C3%B6rterbuch/parlamentsw%C3%B6rterbuch-detail?WordId=180>

<sup>69</sup> [https://www.fedlex.admin.ch/eli/cc/1969/737\\_757\\_755/en](https://www.fedlex.admin.ch/eli/cc/1969/737_757_755/en)

withdrawal are not usually disclosed. As far as the GET was able to establish, these cases seemed to happen a dozen or so times a year.

104. When the Federal Chancellor or members of the Federal Council are responsible for preparing or issuing a decision that is a matter for their department or the Federal Chancellery, that is, in their capacity as head of department or head of the Federal Chancellery, the above provisions of the APA apply (sections 10, 45, 59 and 76).

105. As for the vice-chancellors, they are subject to the same obligation to withdraw as the Federal Chancellor and members of the Federal Council where Federal Council meetings are concerned. In all other circumstances, they are subject to the general provisions of the APA regarding withdrawal. Under APA section 10.1, persons who are responsible for preparing or issuing a decision must withdraw if they have a personal interest in the matter, if they are related to a party either by marriage or registered partnership or by being the cohabitee of that party, if they are related to a party by blood or by marriage in a direct line or collaterally to the third degree, if they are the representative of a party or if they have acted for a party in the same matter, and, lastly, if they could be regarded for other reasons as lacking impartiality in the matter. The same provisions apply to secretaries general, heads of information and personal staff (OPers section 94a, which refers to the APA).

106. The GET appreciates the fact that conflicts of interest are covered by strict statutory rules on withdrawal. Any conflict, whether real or apparent, must result in withdrawal of the person concerned and notification of their superior where there is any doubt. These rules seemed to be familiar to everyone the GET met during its visit. However, as far as participants in Federal Council meetings are concerned, withdrawals are covered by secrecy of deliberations, making it impossible to ensure that these rules are being observed in practice – although withdrawals are occasionally disclosed voluntarily.<sup>70</sup> According to those spoken to by the GET, this lack of disclosure and the resulting lack of visibility of the oversight for the public are a consequence of the fundamental principle of collegiality, the effects of which are limited by the fact that the Federal Council takes collegial decisions that commit the entire Council. They thought that the fact that the members of the Federal Council come from different parties and do not have the same political interests should enable the risks to be limited. The GET nevertheless considers that these safeguards are not foolproof. As shown by the voluntary disclosure of a withdrawal in the case mentioned above, the GET is of the view that it should be possible to make withdrawals public without disproportionately breaching the secrecy of the Federal Council's deliberations. Therefore, **GRECO recommends that withdrawal of participants from Federal Council meetings be disclosed.**

### **Prohibition or restriction of certain activities**

#### *Incompatibilities, outside activities and financial interests*

107. The Federal Chancellor and members of the Federal Council may not be members of the National Council or Council of States at the same time (Constitution, Article 144.1; GAOA section 60). The Federal Chancellor or members of the Federal Council may not hold any other federal or cantonal office or undertake any other gainful economic activity (Constitution,

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<sup>70</sup> For instance a case of withdrawal concerning the Head of the Federal Department of Home Affairs was disclosed in January 2023.

Article 144.2; GAOA section 60.1). Nor may they hold a position as director, manager or member of an administration, supervisory body or auditing body of an organisation pursuing an economic activity (GAOA section 60.2). They are also prohibited from exercising an official function for a foreign state or accepting a title or decoration from a foreign authority (GAOA section 60.3). The following persons may not be members of the Federal Council at the same time (GAOA section 61):

- two persons married to each other or who live in a registered partnership or as cohabitantes;
- relatives and in-laws related in a direct line or collaterally up to the fourth degree;
- two persons whose spouses or registered partners are siblings.

This provision similarly applies to the degree of relationship between the Federal Chancellor and members of the Federal Council.

108. The Federal Chancellor and members of the Federal Council may, on the other hand, engage in unpaid activities, such as patronage of events, except in the event of a conflict of interests. Where there is any doubt, the Chancellor may be consulted.

109. The holding of financial interests by the Federal Chancellor or members of the Federal Council is governed by the rules relating to incompatibilities and the fact that they are prohibited from engaging in any other gainful activity, profession or trade. However, by virtue of the fundamental right of property ownership and economic freedom (Constitution, Articles 26 and 27), the Federal Chancellor and members of the Federal Council are not prohibited from having business interests provided that they do not take on any business responsibilities. The holding of business interests, like the management of personal wealth, is incompatible with the office of Federal Chancellor or a member of the Federal Council when it amounts to engaging in an outside business activity; the holding of business interests is not subject to any particular restrictions as long as this line is not crossed. If it is, the business interests or the wealth management must then be transferred to a third party in order to solve the issue of incompatibility.

110. The provisions relating to professional incompatibility do not apply to family members of the Federal Chancellor or members of the Federal Council, who are therefore not restricted in their business activities. It is therefore possible, to give one example, for a member elect of the Federal Council to make arrangements for handing over their business to their spouse or one of their children prior to taking office. Any resulting conflicts of interest would be governed by the rules relating to withdrawal.

111. As staff of the Federal Administration, vice-chancellors, secretaries general, heads of communication, office directors and personal staff of heads of department cannot be members of the Federal Assembly (ParIA section 14.1.c). As for their outside activities, the directive on outside activities and public offices<sup>71</sup> applies in the same way as for other federal employees. Any paid activities and public offices outside their work must be declared. Unpaid activities need only be reported if a risk of conflict of interests cannot be ruled out. These activities may require authorisation, which must be refused if a risk of conflict of interests or an adverse effect on performance cannot be ruled out in the specific case, while the principle of proportionality must be observed. An authorisation is filed in the personnel record of the

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<sup>71</sup>[https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalrecht/230\\_nebenbeschaefigungenrichtlinien.pdf.download.pdf/230\\_nebenbeschaefigungenrichtlinien\\_f.pdf](https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalrecht/230_nebenbeschaefigungenrichtlinien.pdf.download.pdf/230_nebenbeschaefigungenrichtlinien_f.pdf)

person concerned. The authorisation must be reviewed if there is a change of circumstances. The directive contains explanations of the procedure to be followed, together with examples and assessment criteria. From the interviews conducted during the visit it emerged that virtually all the staff of members of the Federal Council were working full-time, apart from three people who were working 70% of full time for family reasons.

112. The Federal Personnel Office is planning to produce a standard form for the annual appraisal interview in the Federal Administration, which will be available in the course of 2025. With this form, the subject of outside activities will be raised at the interview as a matter of course. This interview is also carried out for staff of members of the Federal Council.

#### *Contracts with state authorities*

113. Given that the Federal Chancellor and members of the Federal Council are prohibited from engaging in a gainful activity or occupation, it is impossible for them to enter into a contract with state authorities directly. The possibility of such a contract being entered into by a company in which they have business interests is governed by the provisions on withdrawal, which require such persons to withdraw if they have an immediate personal interest in a matter. An interest is “immediate” if it exists at the time in question and not if it existed previously or might exist in the future. There is no “personal” interest if a member of the Federal Council protects the interests of a party, a region or society. The same applies to the Federal Chancellor and members of the Federal Council in their capacity as head of the Federal Chancellery or heads of department. For the vice-chancellors and other PTEFs, reference should be made to the rules on withdrawal and outside activities.

#### *Gifts*

114. As senior members of government, the Federal Chancellor and members of the Federal Council are prohibited from accepting, demanding or securing the promise of gifts or other advantages for themselves or for other persons. Low-value gifts in keeping with social custom, within the meaning of Article 322<sup>decies</sup> of the Criminal Code, form an exception.<sup>72</sup> The material value is the key factor: a low-value gift cannot be worth more than a few hundred francs. If the Federal Chancellor or a member of the Federal Council cannot, in the public interest, refuse a gift as a matter of courtesy, they accept it on behalf of the state. The Federal Council decides on the use of gifts reverting to the state (Org CF section 8).

115. The Federal Chancellery and the general secretariats of the departments keep a list of gifts that the Federal Chancellor and members of the Federal Council have received through their national and international contacts and which are not low-value within the meaning of Org CF section 8.<sup>73</sup>

116. The vice-chancellors and other PTEFs are subject to the rules applying to federal employees contained in LPers section 21.3, in conjunction with OPers section 93. They are thus prohibited from accepting, demanding or securing the promise of gifts or other advantages for themselves or for other persons in the course of activities arising out of their employment contracts. Acceptance of low-value advantages in keeping with social custom is

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<sup>72</sup> [https://www.fedlex.admin.ch/eli/cc/54/757\\_781\\_799/en#art\\_322\\_decies](https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en#art_322_decies)

<sup>73</sup> Memorandum for the Federal Chancellor and members of the Federal Council, section 1.10.



not deemed to be acceptance of gifts for the purposes of the law. A low-value advantage is held to be any gift in kind whose market value is no greater than 200 Swiss francs (€208). Departments may, however, set a lower value (for instance it is 40 Swiss francs, around €40, at the FDFA). Moreover, if PTEFs are involved in a purchasing or decision-making process, they are prohibited from accepting low-value advantages in keeping with social custom if the advantage is offered by an actual or potential bidder or a person participating in the decision-making process or affected by it, or if it is impossible to rule out a connection between the conferral of the advantage and the purchasing or decision-making process.

117. If a vice-chancellor cannot refuse a gift as a matter of courtesy and its acceptance will be in the public interest, they must give it to the Federal Council. The latter accepts and utilises these gifts for the benefit of the state. Where there is any doubt, the vice-chancellor will consider with the Federal Chancellor whether or not the advantages can be accepted. In addition, the vice-chancellors are prohibited from accepting titles or decorations from foreign authorities. The same rules apply to secretaries general, heads of information and personal staff, pursuant to sections 20 to 23 of the Federal Employees Act (LPers) and sections 91 to 94d of the Federal Employees Order (OPers). It is also possible to require an employee to hand over to the state some or all of the income from activities undertaken for the benefit of third parties when these activities arise out of the employment contract. Gifts that cannot be refused as a matter of courtesy must be handed over to the proper authority.

118. The GET noted that the rules on gifts and invitations were clear and were familiar to the persons with whom it spoke, although 200 francs as an acceptable ceiling because of social conventions was rather high. However, any gift or invitation that might affect impartiality must be refused, whatever its amount.

#### *Misuse of public resources, misuse of confidential information*

119. Like all PTEFs, the Federal Chancellor and members of the Federal Council are subject to:

- the relevant provisions of special legislation, in particular section 154 (use of insider information) and section 155 (price manipulation) of the Federal Law on financial market infrastructure and market conduct in securities and derivatives trading (Financial Market Infrastructure Act<sup>74</sup>);
- the criminal provisions of the new Data Protection Act, effective from 1 September 2023<sup>75</sup>;
- the provisions of the Criminal Code, in particular Article 137 onwards (offences against property, including unlawful appropriation, misappropriation, unauthorised obtaining of data, unauthorised access to a data processing system and damage to data),<sup>76</sup> Article 312 onwards (offences against official or professional duty)<sup>77</sup> and Article 265 onwards (felonies and misdemeanours against the state and national security).<sup>78</sup>

120. The same applies to the vice-chancellors, secretaries general, heads of communication and personal staff of the heads of department, who are further bound by a duty of loyalty to

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<sup>74</sup> <https://www.fedlex.admin.ch/eli/cc/2015/853/en>

<sup>75</sup> <https://www.fedlex.admin.ch/eli/oc/2022/491/fr>

<sup>76</sup> [https://www.fedlex.admin.ch/eli/cc/54/757\\_781\\_799/en#book\\_1/part\\_1/tit\\_2](https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en#book_1/part_1/tit_2)

<sup>77</sup> [https://www.fedlex.admin.ch/eli/cc/54/757\\_781\\_799/en#book\\_2/tit\\_17](https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en#book_2/tit_17)

<sup>78</sup> [https://www.fedlex.admin.ch/eli/cc/54/757\\_781\\_799/en#book\\_2/tit\\_12\\_quater](https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en#book_2/tit_12_quater)

their employer and by the professional, trade and official secrecy arising from their employment (LPers sections 20 and 22; OPers section 94). They are prohibited from using confidential information received in the course of their duties for their own personal gain or for that of third parties. Lastly, the Federal Administration's code of conduct for staff is also intended to prevent misuse of confidential information.

121. Misuse of public resources, such as embezzlement (e.g. the state paying for the maintenance of private assets, staff working for the private benefit of a PTEF) or biased attribution of resources as a result of clientelism, in favour of one particular party or for campaign financing purposes (e.g. misuse of public media), constitutes a breach of the duty of loyalty and can have consequences in terms of labour law, disciplinary procedures and criminal law.

### *Post-employment restrictions*

122. There are no specific legal rules concerning posts taken by the Federal Chancellor and members of the Federal Council after they have left office. However, the memorandum that they are given stipulates that if they wish to engage in a gainful activity subsequent to their term of office, they must choose their new activities with due care and avoid any activity that might result in a conflict of interests because of their previous office.

123. Under section 94b of the Federal Employees Order,<sup>79</sup> the employer can agree, in particular with secretaries general and other senior officials of the Confederation on a waiting period of between six and twelve months once they leave office if their future activity with certain employers or clients, whether paid or unpaid, may be expected to lead to a conflict of interests. This period may be agreed at the start of employment or subsequently, for example in preparation for termination. Agreement of a waiting period means that the person concerned might have a decisive influence on individual decisions of considerable importance or could have access to critical information that might lead to conflicts of interest when changing to an employer or client directly concerned by such information. An allowance can be agreed for the waiting period. In this case, the person concerned is required to notify of income, allowances and pension payments received during this period. Criteria for use of the waiting period, together with awareness-raising measures, were drawn up in 2022-2023, on the initiative of the conference of secretaries general (CSG) by the Federal personnel office with the support of the heads of human resources in the departments and Federal Chancellery.

124. Most of the people to whom the GET spoke emphasised the shortcomings of the rules applying to the post-employment period. Regarding the Federal Chancellor and members of the Federal Council, the Memorandum's simple injunction to choose their subsequent activities with care is clearly not enough. For other PTEFs, the option of a waiting period – the statutory length of which, between six and twelve months, is very short – is not used in practice. It emerged from interviews that it was a barrier to recruitment and its inclusion in employment contracts entailed financial compensation. The Federal Audit Office has looked at the use of section 94b of the Federal Employees Order in practice<sup>80</sup> and also found that this section remained a dead letter. The GET was informed of several problematic examples of

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<sup>79</sup> [https://www.fedlex.admin.ch/eli/cc/2001/319/fr#art\\_94\\_b](https://www.fedlex.admin.ch/eli/cc/2001/319/fr#art_94_b)

<sup>80</sup> [Combating corruption: Evaluation of the implementation of the Federal Council's resolution of 19 October 2008 - Federal Council - State Audit Office \(admin.ch\)](#)

PTEFs moving to the private sector,<sup>81</sup> which clearly showed that binding rules were required on this issue. There are a number of options for dealing adequately with the potential conflicts of interest inherent in the transition of PTEFs to the private sector, such as a waiting period with a ban on certain types of activities or a mechanism whereby PTEFs would have to obtain authorisation or seek advice on their new activities following their transition to the public service. **GRECO recommends that binding post-employment rules be put in place on the employment of persons with top executive functions after they have left office.** As regards the supervision and enforcement of these rules, reference is made to recommendation x.

### **Declaration of assets, income, liabilities and interests**

125. The Federal Chancellor and members of the Federal Council are under no obligation to divulge their assets, income, liabilities or interests, other than for the purposes of income tax and wealth tax. There is consequently no corresponding oversight mechanism. However, when a newly elected member of the Federal Council takes office, he or she immediately takes steps to give up his or her previous professional activities and functions. This is a well-established practice, which is also mentioned in the literature. If there is no specific external control mechanism for declarations of assets, the general mechanisms apply (see paragraphs 139-140).

126. The vice-chancellors, secretaries general, heads of communication and personal staff are required to provide information on some financial items (assets, financial interests, sources of income, liabilities) for personal security clearance (PSC, see paragraph 52 onwards). This information is not disclosed, but it is checked. Any outside activities must be reported to superiors or the relevant division of the administrative unit (Federal Employees Order, section 91). Paid outside activities are recorded in the staff information system. The outside activities of senior executives, including secretaries general and other PTEFs, are public and provided upon request. However, as indicated above, PTEFs seldom engage in outside activities in practice. More generally, the Swiss authorities would also like to point out that, in accordance with measure 8 of the Federal Council's anti-corruption Strategy 2021-2024, an external study has been carried out into the legal possibilities of introducing a duty to declare for office-holders exposed to increased risks of corruption. This study, which has been published on the IDWG website<sup>82</sup>, provides a starting point for the discussions currently underway on the possible introduction of a duty to declare.

127. PTEFs' family members and relatives are not required to make any declarations by law. Nor are there any statutory provisions governing their economic activities.

128. The GET takes the view that transparency regarding the financial and business interests of members of the Federal Council and other PTEFs is an important means of preventing corruption, particularly by revealing potential conflicts of interest. At the start of their terms

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<sup>81</sup> For former members of the Federal Council, see in particular the case of the former federal councillor head of the Federal Department of the Environment, Transport, Energy and Communications (DETEC) in 2010; for other PTEFs, see the case of the former secretary general of the Federal Department of Economic Affairs, Education and Research (EAER) who became director of the umbrella association for the metal industry in 2018 or a former director of the State Secretariat for International Financial Matters (SFI) who became director of the Swiss Bankers Association in 2019.

<sup>82</sup> <https://www.eda.admin.ch/eda/fr/dfae/politique-exterieure/secteur-financier-economie-nationale/corruption/groupe-travail-lutte-corruption.html>

of office and at regular intervals thereafter, these persons should provide a declaration of assets, income, liabilities and financial interests, which should be made public. In this respect, consideration should also be given to including the interests of partners and dependants in these declarations, on the understanding that this information would not necessarily have to be disclosed, owing to privacy. Furthermore, in line with GRECO's practice, some form of review by the authorities of the information contained in the financial declarations would be necessary. This would provide additional safeguards and, *inter alia*, ensure that the public had access to accurate information. Therefore, **GRECO recommends that (i) persons with top executive functions be required to declare their assets, income, liabilities and financial interests publicly on a regular basis; (ii) consideration be given to including the interests of a PTEF's spouse, partner and dependants in this declaration (it being understood that this information would not necessarily have to be made public); and (iii) these declarations be subject to an appropriate review.**

### **Accountability and enforcement mechanisms**

#### *Criminal proceedings and immunities*

129. The Federal Chancellor and members of the Federal Council have both absolute and relative immunity. Absolute immunity covers the statements they make in Parliament and its organs and covers both civil and criminal proceedings (Constitution, Article 162.1). For offences directly connected with their activity or official position, the Federal Chancellor and members of the Federal Council have relative immunity (Liability Act (LRCF), section 14<sup>83</sup>). This protects them from prosecution but not from civil lawsuits. Unlike absolute immunity, relative immunity can be lifted by the parliamentary committees responsible (the Immunity Committee of the National Council and the Legal Affairs Committee of the Council of States) at the request of a prosecution authority.<sup>84</sup> For the authorisation process, the committees first check whether the offence charged is covered by relative immunity. If there is no direct connection with the official position or activity, they do not pursue the matter, and the prosecution authority can commence a prosecution. If the committees pursue the matter, they next consider whether immunity should be lifted. They then proceed to weigh up the interests of the institutions concerned and of the rule of law with regard to prosecution. In the event of the two committees taking different decisions, a committee's second refusal (to pursue the matter further or to lift immunity) is final. Each committee decision entails a report, which is published. Statistics on applications to lift immunity are given below.

130. Relative immunity is also material to criminal proceedings if (before authorisation to prosecute) the secrecy of postal services and telecommunications must be lifted to prevent or prosecute an offence or if other investigative measures are necessary for an initial clarification of the facts or preservation of evidence. In these cases a committee consisting of the speakers and deputy speakers of the two chambers will decide.

131. Lastly, it should be noted that, under LRCF section 14.3 in conjunction with ParIA section 17, paragraphs 2 and 3, the competent committees may assign judgment of an offence subject to cantonal jurisdiction to the federal prosecution authorities, and the Federal Assembly (both chambers) may appoint a special attorney general.

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<sup>83</sup> [https://www.fedlex.admin.ch/eli/cc/1958/1413\\_1483\\_1489/fr](https://www.fedlex.admin.ch/eli/cc/1958/1413_1483_1489/fr)

<sup>84</sup> For further information on the parliamentary committees' principles of action and the procedure in this field, see: [https://www.parlament.ch/centers/documents/\\_layouts/15/DocIdRedir.aspx?ID=DOCID-3-1901](https://www.parlament.ch/centers/documents/_layouts/15/DocIdRedir.aspx?ID=DOCID-3-1901).

132. For all other PTEFs, LRCF section 15 states that authorisation from the Federal Department of Justice and Police (FDJP) is required to prosecute officials for offences connected with their official position or activity, apart from road traffic offences.

133. The authorisation procedure for prosecution is solely designed to protect federal officials from clearly unfounded criminal proceedings and thus ensure the smooth operation of the Federal Administration. The FDJP does not replace the prosecution authorities and authorises prosecution not only once preliminary examination of the case indicates that an offence and the statutory requirements for prosecuting it exist but also if this possibility cannot be ruled out with absolute certainty. The FDJP therefore works on the assumption that granting of authorisation is the rule and refusal the exception.

134. In practice the FDJP receives an application to authorise prosecution from the Office of the Attorney General of Switzerland, accompanied by the case file. After an initial examination of the documents, the suspect and the management of the suspect's department are granted a hearing. The FDJP then considers all the evidence at its disposal and gives its ruling. The whole process is carried out within three months at most in order to have as little impact as possible on the work of the prosecution authorities.

135. Authorisation to prosecute – the outcome of the vast majority of decisions – is final. A refusal, which is extremely rare, can be challenged before the Federal Administrative Court. Most refusals concern vindictive complaints against staff working in exposed positions (such as medical officers confirming the end of compensatory allowances). For the less serious cases (LRCF section 15.3) the FDJP will consider a refusal only if the employer has given express consent beforehand and confirms having already ordered an alternative disciplinary measure. Authorisation decisions are delivered by the FDJP secretary general and refusals by the head of department. Generally speaking, the FDJP interprets LRCF section 15.3 narrowly, in that preliminary authorisation is always granted when it is impossible to clearly rule out the statutory conditions for prosecution, which do not exist in minor cases, and when disciplinary action does not appear an adequate penalty.

136. Between 2013 and 2021 the FDJP dealt with 100 applications for authorisation to prosecute and delivered 86 authorisations (see "Statistics" below). Four applications were dismissed because the cases were not serious and had been settled by disciplinary action. Only ten cases were dismissed for being manifestly unfounded. None had been taken to appeal. Finally, it should be noted that over the same period four cases concerned top officials of the Federal Administration and they all resulted in authorisation to prosecute.

137. Regarding civil action, the Confederation is liable for damage or loss unlawfully caused to a third party by its organs, irrespective of the latter's culpability (Constitution, Article 146; LRCF section 3.1<sup>85</sup>). The concept of an organ is interpreted broadly, covering all persons vested with public office by the Confederation, such as members of the Federal Council, the Federal Chancellor and the vice-chancellors. These persons are responsible to the Confederation for damage or loss that they have caused directly by violating their official duties wilfully or by gross negligence (LRCF section 8).

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<sup>85</sup> [https://www.fedlex.admin.ch/eli/cc/1958/1413\\_1483\\_1489/fr](https://www.fedlex.admin.ch/eli/cc/1958/1413_1483_1489/fr)

138. The GET notes that little use has been made to date of the rules of immunity covering the Federal Chancellor and members of the Federal Council and that these rules do not seem to preclude prosecution. The same applies to the authorisation procedure for prosecution of other PTEFs, since refusals are extremely rare.

#### *Non-criminal enforcement mechanisms*

139. As a collegial body, the Federal Council itself oversees its members' compliance with the statutory rules on withdrawal and incompatibility and with rules of conduct (acceptance of offices and functions after leaving office, participation by members of the Federal Council in their parties' events). There is no specific external body responsible for ensuring compliance with these rules. The relevant control committees of the Federal Assembly may, however, review the conduct of business by the Federal Council for the purposes of parliamentary oversight and, if necessary, make recommendations for improvement (ParlA sections 26 and 52).

140. The GET has doubts concerning the effectiveness of existing arrangements for monitoring the observance of rules of conduct by the Federal Chancellor and members of the Federal Council. According to the authorities, it is the Federal Council itself, as a collegial body, that is responsible for such oversight. However, it is not covered by any formal mechanism, the business of the Federal Council is conducted *in camera*, and the GET is not aware of any cases in which members of the Federal Council were penalised for failing to observe the rules of conduct.

141. Moreover, the Federal Council is subject to oversight by the Federal Assembly's control committees, possible parliamentary investigations – very rare in practice – and supervision by the Federal Audit Office. The Swiss authorities argue that parliamentary oversight includes monitoring compliance with the rules of conduct in terms of legality, regularity, appropriateness, effectiveness and economic efficiency (art. 26 al. 3 ParlA). In the event that the supreme supervisory bodies become aware of possible breaches of the rules of conduct within the Federal Council, they have all the necessary room for manoeuvre to carry out the appropriate clarifications. The CCs have made use of this possibility on several occasions in recent years. The CCs reports are also published. Examples include the inspection into the indiscretions within the Federal Council during the Covid-19 pandemic and the inspection into the attempted blackmail of a member in office of the Federal Council. In addition, the mechanism of high parliamentary scrutiny operates in a democracy of concordance, in which no party has obtained a majority either in the government or in one of the two chambers of parliament since at least 1959. Nonetheless, the GET believes that the issue of compliance with ethical rules should be strengthened in all existing control procedures. Therefore, **GRECO recommends that oversight arrangements and appropriate sanctions be strengthened with regard to compliance with rules of conduct by the Federal Chancellor and members of the Federal Council.**

142. Like other federal employees, the secretaries general of departments, heads of communication and personal staff undergo an annual appraisal interview, in which the issue of conflicts of interest has to be raised – this measure stems from the Federal Council's anti-corruption Strategy 2021-2024. They are subject to the disciplinary procedure governed by labour law pursuant to sections 98 and 99 of the Federal Employees Order. Depending on the seriousness of the offence, the employer may open a disciplinary investigation that can lead

to the following disciplinary measures: a warning; a change in working hours; a change in field of activity; a 10% salary cut for a maximum of one year; a fine of up to 3,000 francs (€3,123). The responsibility for such measures lies with the employee's superiors together with the personnel office and, where appropriate, the legal department of the administrative unit concerned. Breach of ethical standards can also be grounds for dismissal or immediate termination of an employment contract.

### Statistics

143. Over the past five years the relevant committees of the Federal Assembly's two chambers have dealt with a total of six applications for lifting of relative immunity, none of which concerned the Federal Chancellor or members of the Federal Council. There have been no cases concerning absolute immunity.

144. For federal employees:

#### Authorisations to prosecute in cases concerning liability of federal employees Statistics 2013-2021

| Year             | Number of applications   | Authorisation | Refusal                                 |                       |
|------------------|--|---------------|---|-----------------------|
|                  |  |               | Less serious case / disciplinary action | Unfounded application |
| <i>From 2013</i> | <i>Authority with the FDJP (LRCF section 15) Delegation of signing authority to secretary general except where authorisation is refused (decision by head of department)</i> |               |   |                       |
| <b>2013</b>      | <b>14</b>  | <b>12</b>     | 0                                       | 2                     |
| <b>2014</b>      | <b>14</b>  | <b>14</b>     | 0                                       | 0                     |
| <b>2015</b>      | <b>12</b>  | <b>9</b>      | 0                                       | 3                     |
| <b>2016</b>      | <b>13</b>  | <b>12</b>     | 1                                       | 0                     |
| <b>2017</b>      | <b>16</b>  | <b>14</b>     | 1                                       | 1                     |
| <b>2018</b>      | <b>9</b>   | <b>7</b>      | 0                                       | 2                     |
| <b>2019</b>      | <b>4</b>   | <b>3</b>      | 0                                       | 1                     |
| <b>2020</b>      | <b>9</b>   | <b>8</b>      | 1                                       | 0                     |
| <b>2021</b>      | <b>9</b>   | <b>7</b>      | 1                                       | 1                     |

145. The authorities are aware of only one case of public accusations against a PTEF in the last five years. A criminal investigation is currently under way against the former Head of Information of the Federal Department of Home Affairs for possible breach of official secrecy. The presumption of innocence applies. The person concerned has resigned.<sup>86</sup>

<sup>86</sup> <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-89182.html>

## V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

### Organisation and accountability of the law enforcement/police authorities

#### *Overview of various law enforcement authorities*

146. In Switzerland, which is a federal state, responsibilities of state normally come within the jurisdiction of the cantons unless the Federal Constitution provides otherwise. Thus the federal level possesses only those powers specifically assigned to it by the Constitution. Regarding the police, the Confederation does not have general jurisdiction, since this is a responsibility mainly conferred on the cantons. Police duties are therefore carried out mostly by the cantonal and/or municipal police authorities. These are responsible in particular for maintaining law and order and tackling crime that is not primarily intercantonal or international.

147. At the federal level there are also, however, police authorities with a specific remit. These include the Federal Office of Police (fedpol, see paragraph 158 below), the Federal Office for Customs and Border Security (FOCBS, see paragraph 148 below), the Transport Police (which is the responsibility of transport companies but governed by federal law) and the Military Police, which is responsible for order and security within the armed forces. The Fifth Round Evaluation concerns the following two authorities:

- The Prosecution and Operations Directorates of the Federal Office for Customs and Border Security, which are responsible for, among other things, handling border security and related criminal investigations. Between them they have over 3,500 employees, mainly customs and border-security specialists. Operational staff wear uniform and may be armed, depending on their job.
- The Federal Criminal Police: This division has over 400 employees and is the main partner of the Office of the Attorney General of Switzerland (evaluated in the Fourth Round) for investigating criminal cases within the remit of the federal justice system. It is responsible for tackling organised crime, terrorism, corruption and economic crime.

#### *Organisation and accountability of selected law enforcement authorities*

### Federal Office for Customs and Border Security (FOCBS)

148. The main responsibility of the FOCBS is to ensure the safety and protection of the population, the economy, the Swiss state and the environment. It employs some 4,500 people and operates within Switzerland, at the borders and abroad. The main statutory provisions underpinning its responsibilities are customs law and customs tariff law.<sup>87</sup> The FOCBS is also the implementing body for much legislation that does not come under customs law. It is currently acting as a supervisory body in a hundred or so fields and working with some 25 federal offices responsible for these fields (e.g. food inspection at the border; protection of animals, plants and endangered species; inspection of hazardous freight; drug safety, etc). Lastly, the FOCBS's activities in the security field have to be co-ordinated with the corresponding responsibilities of the federal and cantonal police, as required by customs law. Outside the customs field, the cantons can delegate certain responsibilities to the FOCBS

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<sup>87</sup> [Customs Act](#), [Customs Order](#), [FDf Customs Order](#), [FOCBS Customs Order](#)



under administrative agreements. A chart showing delegation of cantonal responsibilities to the FOCBS is available online.<sup>88</sup>

149. The FOCBS comes under the Federal Department of Finance (FDF). The head of the FDF bears policy responsibility for running her department. Among other things, she sets the guidelines for running the department and, if necessary, delegates selected responsibilities of the department to the administrative units (GAOA section 37<sup>89</sup>). In terms of procedure the FOCBS, like a number of other federal offices, applies the Administrative Criminal Law Act,<sup>90</sup> which contains no specific provisions on operational independence. However, the GET has established that the latter seems to be guaranteed in practice. The independence of the FOCBS is also monitored by the press, which has access to documents through the Freedom of Information Act (see below).

150. The FOCBS is divided into six directorates, among which the Operations Directorate and the Prosecution Directorate, which have a law enforcement remit. The other directorates are Risk Analysis and Analytics, Planning and Steering, Policy, and Support, which provide the basics for performing the work of the office and support operational staff in their duties.

151. The Operations Directorate covers Customs and the Border Guard, that is, all the FOCBC's operational law enforcement officers (LEOs). It comprises a central headquarters and six regional levels, themselves divided into 23 local levels.

152. The Prosecution Directorate is the investigative body of the FOCBS. It has some 190 specially trained staff with police powers and is responsible in particular for tackling serious cases of smuggling. It has four investigation units (divided up geographically), a preliminary investigation and online research unit, a unit responsible for delivering rulings in criminal cases, an observation and intervention unit and a command and professional conduct unit. The heads of these eight units, together with the head of the Prosecution Directorate, constitute the executive committee of the Prosecution Directorate, which meets roughly every fortnight.

153. The Operations Directorate has law enforcement powers under the Administrative Criminal Law Act but only in the cases specified in section 65, that is, for summary procedures. The conditions required for such procedures are clearly laid down in the law, and no investigative action can be undertaken by Operations Directorate staff. Internal guidelines issued by the Prosecution Directorate set out what is punishable and how. Any cases not meeting the requirements of Administrative Criminal Law Act, section 65, must be forwarded to the Prosecution Directorate for action. In addition, the Prosecution Directorate undertakes specific annual monitoring of application of the guidelines by the Operations Directorate.

154. The official work and financial management of the FOCBS are made public in the public accounts published annually,<sup>91</sup> which account to Parliament for budget implementation. In

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[https://www.bazg.admin.ch/dam/bazg/fr/dokumente/gwk/verwaltungsvereinbarungen/20221110\\_Delegation\\_smatrix\\_kantonaler\\_Aufgaben\\_BAZG\\_DE.pdf.download.pdf/20221110\\_Delegationsmatrix\\_kantonaler\\_Aufgaben\\_BAZG\\_FR.pdf](https://www.bazg.admin.ch/dam/bazg/fr/dokumente/gwk/verwaltungsvereinbarungen/20221110_Delegation_smatrix_kantonaler_Aufgaben_BAZG_DE.pdf.download.pdf/20221110_Delegationsmatrix_kantonaler_Aufgaben_BAZG_FR.pdf)

<sup>89</sup> Government and Administration Organisation Act of 21 March 1997, RS [172.010](#)

<sup>90</sup> RS [313.0](#)

<sup>91</sup> [State financial statements \(admin.ch\)](#)

addition, the use of the FOCBS's financial resources may be subject at any time to an audit by the Federal Audit Office (SFAO). The audits carried out by the FOCBS itself are also published.

155. In 2022, women made up 25.8% of FOCBS staff (out of a total 4,689 employees). The Prosecution and Operations Directorates accounted for 81.1% of the FOCBS total average workforce in 2022 (in full-time equivalents). In these two directorates, women made up 23.5% (out of a total 3,773 employees).

156. The FOCBS is currently undergoing structural transformation,<sup>92</sup> set to continue until 2026, which includes the creation of a new job title of "customs and border-security specialist" and the adaptation of the legal bases. This new title will replace the occupations of customs officer, governed by civil law, and border guard, currently governed by military criminal law, as soon as the new law implementing the FOCBS's tasks enters into force. This means that eventually all specialists will be governed by civil law.

157. The GET discussed this transformation during its on-site visit. The law underpinning it has been the subject of many discussions in Parliament, following allegations that the institutional transformation would be introduced before the corresponding statutory framework was in place. This has led the control committee of the Council of States to criticise the Federal Council's work on this issue. Pending the adoption of the total revision of customs legislation, new recruits are already undergoing training for the new occupation, further to the entry into force of the corresponding legal bases. These changes have, however, given rise to some discontent among the staff, in particular customs officers, who will have a lower salary grade and whose dominant perception is that their professional occupation is eventually going to disappear. The GET encourages the Swiss authorities to move forward with this issue openly, in line with the recommendations of the control committee of the Council of States.<sup>93</sup>

### Federal Criminal Police (PJF)

158. The Federal Office of Police (Fedpol) is Switzerland's federal police agency. It is the sole contact for police forces in Switzerland and abroad, and its tasks comprise criminal investigations, security duties, administrative duties and support and co-ordination. Criminal investigations are the responsibility of the PJF, which is the subject of this assessment. As for security, the Federal Security Service ensures the safety of people and property of the Swiss state and that of people and property afforded protection under international law. Administrative duties relating to explosives, pyrotechnics, weapons, foreign nationals, incitement to violence, and violence at sporting events are performed by the directorates responsible for these areas. As for support work, Fedpol maintains police databases for federal and cantonal prosecution authorities. Lastly, Fedpol is a national information, co-ordination and assessment centre for its cantonal and international partners. Fedpol accounts for 4% of Swiss police staff, and 60% of its employees are civilians. Most come from cantonal police authorities.

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<sup>92</sup> The new framework law for the FOCBS (LE-OFDF) will replace the current Customs Act, which will be downgraded to a law on customs duty. The draft dispatch and the draft law covering this complete overhaul of customs legislation are currently being discussed in Parliament.

<sup>93</sup> *Transformation de l'AFD en OFDF : aspects légaux et opportunité*, report by the Control Committee of the Council of States, 23 May 2022.

159. The PJF is a civil organisation. It employs 413 people in total<sup>94</sup>, of whom 74% are male and 26% female. It consists of eight divisions: three investigation divisions, three investigation support divisions, an operations division and a management, planning and staff division for administrative and strategic support. The PJF as a whole is divided into 27 operational centres and 4 administrative sectors.

160. Fedpol comes under the Federal Department of Justice and Police (FDJP). The PJF's operational independence is secured by Article 4.1 of the Criminal Procedure Code<sup>95</sup> (which applies to the PJF pursuant to Article 14 of the same code). The activities of Fedpol and the PJF, in terms of targets agreed annually with the FDJP, are recorded in a performance certificate. These items are included in Switzerland's public accounts. As in the case of the FOCBS, use of the PJF's financial resources may be subject to an SFAO audit at any time, and these audits are published.

### *Access to information*

161. As entities of the Federal Administration, the FOCBS and Fedpol come within the scope of the Federal Law of 17 December 2004 on freedom of information in the Federal Administration (Freedom of Information Act, FoIA),<sup>96</sup> the Data Protection Act of 25 September 2020 (DPA)<sup>97</sup> and the Archiving Act (ArchA).<sup>98</sup>

162. In terms of substance, the FoIA applies to official documents, which are defined broadly: as any information which has been recorded, regardless of the medium, or any official document which can be drawn up by means of a simple computerised process from recorded information, retained by the authority which issued it or to which it has been communicated and which concerns the fulfilment of a public task. There are some restrictions on the substantive scope, for example for documents relating to civil or criminal proceedings, mutual assistance or when special provisions in other federal acts declare certain information to be confidential, as in the case of tax secrecy in the area of VAT.

163. Any person has the right to inspect official documents and to obtain information about their content. It is possible to request a copy of the documents or inspect them on the spot. There are certain exceptions to this right, which are construed narrowly by the courts: for example, if access hinders an authority in taking specific measures or may adversely affect the privacy of a third party – unless, in the latter instance, the public interest is considered to outweigh the exception in a particular case. If possible, official documents must be anonymised; if they are not, provision of personal data is governed by the statutory framework laid down in DPA section 36 and GAOA section 57 and following (FoIA section 9).

164. Any person wanting access to official documents must submit an application to the authority that has produced them or received them as the primary addressee from third parties not subject to the FoIA. For applications by journalists, the authority is required, as far

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<sup>94</sup> As of May 2024.

<sup>95</sup> Criminal Procedure Code (CrimPC), Article 4.1: "The criminal justice authorities are independent in applying the law and bound solely by the law."

<sup>96</sup> RS [152.3](#)

<sup>97</sup> RS [235.1](#)

<sup>98</sup> RS [152.1](#)

as possible, to take account of the journalist's reporting deadline (section 9 of the order of 24 May 2006 on freedom of information in the Federal Administration, FoIO<sup>99</sup>).

165. When an authority is considering granting access to documents containing personal data, it must, before providing these documents, consult any third parties concerned and give them the opportunity to respond within ten days (FoIA section 11). The authority must make a decision no later than 20 days after receipt of the application. This deadline may be extended by 20 days if a large number of documents is concerned or if the documents are complex or difficult to obtain; if personal data are concerned, the deadline is extended by the necessary period (FoIA section 12).

166. The applicant can submit a request for mediation to the Federal Data Protection and Information Commissioner (FDPIC) if access to official documents has been restricted, deferred or refused or if the authority has not made a decision on the application within the deadline. A person affected by the request may also submit a request for mediation if, after they have been consulted, the authority intends to grant access contrary to that person's wishes. If a settlement is reached through mediation, the proceedings are deemed to be concluded. If no settlement is reached, the FDPIC must provide the participants in the mediation proceedings with a written recommendation within 30 days of receipt of the request for mediation. The authority must issue a ruling, which is open to challenge, if within ten days of receipt of the recommendation the applicant or the person consulted so requests. It must also issue a ruling if, contrary to the recommendation, it intends to restrict, defer or refuse the right of access to an official document or grant the right of access to an official document containing personal data. The ruling must be issued within 20 days of receipt of the recommendation or the request for a ruling. This ruling can be challenged through an appeal to the Federal Administrative Court (FAC) and then a public-law appeal to the Federal Supreme Court.

167. The Data Protection Act (DPA) applies to the processing of data on individuals by federal bodies. Any person may request information from the controller on whether personal data relating to them is being processed. The controller must among others provide the applicant with all the processed information concerning them, the purpose of processing, and including the length of storage of personal data processed or the criteria for determining the latter, as well as the information available on the origin of the personal data, insofar as such data has not been collected from the data subject. Access to the information requested may be refused, restricted or delayed if a formal law so provides or if it is necessary to safeguard overriding public or third-party interests, particularly if provision of the information may compromise a criminal investigation or any other investigative proceedings. It is possible to challenge the authority's ruling by lodging an appeal with the Federal Administrative Court and then a public-law appeal with the Federal Supreme Court.

168. Under the Archiving Act (ArchA) the archive records of the Confederation are also available for consultation free of charge after the expiry of a period of 30 years, or 50 years if they contain personal data. However, it is possible to consult the records during the retention period if there are no statutory provisions that prevent this and if no overriding public or private interests preclude consultation. In this case, the consultation may be made subject to conditions. It should be noted that if it is not possible to provide documents under the

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<sup>99</sup> RS [152.31](#)

Archiving Act, the authority has to determine whether they could be obtained in another way, such as under the Freedom of Information Act.

169. In the case of criminal proceedings, Article 29.2 of the Constitution guarantees the right to be heard, which includes access to the case file and the right to be informed about the course of proceedings. For criminal proceedings conducted by the FOCBS this principle is given effect by section 36 of the Administrative Criminal Law Act in conjunction with sections 26 to 28 of the Administrative Procedure Act of 20 December 1968 (APA). Under section 18 of the FoIO, the FOCBS can inform the public by publishing information online as to its functions and important matters for which it is responsible, provided there are no statutory provisions to the contrary. However, this provision has not yet been applied in practice in the FOCBS, since no cases that are sufficiently serious or of overriding public interest have occurred. As for the PJF, its work comes under the Criminal Procedure Code of 5 October 2007 (CrimPC),<sup>100</sup> which governs the right to be heard and the right of access to case documents in its Articles 107 and 108.

170. In practice, the FOCBS receives some thirty access requests a year under the FoIA, covering all its fields of activity. Preparation and dispatch of replies occupies 4 to 5 people and takes up 10-15% of their work. Fedpol receives a dozen or so requests a year, relating mainly to security issues, budget and operational activities. For both authorities, refusal of an access request is rare, as are mediation and appeals. Employees responsible for replying to access requests are given online training on the FoIA. Online data protection training is also mandatory for all federal employees. The GET found from interviews during its visit that the rules on transparency and access to information in the law enforcement authorities being assessed were clear and seemed to be properly observed in practice.

#### *Public confidence in the selected law enforcement authorities*

171. The authorities did not mention any specific studies or surveys regarding public confidence in the FOCBS and PJF. However, it emerged from interviews during the visit that the law enforcement authorities generally enjoyed the public's confidence.

#### *Trade unions and professional associations*

172. For the FOCBS, mention may be made of the following trade unions and professional associations:

- [Garanto, the union for customs staff](#)
- the [Border Guard Association](#), a branch of the [Federal Staff Association](#)

173. More broadly, there are:

- the [Federal Employees Association \(APC\)](#)
- the [Transfair union](#)

174. For Fedpol, mention may be made of the following trade unions and professional associations:

- the [Fedpol Staff Association](#), a branch of the Swiss Federation of Police Officials (FSFP)
- the Federal Police Officers Association (SPC)

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<sup>100</sup> RS [312.0](#)

175. More broadly, there are:

- the [Federal Employees Association \(APC\)](#)
- the Transfair union
- the Swiss Public Services Union (SSP): Bern Federal Employees

176. The basis for collaboration between the various public-sector professional associations and the employer are laid down in labour law.<sup>101</sup> These associations play no particular role in integrity policy. The Director of the FOCBS meets representatives of these unions and associations four times a year in order to discuss issues and topics of overriding interest or of a fundamental nature. Discussions are also used to communicate important decisions taken by the Management Committee (MC FOCBS), such as projects that have an impact on staff. Once a year, the MC FOCBS organises an information conference with the social partners focusing on current issues and problems. The head of Fedpol meets representatives of these unions and associations twice a year in order to exchange views and provide information on Fedpol's current plans. Lastly, the Federal Administration has a bipartite follow-up committee (BAS), consisting of employers' and employees' representatives equally. The committee is chaired by the management of the Federal Personnel Office. It is an advisory body which ensures that productive and co-operative decision-making takes place between management and labour.

177. Neither the FOCBS nor Fedpol has information on the membership of the various unions and professional associations, since the latter are independent from the employer.

### **Anti-corruption and integrity policy**

*Anti-corruption and integrity strategy, measures to manage corruption risks in at-risk departments*

178. Generally speaking, the existing statutory framework for the Federal Administration overall contains some anti-corruption and integrity provisions, which apply to all the employees of the authorities being assessed: they relate to protection of the employer's interests and to the duty of loyalty (LPers section 20), acceptance of advantages, gifts and invitations (LPers section 21, OPers sections 93 and 93a), professional, trade and official secrecy and use of insider information (LPers section 22, OPers sections 94 and 94c), outside activities (LPers sections 21 and 23, OPers sections 91 and 92), withdrawal (OPers section 94a), option of waiting periods (OPers section 94b), duty to report and whistleblower protection (LPers section 22a). The Federal Council's anti-corruption Strategy (2021-2024) also contains some relevant goals, such as raising awareness, a risk-based approach, transparency and whistleblower protection.

### **FOCBS**

179. The FOCBS does not provide for any specific anti-corruption strategies or programmes in its individual directorates. Federal rules and policies apply, such as the Federal Administration Code of Conduct and the provisions concerning whistleblowers. Most of its staff are sworn officials. The contractual framework and the regulatory framework establish

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<sup>101</sup> LPers section 33 ([172.220.1](#)), OPers sections 107 and 108 ([172.220.111.3](#)), and FDF order concerning the Federal Employees Order, section 63 ([O-OPers, 172.220.111.31](#)).

what conduct is inadmissible and the disciplinary action for serious misconduct. The authorities believe that robust processes, compliance with guidelines and adequate separation of functions are helping to prevent fraud and corruption. Prevention and detection is thus based on risk management and the internal control system.

180. To give a few examples, some of the risks identified were unauthorised access to confidential information (a risk minimised by a clean desk policy and prior staff integrity and security checks), conflicts of interest, unauthorised engagement in outside activities, modification of salary data, acceptance of gifts, failure to comply with procurement procedures, and breach of guidelines.

181. Operational risks are routinely handled by the internal control system (ICS), which documents processes, activities and controls. It also targets risks associated with the control environment, covering issues of conduct, staff policy, communication and training. The ICS maps risks in the form of a risk control matrix and provides a catalogue of risks by process. The risk catalogue and controls are regularly adjusted to changing risks. The management receives an annual report on the ICS (effectiveness, traceability, efficiency), and risk assessment findings are sent to the federal supervisory authorities for their information. The issue of fraud forms part of the internal audit's general risk assessment, as do outside activities and follow-up on whistleblowing.

182. Risk management tools are assessed by the internal audit and the Federal Audit Office. They are upgraded to enhance their use and the understanding and acceptance of them. There are regular checks to ensure that the organisation's work is focused on critical risks, auditing of key control activities and simplification of tools on the principle of continuous improvement of the integrated risk management system.

### Fedpol

183. The FDJP, to which Fedpol and the PJF are answerable, has adopted a crime control strategy for 2024-2027. In addition, a new edition of the PJF strategy is being drafted and a strategy for 2024-2027 was recently adopted by Fedpol<sup>102</sup>.

184. Risk management, as a management technique, is used to identify, assess and monitor potential risks and manage them in a target-oriented way. It is run on the enterprise risk management model that applies to the whole of the Federal Administration (see paragraph 49). Fedpol possesses guidelines on recruitment, purchasing and the rules applying to authority to sign contracts and applies the procedures and guidelines relating to public procurement.

185. The GET notes that neither the FOCBS nor the PJF, or Fedpol more generally, has a dedicated anti-corruption strategy. The Federal Council's anti-corruption Strategy applies to these organisations, but they do not seem to have taken steps to implement it, and it seems to exist mainly on paper. The GET here recalls its concerns set out in paragraphs 51, 60 and 61. The FDJP, to which the PJF is answerable, does have a crime control strategy, but this mostly concerns priorities for police work, and promoting integrity within the FDJP is not considered.

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<sup>102</sup> <https://www.fedpol.admin.ch/fedpol/fr/home/fedpol/strategie.html>

186. Moreover, while there are mechanisms for identifying and managing risks in both organisations, they are not specifically concerned with corruption or violations of integrity. During the interviews, the managements of both organisations argued that the risk of corruption in Switzerland was low. The GET believes that this risk has not been adequately acknowledged and is therefore a blind spot in existing policies and strategies. While various rules and measures are indeed helping to prevent corruption, they would benefit by being better targeted and co-ordinated within specific strategies. This would enable a more proactive approach to preventing corruption in the authorities under review. These strategies could also provide valuable components to support and strengthen the Federal Council's anti-corruption Strategy. **GRECO recommends that a comprehensive assessment of corruption risks in the fields and activities of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police be undertaken in order to identify problems and emerging trends and that the information thus obtained then be used to design one or more proactive strategies to promote integrity and prevent corruption within these agencies.**

#### *Handling undercover operations and contacts with informants and witnesses*

187. The FOCBS does not have the legal powers to undertake undercover operations or pay witnesses or informants. Under section 41 of the Administrative Criminal Law Act, it is mainly the provisions of the Criminal Procedure Code (CrimPC) concerning witnesses that apply by analogy.

188. PJF undercover operations are governed by CrimPC Articles 285a-298.<sup>103</sup> Article 293, for example, describes the scope of influence permitted:

- Undercover investigators may not generally encourage others to commit offences or incite persons already willing to commit offences to commit more serious offences. They must limit their activities to giving effect to an existing decision to commit an offence.
- Their activities must only be of minor significance in the decision to commit a specific offence.
- If necessary in order to bring about the main transaction, they may make purchases on approval or provide evidence of their ability to pay.
- If the undercover investigator exceeds the remit of the authorised operation, the court must take due account of this in assessing the sentence imposed on the person subject to the investigator's influence, or may dispense with imposing any sentence.

189. CrimPC Article 295 lays down the procedure that undercover agents must follow to obtain the sums of money required for simulated transactions. The implementing provisions are contained in the Undercover Investigations Order of 10 November 2004.<sup>104</sup>

#### *Ethical principles and codes of conduct*

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<sup>103</sup> RS [312.0](#)

<sup>104</sup> RS [312.81](#)



190. The Federal Administration Code of Conduct of 15 August 2012 applies to all FOCBS and Fedpol employees in the same way as to all employees of the Federal Administration. It is given to all members of staff and made available on the Internet<sup>105</sup> and the Federal Administration intranet. It brings together the legal rules pertaining to labour law and outlines established practice for implementing them. The code thus sets out the type of behaviour expected of Federal Administration employees. Disciplinary action or measures under labour law can be taken on the basis of the code's contents.

191. Fedpol has its own code of conduct, published on its intranet website, any breach of which can have consequences falling under labour law. In addition, Fedpol staff act on the basis of common values and principles; Fedpol's six values shape its culture. These values are published on the Internet<sup>106</sup> and the Fedpol intranet. From its interviews and the information provided to it, the GET considers that the standards of conduct in Fedpol are sufficient, adequately explained and seem to be properly understood by the staff.

192. The FOCBS also has some specific rules of conduct for its staff, which go further than the Federal Administration Code of Conduct in some respects. However, they are incomplete; only the rules on gifts and outside activities seem to be set out in detail. Moreover, they are incorporated in the FOCBS staff guidelines, a very general in-house document containing many rules on subjects other than corruption and integrity. This obviously does not help to draw attention to the rules on integrity. The GET considers that a code of conduct specific to the FOCBS, bringing together the rules that apply, accompanied by comments and/or actual examples, would be helpful in bringing these rules to the attention of staff and informing the public about them. This document should be coupled with specific awareness-raising measures and an enforcement mechanism. In this connection it should be indicated how these specific rules would tie in with those of the Federal Administration Code of Conduct. **GRECO recommends that (i) a code of conduct for the Federal Office for Customs and Border Security be adopted and published, with concrete examples and explanations of the conduct expected of staff, and (ii) this code be supplemented by specific awareness-raising measures, oversight arrangements and appropriate sanctions.**

#### *Advice, training and awareness*

193. When taking up their posts, all federal employees have to take an online training module on whistleblowing and prevention of corruption and are given a brochure on this subject.<sup>107</sup> The training is problem-oriented and includes case studies and role-playing. It is organised by the Federal Personnel Office (OFPER) and covers the duty of loyalty, invitations, gifts, outside activities and public offices, independence and the duty to withdraw, personal financial transactions, professional secrecy and whistleblowing. This online module is taken by some 300 FOCBS employees every year and has been taken by some 1,000 Fedpol employees over the past six years.

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<sup>105</sup> <https://www.fedlex.admin.ch/eli/fga/2012/1238/fr>

<sup>106</sup> <https://www.fedpol.admin.ch/fedpol/en/home/fedpol/werte.html> (reachable from the Fedpol homepage under "Values").

<sup>107</sup>

<https://www.bundespublikationen.admin.ch/fr/product/00000000862648443/Prev.%20of%20corruption%20%2B%20whistleblowing>

194. In addition, the employment contracts of federal employees contain a link to the Federal Administration Code of Conduct, and new employees receive a copy when they take up their posts. The “Preventing corruption” intranet page, available to all federal employees, suggests areas of particular relevance to staff in their daily work.

195. Apart from this general training, some integrity-related subjects are addressed in the various basic and further training courses provided for staff of the authorities being assessed, depending on their career paths. They include specific rules on gifts for FOCBS staff, rules on withdrawal from criminal proceedings and a module on integrity for managers.

196. To obtain guidance on integrity and preventing corruption, employees of the authorities being assessed can ask their superiors or the relevant human resources centre. There are no statistics on how often such guidance is sought.

197. The GET considers that the arrangements for training in ethics and integrity are satisfactory. It points out that specific measures to make FOCBS staff aware of the future code of conduct must be developed (see paragraph 192). There are, however, no dedicated confidential counselling mechanisms on integrity-related issues. Staff may turn to their superiors or to human resources. The GET takes the view that a more institutionalised approach should be introduced in this matter. It would be advisable that a dedicated mechanism or persons outside the chain of command be available for providing confidential advice to staff in respect of ethical dilemmas, etc. The existence of these mechanisms should in turn be appropriately communicated to the staff. Consequently, **GRECO recommends that mechanisms be introduced for providing confidential counselling on ethical and integrity matters for staff of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police.**

## **Recruitment and career advancement**

### *Employment regimes and competent authorities*

198. In both the FOCBS and the PJF, employment contracts are usually permanent. Contracts of apprentices and trainees are fixed-term, as are those of some specialists. Fixed-term contracts cannot exceed three years; beyond this they are automatically converted into permanent employment contracts (LPers section 9).

199. In the FOCBS, the powers to appoint, dismiss, promote and transfer staff are conferred as follows:

- The Director of the FOCBS is appointed by the Federal Council.
- The Deputy Director is appointed by the member of the Federal Council in charge of the Federal Department of Finance (head of department).
- The vice-directors are appointed by the secretary general of the Federal Department of Finance.
- L2 posts (directorate sector heads and regional heads) are the responsibility of the Director.
- L3 posts, in the form of local heads and unit heads, are the responsibility of the Deputy Director or the vice-director responsible for the relevant directorate.

- Responsibility for lesser posts is conferred in accordance with the management regulations of the directorates concerned (usually lying with regional heads or sector managers).

200. In Fedpol, the powers are as follows:

- The head of the PJF directorate is appointed by the Director of Fedpol, who notifies the FDJP.
- The deputy heads of the PJF directorate, together with heads of division, deputy heads of division and heads of operational centres/administrative sectors are appointed by the Deputy Director of Fedpol (head of the Resource Management and Strategy Directorate).
- Holders of other posts are generally appointed by human resources.
- Apprentices are appointed by the Federal Department of Justice and Police (FDJP Vocational Training).

*Appointment procedure, promotion, mobility and termination of service*

201. Decision-making criteria and procedures derive from federal labour law. This makes provision for equal opportunities and equal treatment for men and women (Constitution Article 8.3, LPers section 4.2.d and OPers section 6). Departments must thus set up support programmes for this purpose and may enlist the help of specialists or set quotas. The principle of equal opportunities for men and women is also made part of staff management measures, instruments and processes. Differences in behaviour and interests, together with the different needs of men and women, are similarly taken into account, acknowledged and supported. The Federal Council has also set targets for the proportion of women to be attained by administrative units. In practice, selection criteria ensure equal opportunities for men and women.

202. The GET welcomes the constitutional, legislative and regulatory recognition of equal treatment for men and women and the measures taken to this end in the institutions assessed. However, it notes that, despite these measures, the proportion of female staff in the FOCBS and PJF is relatively low, even if some of the top posts are occupied by women. The proportion of women is 25.8% for the FOCBS as a whole – 23.5% for the Operations and Prosecution Directorates – and 26% for the PJF. As GRECO has pointed out a number of times during the Fifth Evaluation Round, it is important for law enforcement officers to reflect society as a whole if possible. Diversity within these authorities in general, including managerial and supervisory posts, can have a positive impact on the profession overall (e.g. contact with the public; helping to break the law of silence by creating a more diverse environment; promoting multiple different points of view, etc.). The GET invites the authorities to give further thought to this field in order to lend more weight to positive practices that help ensure that women are adequately represented. Therefore, **GRECO recommends that further measures be taken to improve the representation of women at all levels of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police.**

203. Recruitment rules and selection criteria are not laid down in law and are decided by the employer. In the PJE, vacancies to be filled through initial recruitment, mobility or

promotion are advertised on the Confederation's employment portal.<sup>108</sup> An assessment test may be required for heads of operational centres or administrative sectors and above. After candidates have been ranked by the unit concerned, there is an initial interview, which may include aptitude tests (language skills, writing skills, etc.). A second interview may be arranged and conducted by the line management and a third one by the human resources department, if requested, in association with the unit. The unit and the human resources department agree on a candidate and the management approves the appointment.

204. As for dismissal, an agreement is first discussed between the member of staff, the head of the Resource Management and Strategy Directorate and the head of personnel. If an agreement cannot be reached, the case is forwarded to the Director of the Federal Office of Police.

205. Recruitment, promotion and mobility procedures are similar in the FOCBS. Vacancies are published in the FOCBS vacancies bulletin and, if necessary, on the Confederation's employment portal, in the press or online (job sites, social media). Some posts are not advertised in order to promote inclusion of persons who are ill or have injuries or disabilities, or if staff are being transferred for organisational reasons or to specific posts (IT specialists, forensic computer experts, etc.).

206. Appointment and promotion decisions can be challenged on grounds of racist or discriminatory conduct (Constitution, Article 8.2, and APA section 25a). Appeals against dismissals can be lodged with the Federal Administrative Court (LPers section 36).

207. The GET notes that recruitment and promotion in the FOCBS and PJF are merit-based and competitive and that provision is made for an adequate degree of transparency.

#### *Vetting the integrity of candidates*

208. As explained in the section on PTEFs (see paragraph 52 onwards), the federal law introducing internal security measures (LSI) has instituted personal security clearance (PSC), which also covers the integrity of individuals and the risk of corruption. PSC checks consist in the gathering of relevant security information on an individual's lifestyle, including close personal connections and family relations, their financial position, contacts abroad and any illegal activities threatening internal or external security. The checks verify in particular whether the individual is in debt or the subject of legal action to obtain payment of debt and whether there are any past or current criminal proceedings concerning them. There are two levels for checks: basic and enhanced, the latter of which may include an interview. PSC checks are carried out by a specialised service of the State Secretariat for Security Policy (SEPOS), attached to the Federal Department of Defence, Civil Protection and Sport (DDPS). The implementing provisions are set out in the Personal Security Clearance Order (OCSP).

209. PSC checks result in a statement of no risk, conditional security, risk or findings (if there is insufficient information for an assessment). The result is sent to the employer. The latter can choose to take responsibility for the risk, but in practice the PSC result is almost always accepted. It is also sent to the individual concerned and is open to challenge before the Federal Administrative Court.

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<sup>108</sup> <https://www.stelle.admin.ch/stelle/fr/home.html>

210. Following the entry into force of the LSI, the FOCBS has drawn up a list of 280 functions to be submitted to the PSC, based on the criteria set out in the OCSF<sup>109</sup>. This list is reviewed every three years, and any new functions appearing on the list are immediately subject to a PSC. In the case of other operational staff, integrity is verified by means of an extract from the criminal record and the register of debt enforcement. This integrity check is repeated every five years or more regularly in the event of a change of function or promotion. In these cases, a catalog of questions<sup>110</sup> must be examined by human resources, justifying the request for new extracts from the registers before the end of the five-year period. An analysis of the register extracts is carried out by human resources, which may lead to the termination of the employment relationship.

211. All Fedpol staff undergo integrity vetting. The process entails a declaration of consent, a criminal record check, a debt history check and enhanced PSC checks or enhanced PSC checks with interview, depending on the position held by the member of staff.

212. PSC checks are then repeated regularly every five to ten years or three to five years respectively, depending on the level of clearance. More frequent checks are possible in the event of a change of post – especially if a member of staff moves to a higher level of clearance – or if the employer has reason to believe that new risks have emerged since the last check or becomes aware that criminal proceedings have been brought against the staff member.

213. The GET welcomes personal security clearance, which provides a comprehensive assessment, on a regular basis, of possible risks to the integrity of Confederation personnel. It is positive that all PJF agents are subject to this, as well as 280 functions identified within the OFDF on the basis of a risk analysis. With regard to OFDF staff not subject to this control, the GET is of the opinion that the catalog of questions examined by human resources in the event of a change of function or promotion ensures that potential integrity risks are adequately taken into account.

### *Performance evaluation*

214. Staff of the FOCBS and the PJF are governed here by the Federal Employees Order, which provides for an annual appraisal interview with the immediate superior. These personal assessments form the basis for changes in pay, which are determined according to agreed targets for performance, conduct and skills. On a rating scale of 1 to 4, Grade 4 is equivalent to an annual salary increase of 3 to 4% until the upper limit of the salary grade is reached. Grade 3 is equivalent to an annual increase of 1.5% to 2.5%, Grade 2 to a 1% increase, and Grade 1 can result in an annual salary cut of up to 4%. In the latter case, staff development measures or assignment to a less demanding post must be considered. If these measures bring about no improvement in performance, the employment contract is terminated. In the event

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<sup>109</sup> The processing of information classified as "confidential"; the administration, operation, maintenance and control of IT resources classified as "high protection"; access to a security zone 1 or a protection zone, and activities subject to a level of control corresponding to this degree of control under the terms of an international treaty.

<sup>110</sup> Among other things, if the function involves representing the office, is the focus of public attention, if debts or a criminal conviction could have reputational consequences for the federal administration, if the person is called upon to influence decisions concerning mandates, subsidies, taxation decisions or if the function aims to grant authorizations, licenses and/or concessions, or to collect taxes.

of disagreement about the results of the annual appraisal, an application for reappraisal can be made to the next-level superior and then to an appeal body in the Federal Administration.

215. The 2022 Federal Administration staff management report provides a breakdown of appraisal grades (section 7.2).<sup>111</sup>

216. In the FOCBS the appraisal interview is always conducted by the immediate superior and notified to the next-level superior for signing. The appraisal takes place annually. A positive appraisal can result in a change in post to a better-rated job or faster salary progression (within the salary grade and/or with a performance bonus). A negative appraisal can result in slower or no salary progression, a pay cut, posting to another job or dismissal. In the event of disagreement about the appraisal, the member of staff can request a reappraisal from the next-level superior and then the head of personnel. The annual appraisal takes place in the same way in the PJF. For the purposes of these appraisals, and more generally, any charges brought for misconduct, any rough patch or financial problems must be reported to the superior.

#### *Rotation and mobility*

217. There is no mandatory system of rotation in the FOCBS or PJF. Career development takes place on the basis of internal applications for vacancies that are advertised on the intranet and/or the Internet.

#### *Salaries and benefits*

218. In the FOCBS the starting salary varies according to the individual's training and personal/professional experience and also the labour market situation. For customs and border-security specialists, for example, the gross annual salary is 52,000 francs (€54,400) at the age of 20 and 69,290 francs (€72,500) at the age of 30. To this is added, under the current salary system, a residence allowance, which depends on the cost of living at the workplace. The salary also varies, as indicated above, on the basis of the annual appraisals. Once an employee reaches the upper limit of their salary grade, the salary will not rise further, since each position is assigned to a salary grade, which determines the maximum salary.

| <b>External appointment</b>                             |                     |            |  |                                      |                              |
|---|---------------------|------------|--|--------------------------------------|------------------------------|
| <b>Position</b>   | <b>Salary grade</b> | <b>Age</b> | <b>Professional experience (years)</b> | <b>Starting salary (CHF) (euros)</b> | <b>Maximum (CHF) (euros)</b> |
| Specialist<br><b>(entry-level)</b>                      | 20                  | 20         | 0                                      | <b>53,625</b><br>55,138              | <b>129,142</b><br>132,786    |
| Regional head of development<br><b>(middle manager)</b> | 24                  | 34         | 10                                     | <b>103,935</b><br>106,868            | <b>155,667</b><br>160,060    |
| Head of Support Directorate                             | 30                  | 45         | 21                                     | <b>174,070</b>                       | <b>212,131</b>               |

<sup>111</sup>[https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalpolitik/reporting\\_personalmanagement\\_2022.pdf.download.pdf/reporting\\_personalmanagement\\_2022\\_f.pdf](https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalpolitik/reporting_personalmanagement_2022.pdf.download.pdf/reporting_personalmanagement_2022_f.pdf)

|                       |  |  |  |         |         |
|-----------------------|--|--|--|---------|---------|
| (management position) |  |  |  | 178,982 | 218,117 |
|-----------------------|--|--|--|---------|---------|

→ Recognition of professional experience: 2% per annum

**Internal change**

Figures are not very meaningful here. But there are clear guidelines: see excerpt from D-52 provisions below, which indicates that salary is adjusted if staff are appointed to a position falling within a higher pay grade, with an allowance being paid in the amount of 4% of the maximum amount set for the new pay grade defined in the work contract. If they are temporarily replacing someone, the allowance amounts to 2%.

**2.1.3 Adaptation du salaire**

**2.1.3.1 Changement de fonction**

- [Art. 40](#) OPers

Le salaire fait l'objet d'une adaptation en cas de changement de fonction (nomination à une autre fonction affectée à une classe de salaire supérieure); une allocation de changement de fonction est versée en pareil cas.

L'allocation de changement de fonction se monte à 4% du montant maximal fixé pour la nouvelle classe de salaire définie dans le contrat de travail. En cas de prise en charge de la suppléance uniquement (cl. sal. +1), l'allocation de changement de fonction s'élève à 2%.

219. In Fedpol every position is assessed on the basis of the job description, using standard, objective criteria, for assignment to a salary grade. The key assessment criteria are prior training needed, scope of duties, together with requirements, responsibilities and risks.

220. When an employee takes up a post, the starting salary is set on the basis of the job's requirements (assessment), the individual's skills, performance to date, and previous experience relevant to the post. The salary then changes through salary progression, based on annual staff appraisals, up to the maximum for that salary grade.

| Position                   | Salary grade | Maximum gross annual salary<br>CHF<br>(euros) | Mean gross annual salary<br>CHF<br>(euros) |
|----------------------------|--------------|---|--|
| Head of division           | 29           | 197,700<br>(203,279)                          | 178,000<br>(183,023)                       |
| Head of operational centre | 26           | 171,985<br>(176,838)                          | 155,000<br>(159,374)                       |

|                                |    |                      |                      |
|--------------------------------|----|----------------------|----------------------|
| <b>Federal investigator II</b> | 24 | 155,667<br>(160,060) | 115,000<br>(118,304) |
| <b>Federal investigator I</b>  | 21 | 134,501<br>(138,365) | 94,000<br>(96,701)   |

221. Like other Federal Administration employees, FOCBS and Fedpol staff are entitled to various social benefits, such as maternity/paternity and adoption leave, financial support for childcare outside the family, and length-of-service bonuses. There is also the possibility of post allowances, special bonuses, one-off bonuses and labour-market bonuses.

222. Mention may be made of the following benefits in particular:

| <b>Benefit</b>  | <b>Amount</b>  | <b>Public information</b>   | <b>Continued after end of employment</b> | <b>Monitoring</b>                                    |
|---|--|---|--|--|
| Residence allowance   | 13 steps:<br>CHF 446 to<br>CHF 5,795 a year.   | Yes, at <a href="#">Federal Administration salary system</a>                    | No                                       | For salary adjustments and, in the FOCBS, with ICS.  |
| Supplementary social benefits   | Various, e.g. pension contributions, childcare contributions, family allowances over statutory level, etc. | Yes, in the "InfoPers" section at <a href="#">Ancillary benefits</a> (intranet) | No                                       | For salary adjustments and, in the FOCBS, with ICS.  |
| Length-of-service bonus   | On the basis of OPers <a href="#">section 73</a>   | Yes (OPers <a href="#">section 73</a> )   | No                                       | For salary adjustments.                              |
| Contribution to training and further training costs                   | Variable   | Yes (OPers <a href="#">section 4</a> )  | No                                       | For the application.                                 |
| Contribution to public transport costs (half-fare and general passes) | Free half-fare pass<br>Reduction on general pass   | Yes (O-OPers <a href="#">section 53</a> )                                       | No                                       | This is a right from beginning to end of employment. |
| Savings account free of charge (Federal                               | Free of charge   | Yes (OPers <a href="#">section 75.2</a> )                                       | Yes                                      | This is a right from beginning of employment         |



|  |   |  |    |  |
|--|---|--|----|--|
| Employees' Savings Bank)   |   |  |    | and after retirement   |
| Border guards: reduced housing costs under the service accommodation requirement | The allowance for service accommodation must be approx. 70% of the local rent usual for similar accommodation or approx. 80% of the rent for co-operative accommodation for federal employees in the same place or in places with similar conditions. | Yes, on the <a href="#">FOCBS intranet</a> | No | For changes of accommodation or post and corresponding system adjustments, and, for the FOCBS, with ICS. |

### **Conflicts of interest**

223. Generally speaking, the Federal Administration Code of Conduct, which applies to the staff of both authorities assessed, aims to set out the type of behaviour expected of employees so that any actual or apparent conflicts of interest can be prevented (Chapter 1). They must avoid “situations where their interests conflict with those of the Confederation and must refrain from doing anything which might compromise their impartiality or their ability to do their job effectively. Should conflicts of interests – or the appearance of such – be unavoidable, they must be declared openly to their supervisors” (Chapter 3, paragraph 2). The code also points out that “in cases where staff members are deemed to have a conflict of interest, or where it appears to be the case (e.g. where personal interests, family, friendship, enmity or interdependent relationships are concerned), they must withdraw from the process” (Chapter 3, paragraph 4).

224. The [Fedpol](#) code of conduct states among other things that staff must not be placed in a relationship of dependence by gifts, invitations or other advantages, or have their judgement impaired. If there are any doubts, even low-value gifts must be refused. Any attempt at bribery must be turned down and reported. Outside activities and public offices must be reported to superiors. If personal interests or private relationships might compromise Fedpol’s interests or equality of treatment, members of staff must notify their superiors. If a conflict of interests is unavoidable, they must withdraw.

225. In terms of the law, there are several more specific regulatory frameworks preventing different types of actual or potential conflict of interests: the rules on withdrawal and the prohibition or restriction of certain activities (see below). Lastly, the security clearance checks described above also play an important part in prevention.

226. The rules on [withdrawal](#) give effect to constitutional safeguards (in particular Article 30 of the Constitution) to ensure an authority’s impartiality and appearance of impartiality in specific proceedings, whether judicial or administrative. For their operational activities, [FOCBS](#)

customs and border-security specialists generally come under the rules of section 29 of the Administrative Criminal Law Act for administrative criminal proceedings and section 10 of the APA for an administrative procedure, while members of the PJF usually come under the rules of Articles 56-60 of the Criminal Procedure Code. Both sets of rules cover private or personal interests and family ties (spouse, registered partner, relationship, and direct or collateral relations by blood or marriage up to the third degree) in the same way. They also contain a general clause on withdrawal, a requirement for a person in such a position to declare the fact, and a procedure for deciding on applications for withdrawal made by one party.

227. Section 94a of the Federal Employees Order regulates withdrawal except in specific criminal or administrative proceedings. It concerns partiality or the appearance of partiality in the event of a personal interest in a case or for other reasons, such as friendship or enmity, or the existence of a job offer. The employee must inform their superior of any unavoidable grounds for partiality or if there are any doubts.

228. Furthermore, members of the FOCBS management notify one another of their interests every year on the basis of the FOCBS rules of procedure (item 4.5 of the FOCBS management regulations: conflicts of interest of members of management, withdrawal and mutual notification of outside activities).

229. Last but not least, there are specific rules on withdrawal in public procurement regulations.

### **Prohibition or restriction of certain activities**

#### *Incompatibilities, outside activities and financial interests*

230. There are no general rules on incompatibilities for the law enforcement staff assessed here. They come under the general rules for federal employees regarding outside activities and financial interests (LPers section 23, OPers sections 91 and 92). These rules make it obligatory to declare to a superior any public offices and paid activities outside working hours. Unpaid activities need only be reported if a risk of conflict of interests cannot be ruled out. Offices and activities require authorisation if they are likely to impair the employee's work for the Confederation or give rise to a conflict of interests. Authorisation must be refused if such a risk cannot be ruled out in a specific case. It must be renewed every year and the issue of outside activities is raised in the annual appraisal interview. Fees or benefits received for outside activities on behalf of third parties must be transferred to the Confederation.

231. The Federal Personnel Office has issued a detailed directive on outside activities and public offices, effective from 1 October 2022 and published online.<sup>112</sup> This directive includes assessment criteria for conflict-of-interest risks and contains a large number of examples. It also clarifies the authorisation mechanism, procedure, responsibilities and arrangements for transferring fees.

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<sup>112</sup>[https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalrecht/230\\_nebenbeschaeftigungenrichtlinien.pdf.download.pdf/230\\_nebenbeschaeftigungenrichtlinien\\_f.pdf](https://www.epa.admin.ch/dam/epa/fr/dokumente/themen/personalrecht/230_nebenbeschaeftigungenrichtlinien.pdf.download.pdf/230_nebenbeschaeftigungenrichtlinien_f.pdf), available at <https://www.epa.admin.ch/epa/fr/home/themes/droit-du-personnel.html> under "Activités accessoires" ("Outside activities").

232. The FOCBS staff guidelines contain detailed information for staff and line managers on the rules applying and include a form for declaring outside activities. They also specify that any changes concerning outside activities must be reported immediately to the superior. The FOCBS management regulations further require members of the management to notify one another of their outside activities.

233. The Fedpol code of conduct also states that staff must notify their superiors before accepting outside activities or public offices and that authorisation must be requested, in accordance with the above rules.

234. Apart from the obligation to transfer to the Confederation fees received for outside activities carried out for the benefit of third parties but arising from their employment contract, no restrictions on financial interests apply to the staff of the authorities assessed here.

### *Gifts*

235. The prohibition for Federal Administration employees on accepting, demanding or securing the promise of gifts or other advantages for themselves or for third parties is laid down in LPers section 21.3. Low-value advantages in keeping with social custom may be accepted. This means gifts in kind whose market value does not exceed 200 francs (€208, OPers section 93.1). There are also specific rules for invitations (OPers section 93a). Any invitation that might restrict an employee's independence and freedom of action must be refused. Invitations abroad are prohibited on principle unless authorised in writing by the superior.

236. The rules are stricter for employees involved in a purchasing or decision-making process, since they are also prohibited from accepting low-value advantages/invitations that are in keeping with social custom (OPers sections 93.2 and 93a.2). If there are any doubts, both categories of employee must consult their superiors to ascertain whether or not an advantage can be accepted. These rules are also spelt out in Chapter 5 of the Federal Administration Code of Conduct.

237. The FOCBS has internal provisions that are stricter than the general rules, since even negligible gifts and other advantages must be refused (FOCBS staff guidelines). For the PJF, the Fedpol code of conduct states that staff must not be placed in a relationship of dependence by gifts, invitations or other advantages, or have their judgement impaired. If there are any doubts, low-value gifts must be refused. The GET established from its interviews that these provisions had been fully taken on board and were observed by staff of the authorities assessed. The rules are applied strictly, and their enforcement entails specific checks as part of internal control.

### *Misuse of public resources*

238. Misuse of public resources constitutes a breach of the duty of loyalty (LPers section 20) and can have consequences in terms of labour law and disciplinary action. It may also constitute a criminal offence, such as misconduct in public office (Criminal Code,

Article 314<sup>113</sup>). The obligation to provide compensation for damage is governed by section 8 of the Liability Act.<sup>114</sup>

#### *Contacts with third parties, confidential information*

239. Federal Administration employees are bound by professional, trade and official secrecy (LPers section 22 and OPers section 94). The obligation not to divulge official or professional information continues subsequent to employment. Breach of official secrecy is a criminal offence under Article 320 of the Criminal Code.

240. Nor can Federal Administration employees use confidential information acquired in the course of their duties to obtain advantages for themselves or a third party (use of insider information, OPers section 94c). Disregard of this prohibition can constitute a criminal offence (section 154 of the Financial Market Infrastructure Act<sup>115</sup>).

241. The Fedpol code of conduct further states that information to which staff have access in the course of their work must not be used for private purposes (Chapter 5). Professional, trade and official secrecy must be observed (Chapter 4).

#### *Post-employment restrictions*

242. Under section 94b of the Federal Employees Order, provision may be made in employment contracts for a waiting period of between six and twelve months after termination of employment if the employee's future activity with certain employers or clients, whether paid or unpaid, might lead to a conflict of interests. An allowance can be agreed for the waiting period. In this case, the individual concerned is required to declare income, allowances and pension payments received during this period. The GET recalls the doubts concerning this section that were expressed in the first part of this report (see paragraph 124). As in the case of PTEFs, this provision does not seem to be enforced very much in reality. However, the on-site interviews showed that former law enforcement officers leaving for the private sector seemed to be the exception rather than the rule and did not seem to pose a problem in practice.

#### **Declaration of assets, income, liabilities and interests**

243. Staff of the authorities assessed are subject to various procedures for declaring income, liabilities and interests in connection with withdrawal, outside activities and the rules on gifts, as outlined above. Relevant security-related information on lifestyle, including relations with friends and family, financial position, contacts abroad and any illegal activities threatening internal or external security is also gathered for the security clearance checks, which are repeated at regular intervals.

244. Under the FOCBS staff guidelines (item 4.2.2), criminal convictions, guardianships, bankruptcies, etc. together with certificates of non-execution and the lifting or termination of

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<sup>113</sup> [RS 311.0 - Swiss Criminal Code of 21 December 1937 | Fedlex \(admin.ch\)](#)

<sup>114</sup> [Federal law of 14 March 1958 on the liability of the Confederation, members of its authorities and its employees, RS 170.32](#)

<sup>115</sup> Federal law of 19 June 2015 on financial market infrastructure and market conduct in securities and derivatives trading, [RS 958.1](#)

such measures must be declared immediately to the superior officer. As for the Fedpol code of conduct, it states that personal financial problems must be reported without delay to the superior.

## **Oversight mechanisms**

### *Internal oversight and control*

245. The internal control system (ICS) of the FOCBS draws its legitimacy from the Public Accounts Act and the related order. It employs seven people and reports to the director of the Office; it is independent in its audits and risk assessments. The objectivity and independence of the internal audit is regularly audited by the Federal Audit Office. The latest external audit was carried out by KPMG in 2021 on behalf of the SFAO. The internal audit comes under the International Professional Practices Framework (IPPF) of the Institute of Internal Auditors. IPPF standards are met, as confirmed by the SFAO and KPMG in the latest audit.

246. The tasks of the ICS consist in administrative co-ordination of control activities, circulation of the information needed to ensure consistency within the system, quality control and efficiency testing of processes, guidance on implementation of control procedures, and support for continuous quality improvement in the system. The ICS covers the entire organisation centrally, regionally and locally.

247. The ICS is used as the oversight mechanism for all at-risk activities in the FOCBS. Through its checks, it verifies compliance with guidelines on declaration of outside activities, the obligation to withdraw in the event of conflict of interests, etc. Non-process risks are also targeted by the ICS, including the control environment, which covers issues of conduct, staff policy, communication and training. The ICS reports to the FOCBS management on any serious misconduct found.

248. The Finance Inspectorate (FISP) is the internal auditing body of the Federal Department of Justice and Police and the administrative units answerable to it, including Fedpol and the PJF. Under the supervision of the secretary general, it discharges its duties independently with its own resources. It follows EXPERTsuisse's current Swiss auditing standards for annual accounts (SA-CH) and the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.

249. The internal audit unit carries out the following duties in line with the priorities set out in its annual programme, which is based on risk analysis: review of the entire financial budget at all stages of implementation; review of internal control systems and appraisal of oversight, management, control and risk-management processes; review of the alignment between organisational structures and business processes; project audits and public procurement audits.

250. For each assignment the internal audit unit produces a report, which may contain recommendations for possible improvements or correction of shortcomings. It also produces an annual activity report, which is sent to the Federal Audit Office. In addition, the unit makes proposals concerning recommendations that have not yet been implemented.

251. If it finds serious failings in the course of its work, the internal unit sends the head of department an interim report with the necessary proposals, which is forwarded to the SFAO (section 11 SFAOA). It also notifies the Federal Audit Office at once. If a recommendation also concerns the work of other offices or comes within another body's field of supervision, those authorities are notified. The head of the FDJP decides whether the parliamentary control committees and/or the general public should be informed. The internal audit unit and the SFAO regularly exchange information and views on problems and developments pending.

#### *External oversight and control*

252. The FOCBS and PJF/Fedpol both come under the financial supervision of the Swiss Federal Audit Office (SFAO). For a description of the SFAO's work, see the "Control mechanisms" section in the part of this report on PTEFs. The SFAO also runs the Swiss whistleblowing system (see below).

253. PJF operational activities in connection with criminal proceedings are managed and supervised by a prosecutor from the Office of the Attorney General (OAG).

254. Furthermore, the FOCBS and Fedpol, as entities of the Federal Administration, are subject to parliamentary oversight, exercised mainly through the control committees (CCs). The CCs are standing committees of the Federal Assembly responsible for exercising parliamentary oversight over conduct of business by the Federal Council and the Federal Administration, federal courts and other bodies carrying out federal duties. Their statutory remit is laid down in Article 169 of the Constitution and sections 26 and 52 of the Parliament Act (ParlA). Their oversight focuses on the criteria of legality, expediency and effectiveness (ParlA section 52.2). Owing to the principle of separation of powers, they cannot amend or repeal decisions by an administrative or judicial authority, and therefore they limit themselves to making recommendations for the future and monitoring their implementation.

255. The control committees' field of supervision covers all activities of the Federal Council and central Federal Administration. Parliamentary oversight by the CCs may be exercised at any time, distinct from the Federal Administration's internal oversight. By way of example, the 2022 CC annual programme included 30 ongoing inspections, 14 follow-up inspections, 15 inspections of units and 109 other items. The CCs and the control delegation publish annual reports providing the public with information about their activities; inspection reports are also published.

#### *Complaints system*

256. Anyone can lodge a complaint with the military justice system, the OAG or the SFAO if they believe that a member of the FOCBS is involved in corruption. Complaints concerning the conduct of a member of staff can be sent directly to the FOCBS. There are no formal requirements, the complaint can be anonymous, and it can be made in any of the four national languages or in English. Complaints are free of charge. The FOCBS carries out national quality control for complaints received. In over 80% of cases, a reply is sent within 30 days of the complaint having been received. Normally all complaints receive a reply; consequently, there is no inaction on the part of the FOCBS.

257. If, during a control, there is a disagreement or problems arise with travellers, the FOCBS staff on the spot draw their attention to the option of making a complaint. These staff are also required to give their ID numbers. In addition, travellers have a contact form on the FOCBS website, enabling them to send a complaint electronically at any time.

258. As for operational activities, since employees of the Prosecution Directorate have the power to engage in coercive and other investigative acts, any member of the public affected can make a complaint specifically regarding the act and its lawfulness. Such a complaint is sent to the FOCBS management, which deals with it first (three-day deadline for processing), and then, if the director confirms the lawfulness of the act, the complaint is forwarded to the Lower Appeals Chamber of the Federal Criminal Court.

259. If professional misconduct is suspected, the possibility of disciplinary action is examined. Any disciplinary measures are then ordered by the FOCBS after a proper investigation. If a member of the FOCBS is suspected of having committed a criminal offence, the case is transferred to the relevant judicial authority. This authority is then responsible for investigating the incident and enforcing criminal law. If the authorities decide not to pursue the matter, the normal appeal courts are available.

260. For the PJF, Fedpol's internal complaints system is used. The PJF's Head of Human Resources, usually after discussion with PJF management, contacts Fedpol's Legal Service. The latter examines the situation and decides on any action to be taken, in coordination with the head of human resources or the management of the PJF.

## **Reporting obligations and whistleblower protection**

### *Reporting obligations*

261. Under section 22a of the Federal Employees Act, Federal Administration employees have an obligation to report any offences subject to *ex officio* prosecution of which they become aware in the course of their official duties. They can choose to send their reports to the prosecution authorities, their superiors or the Federal Audit Office (SFAO). They are also entitled to report directly to the SFAO any irregularities that are not offences, such as waste, conduct issues, inadequate oversight or administrative management, etc. (right to report). The SFAO also accepts reports sent anonymously.

262. As for the PJF, because it is a criminal justice authority its staff also have a duty under CrimPC Article 302 to report offences that have come to light or been reported to them in the course of their duties.

### *Whistleblower protection*

263. Whistleblower protection is underpinned first and foremost by section 22a.5 of the Federal Employees Act (LPers), which states that whistleblowers acting in good faith shall not be adversely affected. This protection is bolstered by LPers section 34c: if an appeal against a decision to terminate employment is won because the employee reported an offence in good faith within the meaning of LPers section 22a, paragraph 1 or 4, the employee must be reinstated or, at the latter's request, be paid an indemnity.

264. There is a choice of channels for whistleblowing: a superior, the SFAO and the OAG. The SFAO runs the whistleblowing system for the whole of the Federal Administration and for the private sector. Whistleblowers' anonymity is protected in several ways: they may remain anonymous when submitting a report, which is the case for 80% of reports received. Moreover, even if a whistleblower's identity is known, the SFAO whistleblowing unit routinely anonymises the information before forwarding it internally or to outside bodies. Lastly, the SFAO employees involved are bound by professional and official secrecy.

265. In addition to traditional channels of communication such as in-person meetings, telephone, post and e-mail, since 2017 it has been possible to send whistleblowing reports to the SFAO through a secure platform,<sup>116</sup> and 87% of reports arrive in this way. The system's IT security is audited every four years.

266. When a report is received, the SFAO whistleblowing unit, consisting of a manager, member of the board, and four part-time employees of the legal service, undertakes an initial assessment. The information received is sorted, which entails a plausibility check; it is then decided which reports should be pursued further. Each report pursued further is allocated a level of importance (high, medium, low). It is also decided whether a case is to be handled directly by the SFAO or forwarded to another body (such as prosecution authorities, specific supervisory bodies, internal auditing bodies, etc.) Reports to prosecution authorities are made by the SFAO legal department upon decision from the management. The SFAO is in regular contact with the OAG, along with internal auditing departments and the compliance officers of various organisations.

267. Various measures are possible when a report is handled in-house by the SFAO; they include a forensic exploration, inclusion in a pre-planned audit, implementation of a specific audit, inclusion in risk analysis, etc.

268. In order to promote whistleblowing, the SFAO has regular exchanges of experience with other whistleblower units, the public authorities of other federal levels (cantons, cities/municipalities), educational establishments and the private sector. A website, regular articles in the media and the specialist press, together with reports in the annual programme are also helping to make the institution better known.

269. Federal employees are alerted in particular through in-house information channels (staff newsletter, presentations in training modules, etc.). The information brochure on whistleblowing and prevention of corruption is also an important means of providing information and raising awareness not only for employees but also for the general public, since it is available online.<sup>117</sup>

270. It was apparent from the on-site interviews that the whistleblower protection system as run by the SFAO is operating satisfactorily for reports from federal employees or from the private sector. The system makes it possible to safeguard whistleblowers' anonymity, particularly through the secure platform, and to protect whistleblowers from adverse

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<sup>116</sup> [www.whistleblowing.admin.ch](http://www.whistleblowing.admin.ch)

<sup>117</sup>

<https://www.bundespublikationen.admin.ch/fr/product/00000000862648441/Pr%C3%A9v.%20de%20la%20corruption%20%2B%20whistleblowing>



consequences. This channel seems to be well marked out in practice, according to the people with whom the GET spoke and as evidenced by a steady rise in whistleblower reports, from under a hundred in 2014 to 279 in 2022, of which 96 were from federal employees.

271. However, a number of people met by the GET pointed out that the code of silence was a reality in the law enforcement authorities and that a certain reluctance to report possible offences was apparent. Some cases were mentioned that should have been reported but were not. Although general action has already been taken to raise all federal employees' awareness of whistleblowing, the GET considers that further efforts are necessary to overcome the reluctance of law enforcement officers to blow the whistle. The GET is convinced of the need to urge and motivate whistleblowers to speak up when they have reason to believe that they are witnesses to an offence. Among other things, this requires a clear message from the chain of command stressing that whistleblowing is an integral part of an organisation committed to integrity, sound management and transparency. Therefore, **GRECO recommends that further action be taken to raise awareness of whistleblower protection among staff of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police in order to motivate and encourage them to speak up if they have reason to believe that they have uncovered breaches or misconduct in their agency.**

### **Enforcement and sanctions**

272. Infringements of the above-mentioned rules can have consequences in terms of criminal law, disciplinary action and labour law.

#### *Criminal proceedings and immunity*

273. FOCBS and PJF employees do not have any procedural privileges specific to their status. On the other hand, like all Federal Administration employees, they enjoy protection under section 15 of the Liability Act (LRCF), which requires authorisation to prosecute from the FDJP in order to bring criminal proceedings for offences connected with their official activity, apart from road traffic offences. This procedure has already been described in paragraph 132 onwards of this report.

274. As explained above, between 2013 (when LRCF section 15 came into force) and 2021, the FDJP dealt with 100 applications for authorisation to prosecute and delivered 86 authorisations. None of these applications concerned an employee of the PJF or the FOCBS Operations or Prosecution Directorate.

#### *Disciplinary proceedings*

275. Disciplinary proceedings are governed by sections 98 to 103 of the Federal Employees Order, which apply to all federal employees, including members of the two agencies being assessed. They begin with an official decision to initiate proceedings by the superior, who appoints one or more persons responsible for the investigation. They are usually members of an internal control unit. The legal and human resources departments ensure the right of the individual to be heard, help to prepare the statement of facts and draft the ruling. The Administrative Procedure Act applies in the alternative, such as proceedings that come under labour law.

276. Employees who have committed a breach of their professional duties through negligence lay themselves open to the following disciplinary measures:

- a warning;
- a change in field of activity.

277. If employees have committed a breach of their professional duties wilfully or through serious negligence, the following disciplinary measures may be taken, in addition to those cited above:

- a 10% salary cut for a maximum of one year;
- a fine of up to 3,000 francs (€3,057);
- a change in working hours;
- a change in place of work.

278. The disciplinary measure is decided by the employer and can be challenged before the Federal Administrative Court (LPers sections 34 and 36).

279. Legislative work on abolishing the disciplinary procedure is currently underway. This would be replaced by a procedure based on personnel law, which can lead to the termination of employment. Details of this work were not yet available at the time this report was adopted. However, the GET stresses the need to preserve the rights of defence and the proportionality of sanctions within this framework, which is more flexible than the disciplinary procedure.

#### *Labour law*

280. Labour law proceedings are used to order the two most common measures in practice, namely warnings and dismissal. A warning has to be issued prior to dismissal. Where appropriate, it may be given as part of the annual appraisal. It entails a period/measures enabling the subject to improve their conduct. If such measures are not successful, the contract is terminated. This measure is formally decided by the employer. Dismissal can be challenged before the Federal Administrative Court (LPers sections 34 and 36).

281. Fedpol has groups that are responsible for assessing labour law cases. In the event of an offence or behavioural disorder, for example, the case is reported to this group, which consists of the superior of the person concerned, a person from human resources, and a legal expert. The persons responsible decide on the action to be taken in terms of labour law or disciplinary procedure. There is also a requirement to report criminal offences under LPers section 22a, as explained above.

#### *Statistics*

282. FOCBS statistics show 136 disciplinary proceedings in 2022, of which 105 were for road traffic offences.

283. As for breaches of integrity, to give one example, a member of staff was the subject of two criminal complaints for suspected acceptance of bribes within the meaning of Article 322quater of the Criminal Code, acceptance of an advantage within the meaning of Article 322sexies of that code and misconduct in public office within the meaning of Article 314 of the code, on the one hand, and suspected misconduct in public office within the

meaning of that same article, on the other. The first criminal complaint arose from an internal audit, followed by an initial disciplinary investigation. It was established that the member of staff had exceeded his powers by awarding contracts almost exclusively to a single firm. For this purpose, he had drawn up a number of estimates in order to claim responsibility for awarding the contracts. Following the disciplinary proceedings, the member of staff was suspended from his duties and given new functions. After a second disciplinary investigation and a second criminal complaint concerning the signing of an agreement for use of premises, at a particularly low rate, between a non-existent association and the FOCBS, the member of staff was dismissed. He was also found guilty of disloyal management of public interests within the meaning of Article 314 of the Criminal Code in the second case. For the remainder, the criminal proceedings were closed.

284. In another case relating to award of a procurement contract and acceptance of undue advantages, a member of FOCBS staff was given a fine and a warning as part of disciplinary proceedings. He was a member of the procurement committee for award of a procurement contract and had failed to stand down despite having received sponsorship for his private activities from the firm that won the contract.

285. No relevant statistics have been provided for the PJF, for reasons of protection of personal data.

286. Regarding whistleblowers, for the period from 1 January 2018 to 31 December 2022, whistleblowers stated in approximately 10% of cases that the acts being reported related mainly to the issue of corruption. However, it has not been possible to determine exactly how many of these reports involved the prosecution authorities.

## **VI. RECOMMENDATIONS AND FOLLOW-UP**

287. In view of the findings of the present report, GRECO addresses the following recommendations to Switzerland:

*Regarding central governments (top executive functions)*

- i. that regular risk assessment be undertaken specifically covering risks to the integrity of persons with top executive functions, and that specific measures for these persons be added to the Federal Council's anti-corruption Strategy (paragraph 51);**
- ii. that the Federal Chancellor and members of the Federal Council undergo institutional checks upon their election to ensure their integrity (paragraph 56);**
- iii. that monitoring of the Federal Council's anti-corruption Strategy be improved, by ensuring an independent evaluation of the Strategy and publication of its conclusions (paragraph 61);**
- iv. that the integrity rules applying to vice-chancellors, secretaries general, heads of information and personal staff of members of the Federal Council be consolidated to serve as a code of conduct and be published (paragraph 65);**
- v. (i) that briefings and/or awareness raising in ethical rules and obligations be strengthened for the Federal Chancellor and members of the Federal Council and (ii) that training be provided on a regular basis for all persons entrusted with top executive functions (paragraph 71);**
- vi. that (i) provisions be introduced concerning contacts between persons with top executive functions and lobbyists/third parties seeking to influence the legislative work and other activities of the Federal Council; (ii) adequate information be disclosed concerning the purpose of such contacts, such as the identity of the person(s) with whom (or on whose behalf) the contact has taken place, and the subject(s) discussed (paragraph 86);**
- vii. that withdrawal of participants from Federal Council meetings be disclosed (paragraph 106);**
- viii. that binding post-employment rules be put in place on the employment of persons with top executive functions after they have left office (paragraph 124);**
- ix. that (i) persons with top executive functions be required to declare their assets, income, liabilities and financial interests publicly on a regular basis; (ii) consideration be given to including the interests of a PTEF's spouse, partner and dependants in this declaration (it being understood that this information would not necessarily have to be made public); and (iii) these declarations be subject to an appropriate review (paragraph 128);**

- x. **that oversight arrangements and appropriate sanctions be strengthened with regard to compliance with rules of conduct by the Federal Chancellor and members of the Federal Council (paragraph 141);**

*Regarding law enforcement agencies (police and border guards)*

- xi. **that a comprehensive assessment of corruption risks in the fields and activities of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police be undertaken in order to identify problems and emerging trends and that the information thus obtained then be used to design one or more proactive strategies to promote integrity and prevent corruption within these agencies (paragraph 186);**
- xii. **that (i) a code of conduct for the Federal Office for Customs and Border Security be adopted and published, with concrete examples and explanations of the conduct expected of staff, and (ii) this code be supplemented by specific awareness-raising measures, oversight arrangements and appropriate sanctions (paragraph 192);**
- xiii. **that mechanisms be introduced for providing confidential counselling on ethical and integrity matters for staff of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police (paragraph 197);**
- xiv. **that further measures be taken to improve the representation of women at all levels of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police (paragraph 202);**
- xv. **that further action be taken to raise awareness of whistleblower protection among staff of the evaluated entities of the Federal Office for Customs and Border Security as well as of the Federal Criminal Police in order to motivate and encourage them to speak up if they have reason to believe that they have uncovered breaches or misconduct in their agency (paragraph 271).**

288. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the Swiss authorities to submit a report on the measures taken to implement the above-mentioned recommendations by 31 December 2025. These measures will be assessed by GRECO through its specific compliance procedure.

289. GRECO invites the Swiss authorities to authorise publication of this report as soon as possible, translate it into the national languages and publish these translations.

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## About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its member states with the Council of Europe’s anti-corruption instruments. GRECO’s monitoring comprises an “evaluation procedure” which is based on country specific responses to a questionnaire and on-site visits and which is followed up by an impact assessment (“compliance procedure”) which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership of GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: [www.coe.int/greco](http://www.coe.int/greco).

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