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Introduction

Switzerland has always ranked among the top 10 countries as the least corrupted in the world; however, neither private businesses, nor public administrations, are immune from corruption.

In 2020, "*reflecting a constant concern for improvement*",[1] the Swiss Federal Council (the Swiss government) fixed, for the first time, the corruption objectives of the Confederation in a 2021–2024 Strategy document. Although primarily directed at the federal administration, the strategy was intended to create a snowball effect, influencing other interested sectors as well.

Based on the conclusions of the working group on combatting corruption (IDWG) composed of nine federal units chaired by the Federal Department of Foreign Affairs (FDFA), the strategy clearly stated 11 goals, and a total of 42 measures defined to achieve them.

In 2024, the Swiss Federal Audit Office (SFAO) evaluated the implementation status of the Strategy and analysed the suitability of the existing organisational structure, but not its impact being that the implementation period is too short. The SFAO concluded that the new version of the 2025–2028 Strategy would require significant adjustments. Among them, the SFAO highlighted the importance of defining the objectives of the new Strategy in an achievable and measurable way and set recognisable binding assignment of responsibility for achieving these goals.[2]

Furthermore, while acknowledging that Switzerland is constantly confronted with corruption in the private sector, the SFAO recommended the Federal Council to take a clear stance against it by identifying the existing gaps in the fight against corruption more clearly and set more ambitious goals.[3]

In fact, although the perception of domestic corruption is biased by its institutional stability, the main challenges facing Switzerland, as one of the major financial centres in the world in the area, remain those of international corruption and the laundering of its illicit financial flows.[4]

In February 2024, Transparency International (TI) published a study revealing that one-third of Swiss undertakings admit paying bribes abroad, with more than 50% of them facing demands for "informal" payments in their foreign business, and this is even more common than 10 years ago.[5] Furthermore, the study of TI reveals that 70% of Swiss companies operating abroad expect requests for bribes from the private sector, compared to 60% in the public sector.

Terminology & applicable law

Within the Swiss legal system, corruption is usually considered under the angle of criminal law. Though civil courts are not bound by the criminal notion of corruption, they rely on it in practice.

The word "*Corruption*" is used to point to both active (bribery) and passive corruption (corruption). Corruption is criminally relevant both in the public and private sectors.

Norms punishing such kind of behaviours are grouped within Title 19 of the Swiss Criminal Code (SCC) at Articles 322 *ter* to 322 *decies*, as well as at Article 4a(1)(b) of the Unfair Competition Act (UCA).

Switzerland also ratified the OECD Anti-Bribery Convention in 2000, the Criminal Law Convention on Corruption of the Council of Europe in 2006 and the UN Convention against corruption in 2009. On the contrary, it did not ratify the 1999 Civil Law Convention on Corruption of the Council of Europe.

Criminal remedies

The notion of *corruption within the public sector*. In Switzerland, corruption is defined as the offering, promising or giving of an undue advantage to a public official, in exchange of the execution or the omission of an act which relates to the activities of the public official, being contrary to the duties of the latter, or depending on the exercise of their discretionary powers at his/her own or a third person's advantage (Articles 322 *ter* and *quater* SCC). Offers, promises or gifts of an undue advantage are also criminally relevant if they are made with the goal of having the public official executing his/her duties, but that are not linked to a specific act (Article 322 *quinquies* and 322 *sexies* SCC).

Articles 322 *septies* SCC extends the criminal responsibility to the act of corruption which relate to foreign officials.

Corruption is punished from both the passive – the act of soliciting, having another promising and receiving – and the active standpoints, that is, the offering, promising or giving.

The notion of *public official*. Members of the Judiciary or of another authority, public officials, officially appointed experts, translators or interpreters, arbitrators, members of the army (Article 322 *ter* SCC), including private individuals who carry out public functions (Article 322 *decies* (2) SCC) are considered public officials, and are thus subjected to corruption. If these kinds of persons act for a foreign state or an international organisation, they are considered as "foreign public officials" (Article 322 *septies* SCC).

The notion of *corruption within the private* sector. Similarly to the above, corruption is described as the act by which an employer, a company member, an agent or any other auxiliary to a third party is offered, promised or granted undue advantages for themselves or third parties for the commission or omission of an act in relation to their official duties that is contrary to their duties or depend on the exercise of their discretionary powers (Article 322 *octies* SCC; Article 4a(1)(a) UCA).

The notion of *undue advantage*. The giving and accepting of "undue advantages" are only punishable when Swiss public officials are concerned (Articles 322 *quinquies* and 322 *sexies* SCC).

Payments made with the goal to accelerate the execution of administrative acts to which the corruptor is legally entitled (so-called "facilitation payments") – are punishable no matter if a Swiss or a foreign official is concerned, but only if the payment influences the discretion of the public official.

Advantages that are permitted under public employment law or contractually approved by a third party are exempted from criminal sanctions, as well as advantages that are common social practice (Article 322 *decies* (1) SCC). This would typically include small Christmas or thank-you gifts, as long as they are not intended to influence the public official concerned.

Criminal sanctions. Active and passive corruption within the public sector is punished with a prison sentence which can be up to five years or a fine of up to CHF 540,000 (Article 322 *ter* and Article 322 *septies*

SCC). Corruption within the private sector may result in imprisonment of up to three years or a fine (Article 322 *octies* (1) and Article 322 *novies* (1) SCC; Article 23 UCA). The offence is prosecuted only upon denunciation for minor cases, in both active and passive private corruption.

The general sentencing guidelines concerning, for example, the culpability of the offender, and/or his/her personal and financial circumstances at the time of conviction will guide the judge in deciding the amount of the sentence (Article 34(1) and (2) SCC).

The SCC also provides for additional administrative sanctions such as the prohibition of practising certain professions (Article 67 SCC) and the seizure of assets linked to corruption, that is received or intended to be used for corruption (Article 70 SCC).

Swiss criminal procedure provides for the possibility that the person suffering harm from corruption brings civil claims as a private claimant in the criminal proceedings.

Civil remedies

The main civil remedy available for corruption claims is the liability in tort provided for in Article 41 of the Swiss Code of Obligations (SCO). The liability is given when the claimant proves that the defendant committed an unlawful act. In addition to deceit (Article 28 SCO) and infringement of absolute rights such as property, tort liability will be given in cases of criminal offences when the goal of these offences is to protect assets or interests that were harmed. Where there is a contractual relationship between the briber and the victim, liability for breach or performance of contract may concur pursuant to Articles 97 *ff.* SCO.

Contrary to several foreign jurisdictions, agreements influenced by corruption are not null *per se*. Only corruptive pacts are (Article 20(1) SCO). Most recent case law, however, specifies that: (1) foreign decisions (including arbitral awards) awarding claims for damages deriving from contracts obtained by corruption may not be enforced in Switzerland as they may be deemed contrary to Swiss public policy; and (2) the corrupted perpetrators of acts of corruption cannot bring recourse claims against each other based on the ordinary rule of several liability of co-debtors (Article 50(1)(2) SCO)).[6]

Alternatively, or in addition to liability for damages, the victim of corruption may have a claim for restitution of undue proceeds pursuant to Article 423 SCO, the briber acting deceitfully for its principal, the victim. The victim is therefore entitled to the restitution of any remuneration earned by the briber and may obtain preliminary disclosure of activity and accounts before civil courts (Article 400(1) SCO).

Overview of enforcement activity and policy during the last year

Enforcement activity

According to the Swiss Money Laundering Reporting Office (MROS), Swiss banks currently manage 8.8 trillion in assets, 47.4% of which come from abroad, making Switzerland the world leader in foreign wealth management, with the financial sector accounting for one-seventh of Switzerland's gross value added, or CHF 95.5 billion. Nearly 10% of jobs, or some 430,000 full-time equivalents, depend directly or indirectly on this sector.[7]

In its latest 2025 Report,[8] the MROS states that in 2024, it received an average of 59 suspicious activity reports per working day, equating to a total of 15,141 reports submitted by Swiss financial intermediaries or dealers, representing a further increase of 27.5% compared with the previous year. However, in only 2.6% of the cases, the assumed predicate offences underlying money laundering were instances of corruption.[9] Official statistics show that, in 2024, within the whole of Switzerland, 19 cases of corruption passed the thresholds of the indictment and led to criminal convictions.[10]

Since 2003, the SCC provides for a specific criminal responsibility of legal entities which, when concerning corruption is independent from the criminal responsibility of the person who is responsible for the

infraction, if the organisation did not put in place all the reasonable and necessary measures to avoid the commission of these offences (Article 102(2) SCC). An analysis of the practices of the federal and cantonal law enforcement authorities is difficult as convictions are often rendered without trial, through "sentence orders", which are not, generally, made public.

At the federal level, between 2011–2021, the Office of the Attorney General of Switzerland (AOG) concluded a total of eight criminal proceedings against legal entities by means of a sentence order, which correspond to the 36% of the cases submitted to its authority.[11]

Policy/legislation

In 2023, the Swiss legislator took a step forward in the strengthening of transparency and avoiding corruption by introducing the "Transparency in non-financial matters", "Transparency in row material businesses" and the "Duty of care and transparency with regard to minerals and metals from conflict zones and child labor" chapters (Articles 964 a–964 l) within the Swiss Code of Obligation (CO).

While environmental and social issues coupled with respect for human rights and the fight against corruption are hot topics, not much has been done to make these new provisions known to the public. As per what concerns corruption, every year, concerned undertakings must prepare a report on payments made to state bodies. Concerned companies include: companies listed on the stock exchange; companies required to draw up consolidated accounts; companies which, as an annual average over two successive financial years, exceed two of the following thresholds: (1) 250 full-time employees; (2) a balance sheet of CHF 20 million; and/or (3) sales of CHF 40 million; and companies that are (directly or through a controlled entity) involved in mineral production. Finally, companies that have made, during a given financial year, payments of at least CHF 100,000 to public bodies in connection with commercial transactions related to extractive activities (Article 964f (2) CO). This step forward made Swiss legislation one of the most advanced in Europe in terms of Corporate Social Responsibility.

Concerned entities had to report by 2024 and many did.[12]

Also in 2023, new amendments to the Anti-Money Laundering (AML) Act entered into force. Notably, new measures targeting financial intermediaries in the areas of beneficial ownership were introduced (Articles 2 (a *bis*), 4, 7 AML Act) and the supervision and controls of the precious metals sectors was heightened.

In September 2025, the Swiss Parliament adopted two new pieces of legislation that, once entered into force (the date is yet to be set), will have a clear foreseeable impact on corruption: the further revision of the Federal Anti Money Laundering Act (AMLA); the Federal Act on the Transparency of Legal Entities; and the Identification of the Beneficial Owners (TLEA).[13]

In addition to the creation of a federal register of beneficial owners, certain advisory activities (in particular legal advice) that carry an increased risk of money laundering will be subject to due diligence obligations and measures against the circumvention or violation of sanctions under the Embargo Act will be enforced.

Law and policy relating to issues such as facilitation payments and hospitality

Article 322 *decies* SCC states that those that do not constitute *undue advantages* leading to corruption are advantages that are permitted under public employment law, that are contractually approved or whose value is both negligible and are accepted as common social practices (such as the Christmas gifts to the Postman, which is a very common social practice in Switzerland).

The SCC does not provide for a definition of "facilitation payments" or "negligible advantages", nor does it give indications concerning the "hospitality" matter. For the personnel of the Swiss Confederation, on the contrary, the Law on the Personnel and the related decree[14] though reaffirming the general rule that employees must not accept, solicit or be promised gifts or other benefits for themselves or others in the

performance of activities arising from the employment contract, exempts gifts in kind with a market value not exceeding CHF 200 (Article 21 para. 3 LPers and Article 93 para. 1 OPers).

In addition, employees are required to decline all invitations likely to restrict their independence or freedom of action and to refuse invitations to foreign countries, unless authorised in writing by their superior (Article 93a al. 1 OPers). For employees involved in a purchasing or decision-making process, even the acceptance of modest customary gifts or invitations is prohibited, as long as a link with this process cannot be ruled out (Article 93 al. 2 and 93a al. 2 OPers).

Gifts that cannot be refused for reasons of politeness must be handed over to the hierarchic superior of the employee concerned, as their acceptance is intended to serve the general interests of the Confederation (Article 93 al. 3 OPers).

Additional and/or different regulations and restrictions implementing the federal legislation may also apply at the cantonal level. For example, in the Canton of Geneva, the solicitation or acceptance of a cash benefit leads to immediate dismissal, without prejudice to criminal sanctions. The same sanction applies to employees who accept an invitation to an evening, weekend or travel event, or who receives a non-standard gift, unless expressly authorised by the hierarchical superior on an exceptional basis. Lunches, aperitifs, etc. during working hours and days require the authorisation of the hierarchical superior. Finally, customary gifts such as chocolate and wine are permitted but they must be shared with the entire department. In exceptional cases, and with the authorisation of the immediate superior, the employee may keep them for himself or herself.[15] A recent decision of the Federal Court,[16] that is the highest Swiss criminal court, has contributed to the definition of all these concepts. The decision concerns a cantonal politician who, charged of having accepted undue advantages for himself and his family after having travelled to Abu Dhabi with his family as a public official, was first sentenced to a suspended fine for accepting undue advantages by the first instance judge, then acquitted by the Court of appeal and finally, following the appeal of the Public prosecutor, was found guilty of Article 322 *sexies* SCC by the Federal Tribunal.

The latter, also following highly respected doctrine on this matter affirmed that the specificity of Article 322 *quinquies* CP and 322 *sexies* CP, compared to Article 322 *ter* CP (active corruption) and 322 *quater* (passive corruption), lies in the fact that no exchange relationship between the advantage and an act or omission of the public official is required.

The public official receives the advantage "in order for him to perform the duties of his office", which therefore excludes gifts given or received in a private context. Article 322 *sexies* SCC thus applies to the gifts received by a public official who takes advantage of his or her position to obtain undue benefits, without allowing himself or herself to be corrupted within the meaning of Article 322 *quater* SCC.

In practical terms, Article 322 *quinquies* and 322 *sexies* of the SCC, the Federal Court said, are likely to come into play in two different situations. The first relates to cases of "facilitation/grease payments", where a public official receives an advantage for performing an act that he/she is obliged to perform or would perform anyway, in the absence of discretionary power, and where the advantage is ultimately intended only to guarantee or accelerate the obtaining of a service to which the briber is entitled after all. The difference with Article 322 *ter* and 322 *quater* CP is that the public official here will not violate the duties of his office, nor abuse a power of appreciation which he does not have.

The second situation concerns manoeuvres involving "progressive feeding" or "payment of goodwill", that is the delivery of undue advantages with a view to winning the goodwill of a public official and influencing him or her favourably in a general way, without aiming at any definite or even determinable counter-performance, but solely in the hope that the opportunity for a "return of the favour" will one day present itself. Hence, the act is not criminally relevant if the advantage is granted without any connection with the official activity, in a purely private context, such as family or friendship.

The lower limit of unlawfulness must be determined in the light of a set of qualitative criteria, such as the

nature of the relationship between the protagonists and the circumstances in which the contacts take place, as well as quantitative criteria taking into account the scale and quantum of the advantage in question.

Key issues relating to investigation, decision-making and enforcement procedures

When corruption is committed by a member of an authority or an employee of the Swiss Confederation or against the Swiss Confederation (Article 23(1)(j) of the Swiss Code of Criminal Procedure – SCCP), or if the offence has been substantially committed abroad, or in two or more cantons with no single canton being the focus of the criminal activity (Article 24(1) SCCP), the investigations are run by the OAG. In all other cases, investigations are run by the competent cantonal law enforcement authorities. The Federal Office of Justice ("FOJ") is the authority competent to handle international cooperation requests and matters, such as mutual legal assistance and extradition requests.

Switzerland lacks mechanisms to resolve corruption cases through plea agreements, settlement agreements or similar without-trial means. However, this might refrain from prosecuting or punishing an offender if the latter "has made reparation for the loss, damage or injury or made every reasonable effort to right the wrong that he has caused" and the public and private interests harmed are negligible (Article 53 SCC). Recent changes into the regime of criminal records made this solution less interesting, in the sense that dismissals based on Article 53 SCC will be, since January 2023, registered into one's criminal records.[17] As per what concerns the responsibility of corporate entities for corruption and, in general, business crimes, the OAG strongly affirms the need to have, in Switzerland, especially within the domain of the criminal responsibility of undertakings, a piece of legislation offering adequate incentives to corporations to cooperate with the authorities, as it happens in the USA, UK, France and soon Germany.

Specifically, the OAG believes that it is necessary, at the Swiss level, to create the possibility – based on the Anglo-Saxon Deferred Prosecution Agreement – to suspend an indictment. In this way, companies will be encouraged to report suspected cases falling within the scope of the criminal provisions applicable to companies (Article 102 PC) or to promptly agree to undergo an investigation and cooperate openly and fully with the prosecuting authorities.

Though Swiss criminal law and procedure contain certain incentives for companies to cooperate, this is limited to a cooperative behaviour that might be considered by the authorities, only at the sentencing phase.[18]

Overview of cross-border issues

Cross-border corruption kept Swiss Courts busy in 2024–2025.

On 28 August 2024, the Federal Criminal Court sentenced two managers of the Geneva-based PETROSAUDI to six and seven years' imprisonment for embezzling over 1 billion dollars from Malaysian sovereign wealth fund 1MALAYSIA DEVELOPMENT BERHAD (1MDB). According to their press release, the Federal Criminal Court found that the two defendants, acting in concert with persons working for 1MDB had set up a fraud which enabled them, to the detriment of 1MDB, to collect USD 1 billion on the basis of a false joint venture partnership between PETROSAUDI and 1MDB. The Court also found that, after converting the joint venture into an Islamic loan, the defendants provided support, as part of acts of criminal mismanagement to the detriment of 1MDB, in the diversions of two additional payments of respectively USD 500 million and USD 330 million, falsely legitimising them with alleged investment opportunities, and then laundering the entire amount diverted.[19] On 22 August 2025, the OAGS reported that it had fined J.P. Morgan (Switzerland) CHF 3 million in connection with the misappropriation of assets from 1MDB. The outflow of funds totalled around CHF 174 million. JPMorgan and Malaysia said in a joint statement that the US banking giant would pay the sum into the southeast Asian country's asset recovery trust account, "without admitting liability". In a statement released by the Malaysian Ministry of Finance

it stated that "[t]he settlement agreement resolves all existing and potential claims and commits both parties not to pursue any future lawsuits or litigation related to 1MDB". Each party, it stated, will also withdraw all pending actions related to 1MDB's previous lawsuit against J.P. Morgan (Switzerland) in the Malaysian High Court.[20]

In April 2023, the Geneva Court of Appeal upheld the conviction of Beny Steinmetz for corruption of foreign public officials, as per Article 322 *septies* SCC. The French Israeli mining magnate was sentenced to three years in prison (of which 18 months were suspended) and a compensation claim of CHF 50 million for having bribed the fourth wife of the late President of Guinea, Lansana Condé, with USD 8.5 million. This pact enabled Beny Steinmetz Group Resources (BSGR) to obtain the exploitation rights in one of the world's largest iron mines.[21] The Swiss Federal Court confirmed the condemnation but referred the case back to the cantonal court regarding the payment of the replacement claim for three motives: the lack of reasoning for the payments to the recipient company establishing that these funds represented the net proceeds derived from acts of corruption; the lack of reasoning regarding the amount of the compensatory claim; and the lack of reasoning regarding the lifting of the corporate veil.[22]

In March 2024, the OAG sentenced, through a summary penalty order, GUNVOR SA to pay an amount of nearly CHF 86.7 million, including a fine of CHF 4.3 million. In fact, the Geneva commodities trading company was found criminally liable for the bribery of foreign public officials (Article 322 *septies* para. 1 SCC in connection with Article 102 para. 2 SCC), in particular, to an Ecuadorian public official who held an executive position at the state petroleum company EMPRESA PÚBLICA DE HIDROCARBUROS DEL ECUADOR (PETROECUADOR). These bribes were paid with the assistance of a former employee of the GUNVOR Group as well as two intermediaries acting through an offshore company. According to the OAG's summary penalty order, these bribes, some of which transited through the Swiss financial centre, directly benefitted the GUNVOR Group, as they led PETROECUADOR to award oil-related contracts to two companies with whom the GUNVOR Group had entered into 'back-to-back' contracts. The OAGS decision was part of a coordinated outcome with the U.S. Department of Justice, who entered into a Plea Agreement with GUNVOR SA relating to the same complex of facts. The company did not appeal the decision.[23]

In September 2023, the OAGS indicted Gulnara Karimova, the daughter of former Uzbek President Islam Karimov, and the former CEO of the Uzbek subsidiary of a Russian telecommunications company. The two defendants are accused of participating in a criminal organisation operating in various countries, including Switzerland. The charges cover the period from 2005 to 2013, and include, among others, participation in a criminal organisation (Article 260 *ter* SCC), money laundering (Article 305 *bis* SCC) and passive corruption of foreign public officials (Article 322 *septies* para. 2 SCC). In connection with the indictment, the OAG also requested the confiscation of assets for more than CHF 440 million. Criminal judgments of first instance are still expected. In November 2024, the OAGS indicted the bank Lombard Odier & Cie and a former employee for participation to a criminal organisation, money laundering, corruption of foreign public agents and forgery. On 12 May 2025, the Federal Criminal Court joined the proceedings. It considered, in particular, that "examining organisational failures of the bank necessarily involves examining the money laundering offence and, consequently, the illicit origin of the funds allegedly laundered. As these aspects are common to both proceedings, they must be judged jointly".[24]

Corporate liability for bribery and corruption offences

As mentioned, since 2003, the SCC provides for a specific criminal responsibility of legal entities which, when concerning financial crimes such as corruption (Articles 322 *ter*, *quinquies*, *septies* (1), *octies*) is independent from the criminal responsibility of any physical person, if the organisation did not put in place all the reasonable and necessary measures to avoid the commission of one of the offences listed in the norm (Article 102 (2) SCC).

On 5 December 2023,[25] the Office of the Attorney General of Switzerland (OAGS) filed an indictment in

the Federal Criminal Court against the commodities trading company TRAFIGURA BEHEER BV and three individuals of which a former Angolan public official charged with having accepted, between April 2009 and October 2011, bribes of more than EUR 4.3 million and USD 604,000 from the TRAFIGURA Group, in relation to its activities in the petroleum industry in Angola. A former intermediary and a former senior executive of the TRAFIGURA Group were charged with being involved in this corruption scheme. TRAFIGURA BEHEER BV was charged with failing to take all reasonable and necessary organisational measures to prevent the payment of these bribes.[26]

For the first time since the creation of article 102 para. 2 CP, in January 2025, the Swiss Federal Court's Criminal Chamber assessed the criminal liability of TRAFIGURA in relation to the bribery of foreign public officials after a proper trial. It found the company guilty of organisational weakness (in preventing bribery of foreign officials) and imposed a fine for CHF 3 million and a compensatory claim of USD 145 million[27]. In addition, the former COO was sentenced to a 32-month prison sentence of which must serve 12 months.[28]

At the time of writing, the full judgment issued in the TRAFIGURA case has not been made public (yet) and one can only rely on the penalty order originally opposed by the defendants (made indirectly published and commented) and in which the OAGS examines the organisational deficiencies that enabled the underlying offence (corruption of public foreign agents, as per Article 322 *septies* (1) SCC, in this case) to be committed.[29]

As constitutive elements of the underlying offence of corruption of foreign public officials were met, the OAG also analysed the question of whether the three companies under investigation could be accused of a lack of organisation that enabled the corrupt acts to be committed. To determine the measures that a company should put in place to prevent corruption, the OAG referred to the rules of conduct, standards and best practices in this area, notably, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, SECO's Guidelines on Preventing Bribery – Advice for Swiss Companies Operating Abroad and the Rules of the International Chamber of Commerce.

In light of the scale and duration of the acts of corruption, the OAG noted that, in that specific case, the analysis of the risk of corruption, the measures and processes for combatting corruption, and the controls were non-existent or inadequate. Until 2008, there was not a compliance department, the intermediaries and agents were not supervised in any way, nor had any internal directives been issued to monitor their activities. The OAG therefore concluded that, at the time of the events, there was not only disorganisation within the accused companies regarding the fight against corruption, but also a systematic corrupt scheme aimed at making bribe payments. These serious and multiple organisational shortcomings made it possible for the companies to commit the offences, and were common to all three companies, since they shared the same premises and, in part, the same employees and directors. In at least one other case, the OAGS has continued its practice of issuing penalties orders without publication. Following the sentencing of Gunvor SA on 30 March 2024, on 27 February 2025, the press announced that the OAGS concluded a criminal investigation into Morgan Stanley (Switzerland) GmbH by issuing a summary penalty order, leading to a CHF 1 million fine for the bank.

The investigation revealed that, in 2010, an advisor of the bank engaged in money laundering involving assets derived from bribery of the (back then) Greek Defence Minister. While the bank had AML policies and processes in place, it failed to implement adequate organisational measures to prevent these illicit activities. The bank has accepted the penalty, and the order is legally binding.[30]

Proposed reforms / The year ahead

The SCCP was revised on 1 January 2024. Although the OAGS proposed to introduce a system of Deferred Prosecution Agreements, the Federal Council, in his addresses to the Parliament, rejected this proposition in 2019.[31] Surprisingly, only five months after the entry into force of the new SCCP and in spite of the intent of the legislator not to include DPAs in the Swiss criminal system, the OAGS "*regret*[s]" the situation in

these terms: "*Regrettably, there was no place in the revised Criminal Procedure Code for the proposal that the OAG submitted as far back as 2018 of introducing the option, in line with the Deferred Prosecution Agreement (DPA) familiar in Anglo-American law or the Convention judiciaire d'intérêt public (CJIP) in France, of reaching a settlement with companies that themselves report potential cases of corporate criminal liability (Art. 102 SCC) or that cooperate fully with the prosecution authorities in the criminal investigation that spares the companies from conviction. The OAG is proposing that companies be required to pay an amount equivalent to the fine and to repay the unlawfully achieved profits as part of the settlement. In addition, they should provide restitution for the damage caused by their activities and reform the structure of their business so as to make a repetition of the offence impossible. The settlement negotiated between the public prosecutor and the company should be approved by a court. The OAG still takes the view that a settlement procedure of this kind is an urgent necessity in Swiss corporate criminal law*".[32]

At the international level, on 20 March 2025, a landmark step in international anti-corruption enforcement was taken when the United Kingdom's Serious Fraud Office (SFO), France's Parquet National Financier (PNF), and the OAGS signed a founding statement establishing the International Anti-Corruption Prosecutorial Taskforce. This new alliance aims to intensify and streamline the fight against cross-border bribery and corruption, reflecting a growing recognition of the global nature of financial crime and the need for coordinated responses.[33]

At the European level, the creation of the European Public Prosecutor's Office (EPPO), the EU criminal prosecution body responsible for prosecuting offences against the EU's financial interests, such as fraud, corruption and transnational VAT offences took office in 2021 and, since then, the Swiss authorities have already received several requests for mutual assistance, which have been refused for lack of a legal basis. As a consequence, Switzerland has first intensified "reflections" on how to cooperate with this new body and, finally, in December 2022, published a new piece of legislation allowing the collaboration between Switzerland and the EPPO[34] on the basis of the international mutual assistance in criminal matters legislation. This new decree entered into force in February 2023 and if, correctly used, would avoid the risk Switzerland be used for criminal purposes which is contrary to the declared Switzerland's objectives in the fight against transnational crime and its willingness in ensuring a clean financial centre.

More recently, between September and October 2025, Switzerland signed, respectively, the Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters[35] a Protocol amending the agreement on the automatic exchange of financial account information to improve international tax compliance[36] in this way affirming its engagement in combatting cross-border crime and modernisation and unification of international criminal prosecution in Europe.

Endnotes

1 Free translation from the Stratégie du Conseil fédéral contre la corruption 2021–2024, page 3, available at https://www.eda.admin.ch/eda/fr/dfae/dfae/publikationen.html/content/publikationen/fr/eda/schweizer-aussenpolitik/Strategie_BR_gegen_Korruption_2021-2024 (last visited 5 October 2023).

2 Swiss Federal Office, Implementation of the Federal Council's anti-corruption strategy for 2021 to 2024. State Secretariat of the Federal Department of Foreign Affairs, available at https://www.efk.admin.ch/en/audit/implementation-of-the-federal-councils-anti-corruption-strategy-for-2021-to-2024 (last visited 22 October 2025).

3 Free translation, State Secretariat of the Federal Department of Foreign Affairs, Evaluation of the implementation of the Federal Council's anti-corruption strategy 2021–2024, 7 March 2025, para 2.1, page 20, available at https://www.efk.admin.ch/wp-content/uploads/publikationen/berichte/wirtschaft_und_verwaltung/allgemeine_verwaltung/24277/24277_endgueltige_fassung_v04.pdf (last visited 23 October 2025).

4 CPI 2024: *Trouble at the top, Behind a facade of prosperity, financial centres are providing a false sense of security from corruption*, 11 February 2025, available at https://www.transparency.org/en/news/cpi-2024-trouble-at-the-top (last visited 22 October 2025).

5 *Auslandskorruption bei Schweizer Unternehmen – neue Erkenntnisse zu Risiken und Gegenstrategien*, available at https://transparency.ch/wp-content/uploads/2024/02/FHGR_TI-Schweiz_Auslandskorruption_2024.pdf (last visited 23 October 2025).

6 Federal Court Decision 4A_372/2023 of 5 September 2024.

7 Federal Office of Police – Fedpol, Money Laundering Reporting Office Switzerland MROS, Stratégie du MROS 2024–2027, page 4, available at https://www.bing.com/search?q=strat%C3%A8gie%20du%20MROS%20 2024-2027&qs=n&form=QBRE&sp=-1&ghc=1&lq=0&pq=strat%C3%A8gie%20du%20mros%202024-2027&sc=12-27&sk=&cvid=2ECACA1541004883A4E48B6980F49854 (last visited 21 October 2025).

8 *Id.*, page 4.

9 *Id.*, page 18.

10 Office fédéral de la Statistique (OFS), *Adults: convictions for a misdemeanour or felony under the articles of the Swiss Criminal Code (SCC), Switzerland and cantons*, available at https://www.bfs.admin.ch/bfs/fr/home/statistiques/criminalite-droit-penal/justice-penale/condamnations-adultes.assetdetail.35367076.html (last visited 21 October 2025).

11 Nora Markwalder, *Die Sanktionierung von Unternehmen gemäss Art. 102 StGB in Theorie und Praxis - Teil 2*, in ZStrR 3/2022, page 286.

12 E.g. Hermes Suisse (https://assets-finance.hermes.com/s3fs-public/node/pdf_file/2025-02/1738678570/24-12-18-rapport-hermes-suisse-en.pdf?VersionId=grtvLZieev0PiZ2jaTG1q8rmKpminAey; Richmont (https://www.richemont.com/media/3vwfatyf/richemont-non-financial-report-2025.pdf); Barry Callebaut (https://www.barry-callebaut.com/system/files/2024-11/Report%20on%20non-financial%20matters%20according%20to%20Swiss%20Co.%20 2023_24_1628_0.pdf; Holcim (https://www.holcim.com/sites/holcim/files/2024-04/28022024-holcim-report-non-financial-matters-2023.pdf).

13 State Secretariat for International Finance SIF, *Federal Council launches consultation for ordinances on the transparency of legal entities and combating money laundering and terrorist financing*, 15 October 2025, available at https://www.sif.admin.ch/en/newnsb/p4lGLqowAyTAweIiDLtxs (last visited 23 October 2025).

14 Loi sur le personnel de la Confédération (LPers), 24 March 2000, available at https://www.fedlex.admin.ch/eli/cc/2001/123/fr (last visited 23 October 2023) and the Ordonnance sur le personnel de la Confédération (OPers), 3 July 2001, available at https://www.fedlex.admin.ch/eli/cc/2001/319/fr (last visited 23 October 2023).

15 Article 25 of the regulations implementing the General Law on Personnel of the Cantonal Administration, the Judiciary and Public Medical Establishments (RPAC; RS/GE B 5 05.01, the Mémento des instructions de l'Office du personnel de l'État de Genève (MIOPE), and the directive entitled "Avantages octroyés au personnel de l'administration cantonale par des tiers", no. 01.07.06; 18 December 2012, available at https://www.ge.ch/memento-instructions-ope-miope (last visited 23 October 2023).

16 6B_220/2022, available at https://www.bger.ch/ext/eurospider/live/fr/php/aza/http/index.php?highlight_docid=aza%3A%2F%2Faza://31-10-2022-6B_220-2022&lang=fr&zoom=&type=show_document (last visited 23 October 2023).

17 Yvan Jeanneret, *La réforme du casier judiciaire et l'exemption de peine: d'une incohérence à un droit au classement?*, in Revue pénale Suisse, RPS, 3/2023, page 255.

18 Report of the Office of the Attorney General of Switzerland on its activities in 2022 for the attention of the supervisory authority, pages 11–12, available at https://www.bundesanwaltschaft.ch/mpc/en/home/taetigkeitsberichte/taetigkeitsberichte-der-ba.html (last visited 25 October 2023).

19 Press release of 28 August 2024, https://www.bstger.ch/uploads/2024-08-27_Press_Release_SK.2023.24.pdf (last visited 29 October 2024).

20 JPMorgan to pay CHF270 million to settle 1MDB claims – SWI swissinfo.ch.

21 Judgment AARP/116/2023, case P/12914/2013 and Press release of the Cour of Justice of Geneva of 4 April 2023), subject to appeal to the Swiss Federal Court, case 6B_669/2023 (https://justice.ge.ch/apps/decis/fr/parp/show/3256626?doc= and https://justice.ge.ch/media/2023-04/pj-cj-cpar-arret-Steinmetz-2022-04-04.pdf; last visited 29 October 2024).

The official press release of the Geneva Court of Appeal can be found here: https://justice.ge.ch/en/node/2506 (last visited 24 October 2023); the text of the decision can be found here: https://justice.ge.ch/apps/decis/fr/parp/show/3256626?doc= (last visited 24 October 2023).

22 Federal Court decision 6B_669/2023 of 24 March 2025.

23 News Service Bund. The Portal of the Swiss Government, *GUNVOR SA held criminally liable for acts of corruption in Ecuador*, 1 March 2024, available at https://www.news.admin.ch/en/nsb?id=100264 (last visited 22 October 2025).

24 Criminal Federal Court decision of 12 May 2025, case SK.2023.42, §2.

25 https://www.news.admin.ch/fr/nsb?id=99242

26 https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-99242.html (last visited 29 October 2024).

27 RTS Info, *L'entreprise Trafigura écope d'une amende et certains accusés de prison ferme pour corruption en Angola*, 31 January 2025, available at https://www.rts.ch/info/suisse/2025/article/l-entreprise-trafigura-condamnee-a-une-amende-de-3-millions-de-francs-pour-corruption-en-angola-28775742.html (last visited 22 October 2025).

28 RTS Info, *L'entreprise Trafigura écope d'une amende et certains accusés de prison ferme pour corruption en Angola*, 31 January 2025, available at https://www.rts.ch/info/suisse/2025/article/l-entreprise-trafigura-condamnee-a-une-amende-de-3-millions-de-francs-pour-corruption-en-angola-28775742.html (Last visited 22 October 2025). Press release of the OAG, *La Cour des affaires pénales du Tribunal pénal fédéral condamne une personne morale et trois personnes physiques pour corruption d'agents publics étrangers* (art. 322septies CP) (SK.2023.49), 31 January 2025, available at https://www.bstger.ch/fr/media/comunicati-stampa/2025/2025-01-31/1454.html and https://www.bstger.ch/uploads/2025-01-30_SK.2023.49_-_Dispositif_anonymise.pdf (last visited 22 October 2025).

29 Nora Markwalder, *La responsabilité pénale de l'entreprise selon l'art. 102 al. 2 CP: nouvelle ordonnance pénale du MPC prononcée à l'encontre de trois entreprises suisses*, 14 June 2022, in Crimen.ch, available at https://www.crimen.ch/113/#:~:text=Le%20MPC%20examine%20ensuite%20les,l'infraction%20sous%2Djacente (last visited 26 October 2023).

30 News Service Bund. The Portal of the Swiss Government, *The Office of the Attorney General of Switzerland closes its investigation into Morgan Stanley (Switzerland) GmbH with a summary penalty order*, 27 February 2025, available at https://www.news.admin.ch/en/nsb?id=104337 (last visited 22 October 2025).

31 See GOETZ STAEHELIN Claudia and LEMBO Saverio, Transparency in Cross-Border Corruption Cases – From Investigation to Disclosure and Resolution, in Negotiated Justice in transnational Corruption – Between Transparency and Confidentiality, University of Neuchatel 2024, page 88 and following.

32 OAGS' Annual Report 2023, pages 13–14.

33 Press release of the Swiss Federal Council of 30 March 2025 (news.admin.ch/en/nsb?id=104571).

34 Office fédérale de la justice, *Rapport d'activité 2022, Entraide judiciaire internationale*, May 2023, available at https://www.bj.admin.ch/bj/fr/home/sicherheit/rechtshilfe/strafsachen.html (last visited 24 October 2023); *Le Conseil fédéral rend possible la coopération avec le Parquet européen*, Communiqué de presse, 21 December 2022, available at https://www.eda.admin.ch/europa/en/home/aktuell/medienmitteilungen.html/content/europa/fr/meta/news/2022/12/21/92319 (last visited 24 october 2023).

35 https://www.news.admin.ch/fr/newnsb/WqcAZRrFGmW8WhN5JBOK3

36 https://www.letemps.ch/suisse/la-suisse-et-l-ue-signent-un-accord-elargissant-leur-cooperation-en-matiere-d-echange-d-informations-fiscales

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