

Annual Activity Report 2019

Mutual Legal Assistance



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Table of contents

	Editorial	5
1	The Division for International Legal Assistance and its Units	6
1.1	The Division	6
1.2	The Units and their remits	7
1.3	Staff changes at the Office of the Swiss Liaison Prosecutor in The Hague	8
2	Selected topics and cases that the DILA dealt with in 2019	9
2.1	The DILA's role in relation to Swiss requests for legal assistance	9
2.2	The DILA as a supervisory authority: the right of appeal – a very useful instrument	11
2.3	The requirement of dual criminality	13
2.4	Special extradition cases	17
2.5	INTERPOL searches II; Change of system for INTERPOL searches: Direct access to the ASF	18
2.6	If the extradition is based on a judgment issued in absentia	19
2.7	Further selected cases related to extradition	20
2.8	Road traffic offences – international cooperation on enforcing the collection of fines and on identifying drivers	22
3	New instruments to aid cooperation	24
4	The DILA's participation in international organisations: the United Nations Office on Drugs and Crime	25
5	The DILA as a service provider	27
5.1	Legal Assistance Conference 2019: Legal assistance in criminal matters between civil and common law countries	27
5.2	An overview of the electronic tools on the DILA website	28
6	Selected decisions by Swiss courts on international mutual legal assistance in criminal matters	28
6.1	Extradition and transfer	28
6.2	Accessory legal assistance	29
7	Important statistical information on international legal assistance 2015–2019	30

Editorial



The Federal Office of Justice (FOJ) is the contact point for incoming and outgoing requests for mutual assistance, the supervisory authority that ensures the executing authorities provide mutual assistance promptly and efficiently, and in certain cases the executing and decision-making authority itself. Parliament has assigned the FOJ the widest variety of operational functions and tasks

in an effort to make the provision of legal assistance in criminal matters as efficient and consistent as possible.

The Division for International Legal Assistance (DILA) at the FOJ can face a wide range of challenges in any of its roles: this is perfectly illustrated by a major corruption case involving international commodities trading in which the cantonal public prosecutor's office concerned brought the matter to court in the report year, not least thanks to excellent international cooperation. The case involved an investigation into allegations of bribery in connection with the granting of mining concessions for iron ore deposits in an African state. Various countries, including the USA, France, Guinea, Israel, Belgium and Romania were requested for support in the form of legal assistance. The USA, Israel and Guinea themselves asked Switzerland for legal assistance in return.

The DILA supported the cantonal public prosecutor's office concerned in transmitting requests for legal assistance to other coun-

tries and in following up these requests by contacting its foreign partner authorities when there were delays in executing Swiss requests, as well as working to solve any problems that obstructed cooperation. As the Swiss central authority for international legal assistance in criminal matters, the DILA received foreign requests for cooperation – they related primarily to obtaining and transmitting bank records and transmitting evidence seized in the course of cantonal criminal proceedings; after a preliminary examination, it passed them on to the competent national authority for execution. As part of its supervisory duties, the DILA then worked to ensure that legal assistance could be provided as promptly as possible. In the numerous appeals that were filed against the provision of legal assistance, the DILA as the supervisory authority was also called on to provide its opinion to the competent courts.

This case is a good illustration of how legal assistance is not a one-way street. The reliable and efficient provision of legal assistance in response to a foreign request is very often required to ensure that the other state supports Switzerland in return. Legal assistance is a matter of trust and is based on reciprocity. This makes it important to develop and maintain a trusting relationship with other authorities and states that brings mutual benefits. Through its various responsibilities and activities, the DILA as the Swiss central authority for legal assistance in criminal matters makes a vital contribution to doing just that.

I am confident that the Annual Report 2019 will prove to be an interesting and varied read that highlights some of the cases, topics and issues that the DILA worked on last year.

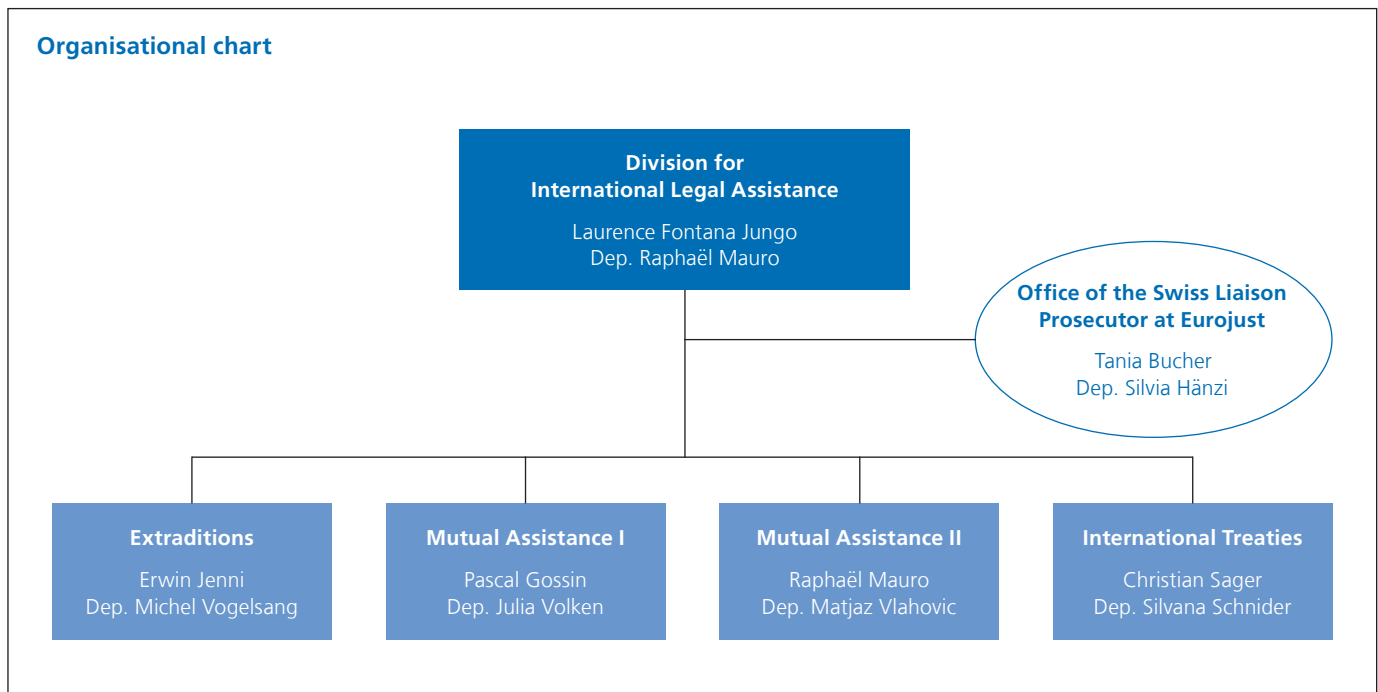
*Laurence Fontana Jungo
Vice-Director FOJ, Head of the Division for International Legal Assistance*

1

The Division for International Legal Assistance and its Units

1.1 The Division

The Division for International Legal Assistance DILA forms part of the Federal Office of Justice FOJ. It is structured into four units and the office of Switzerland's liaison prosecutor at Eurojust. It employs 45 permanent staff, spread across 37.5 full-time equivalents. The 31 women and 14 men come from all parts of Switzerland.



Overview of principal tasks

- Ensuring the rapid provision of international legal assistance in criminal matters as Switzerland's central authority in the field.
- Submitting and receiving Swiss and foreign requests for cooperation, unless the authorities concerned are permitted to contact each other directly.
- Making certain decisions with regard to legal assistance requests, extraditions, transfers of sentenced persons, and criminal prosecution and sentence enforcement on behalf of other states.
- Supervising the execution of requests for legal assistance.
- Developing the legislation on legal assistance in criminal matters.
- Performing various operational duties, including those connected with legal assistance in civil and administrative matters.



The DILA Management team: from left to right Erwin Jenni (Extraditions), Raphaël Mauro (Mutual Assistance II), Laurence Fontana Jungo (Head of the DILA), Pascal Gossin (Mutual Assistance I), Christian Sager (International Treaties). Photo: Richard de Stoutz

1.2 The Units and their remits

Extraditions

- Extradition: decisions on search requests. Orders the arrest of a person wanted by another country so that they can be handed over to that country. Decides on the person's extradition in the first instance. Right of appeal against any ruling by the Federal Criminal Court. Arranges for extradition to be carried out. At the request of Swiss prosecutors or enforcement authorities, submits search requests and formal extradition requests to foreign governments.
- Prosecutions on behalf of other states: deals with Swiss and foreign requests to take over criminal proceedings in cases in which extradition is not possible or appropriate. Checks whether requests to foreign governments meet the requirements and decides whether they should be submitted. Receives, reviews and forwards foreign requests to the competent Swiss prosecution authorities, and may also decide whether or not to accept the foreign request in consultation with that authority.
- Sentence enforcement on behalf of other states: receiving and submitting requests.
- Transfer of sentenced persons: decides in consultation with the competent cantonal authorities on the transfer of sentenced

persons to their country of origin to serve the remainder of their sentence.

- Transfer of persons wanted by an international criminal tribunal, or of witnesses in custody.
- Provision of a 24/7 on-call service for the operational units, in collaboration with the Federal Office of Police fedpol (SIRENE/Operations Centre).

Mutual Assistance I: Seizure and handover of assets

- Legal assistance proceedings in cases involving politically exposed persons (PEP): may also conduct the related domestic proceedings independently.
- Forwards Swiss requests for legal assistance to foreign authorities and, following a preliminary review, delegates foreign requests for assistance in connection with the seizure and handover of assets (asset recovery) to the competent cantonal or federal executing authorities, unless the authorities concerned are permitted to communicate directly. Supervises the execution of the request, and has a right of appeal against the decision of the legal assistance authorities and the Federal Criminal Court.

- Precautionary measures, e.g. freezing of accounts, may be ordered in urgent cases.
- Decides on the further use of evidence (doctrine of speciality).
- Works within national and international bodies and working groups on asset recovery-related issues.
- Negotiates with other states or cantonal and federal authorities on sharing arrangements for confiscated assets at national and international level.
- Provides legal assistance to the International Criminal Court and other international criminal tribunals.
- Handles cases involving the unsolicited provision of evidence and information to foreign criminal prosecution authorities.

Mutual Assistance II: obtaining evidence and service of documents

- Forwards Swiss requests for legal assistance to foreign authorities and, following a preliminary review, delegates foreign requests for assistance in connection with the collection of evidence and service of documents to the competent cantonal or federal executing authorities, unless the authorities concerned are permitted to communicate directly. Supervises the execution of the request and has a right of appeal against the decision of the legal assistance authorities and the Federal Criminal Court.
- Precautionary measures, e.g. freezing of accounts, may be ordered in urgent cases.
- Central offices for cooperation with the USA and Italy: conducts legal assistance proceedings independently, including asset recovery (generally in the case of the USA; in the case of Italy in complex or particularly important cases concerning organised crime, corruption or other serious offences).
- Decides on the further use of evidence (doctrine of speciality).
- Gives consent for findings transmitted via administrative assistance channels to be forwarded to a foreign prosecuting authority.
- Forwards information to other states for the purposes of criminal prosecution.
- Processes requests for legal assistance concerning cultural property.
- Processes and forwards requests for service in criminal matters.
- Handles requests for legal assistance to gather evidence and serve documents in civil and administrative cases.

International Treaties

- Negotiates bilateral treaties and other instruments concerning mutual legal assistance in criminal matters (extradition, accessory mutual assistance, transfers of sentenced persons), and participates in negotiations on multilateral conventions in this field. Supports these initiatives as they pass through the political process.
- Drafts and supports legislative projects related to legal assistance in criminal matters.
- Provides input on other legislative instruments and projects relating to legal assistance in criminal matters.
- Supports the Division's management as it draws up strategies relating to policy and law-making in all of the DILA's fields of activity.
- Represents the Division on steering committees active in the field of legal assistance in criminal matters, specifically those of the Council of Europe and the UN.

Office of the Swiss Liaison Prosecutor at Eurojust

- Gathers information, coordinates and establishes direct contact when there are enquiries from Swiss prosecuting authorities or from Eurojust concerning international criminal investigations.
- Organises and participates in coordination and strategic meetings at Eurojust.
- Provides information and advice to the Swiss criminal prosecution and executing legal assistance authorities at cantonal and federal level about the services and support available from Eurojust and/or the Office of the Swiss Liaison Prosecutor.
- Reports to the Eurojust advisory group, which is chaired by the DILA and comprises representatives of the Swiss Conference of Public Prosecutors (i.e. the cantonal public prosecutor's offices and the Office of the Attorney General of Switzerland).

1.3 Staff changes at the Office of the Swiss Liaison Prosecutor in The Hague

In August 2019, Tania Bucher (previously the deputy liaison prosecutor) began work as the successor to Maria Schnebli as the Swiss liaison prosecutor at Eurojust. At the same time Silvia Hänzi, for many years a public prosecutor for the Canton of Bern, was appointed her deputy.

2 Selected topics and cases that the DILA dealt with in 2019

This Chapter does not offer a comprehensive overview of the DILA's activities in 2019. Instead individual topics and cases are used to illustrate the Division's activities.

2.1 The DILA's role in relation to Swiss requests for legal assistance

The DILA is not only called on to act in its capacity as the central office for legal assistance in criminal matters in cases where Switzerland is requested to provide accessory legal assistance to foreign authorities. It also plays a leading role in supporting the federal and cantonal prosecution authorities in their efforts to obtain legal assistance from foreign authorities in Swiss criminal proceedings.

One of the DILA's rather less well-known tasks is transmitting requests for legal assistance from Swiss prosecution authorities, and occasionally from Swiss courts, to the foreign authorities.

In these cases, the DILA checks whether the requests that Switzerland sends to the foreign authorities are permitted and meet the formal requirements. The DILA ensures from the standpoint of reciprocal rights that the Swiss authorities are not sending a request to a foreign state that Switzerland could not accept under the Mutual Assistance Act (IMAC, SR 351.1) if it were the requested state.

If there has been no direct contact between the requesting Swiss authority and the requested foreign authority or if the address of the foreign authority is not known, the request for legal assistance is transmitted through the DILA. In the absence of any agreement between Switzerland and the state concerned, the request is made through diplomatic channels. An agreement between the two states on the other hand makes simplified contact possible in most cases, with the DILA being able to contact a central authority, often affiliated to the ministry of justice in the other state.

If asked, the DILA advises Swiss authorities that would like to request another state for legal assistance. When dealing with states with which there are regular exchanges, the DILA is likely to know the legal requirements and practices. As a practical aid for their requests to foreign authorities, Swiss authorities can also consult the mutual legal assistance guide (see below Sec. 5.2). This contains useful information, for example on the time taken to execute requests, translation requirements or the number of copies of requests for legal assistance to be submitted.

If there are problems with or delays in executing Swiss requests for legal assistance, at the request of the prosecution authority, the DILA will send a reminder to the foreign authority. It can also contact the foreign central authority, to try to find out more

about the problem and if need be find a solution. Where a foreign state repeatedly fails to meet its international obligations in relation to legal assistance, in particular by refusing Switzerland legal assistance for no good reason, the DILA will consider the appropriate measures to take in consultation with the various offices of the Federal Administration concerned, above all in the Federal Department of Foreign Affairs (FDFA).

The support received from foreign authorities through legal assistance was for example very important for the decision taken by the public prosecutor in Geneva to file charges in a major corruption case. International cooperation was an essential link in the chain of criminal prosecution.

Alleged bribes in the commodities sector

Legal assistance plays an increasingly important role in criminal proceedings. Because of their nature and international dimension, this is especially so when it comes to international corruption cases. As the criminal acts in such cases are often committed in another country, both Swiss and foreign public prosecutors rely heavily on the assistance of other states to obtain evidence and crucial information for their investigations. Without satisfactory cooperation, it is extremely difficult to bring investigations in a highly specialised field like combating international corruption to a successful conclusion.

A good example of the importance of international cooperation is the investigation that the Geneva prosecution authorities have been conducting since 2013 in the case of Mr S. Shortly after they received an international request for legal assistance from a sub-Saharan African state in connection with acts of corruption connected to the granting of mining concessions for iron ore deposits, the Public Prosecutor's Office Geneva decided to open criminal proceedings against suspects that included a foreign businessman resident in Geneva. His house and private aeroplane in Geneva were searched in 2013. The businessman was suspected of having paid bribes in 2008 to local officials in the state concerned in return for the award of mining concessions to his companies at a low price. The entourage of the president of the state at the time was also involved: the president's wife was allegedly offered several million dollars to encourage the award of the concessions. Various other states, including the USA, Israel and Guinea, had in the meantime also opened criminal proceedings, were investigating offences in the same connection and had requested Switzerland for legal assistance.

The investigation required numerous requests for legal assistance from the Public Prosecutor's Office Geneva to be transmitted, often via the DILA, to various states, such as the USA, France, Guinea, Israel, Belgium and Romania. On several occasions, representatives from the Geneva justice and police authorities travelled abroad to participate, with the express consent of the relevant foreign authorities, in legal assistance measures. The vast majority of the requests sent to foreign authorities led to the transmission of useful information and evidence for the Geneva authorities. The fact that the Swiss authorities executed the requests for legal assistance from the other states diligently and quickly made it easier to obtain support from these states, as they had themselves requested legal assistance.

The legal issues were fiercely disputed, not surprisingly given the interests at stake and the persons concerned. Not only was the legal assistance granted to the foreign states by the Swiss authorities frequently challenged – without success – before the courts. Even a Swiss request for legal assistance was challenged, something that happens very rarely. The reason for this was that the request did not provide for the suspects' Swiss lawyers to be present at the decisive hearing

abroad to question the allegedly corrupt wife of the president, but simply offered them the opportunity to put their questions in writing. Here again the related appeals were rejected.

The DILA was invited by the courts to give its opinion on numerous appeals. It facilitated the provision of legal assistance in its capacity as the supervisory authority by assessing that the statutory requirements for providing legal assistance were met. The DILA also supported the Public Prosecutor's Office Geneva as required in connection with its requests for legal assistance to foreign authorities. To this end it had to contact the states concerned on several occasions in order to obtain the required support, whether by sending a reminder about a request for legal assistance that had been submitted, or by contacting the central authority of the state concerned.

In the summer of 2019, the cantonal public prosecutor's office filed an indictment in the criminal court of the Canton of Geneva on charges of bribery of foreign public officials and forgery of documents. The presumption of innocence applies until a final and legally binding conviction has been secured.



An iron ore mine. The international trade in commodities is susceptible to corruption. Photo: EcoPic/Getty Images

2.2 The DILA as a supervisory authority: the right of appeal – a very useful instrument

One of the DILA's important tasks is the supervision of authorities that execute requests for legal assistance. Here the DILA has a right of appeal against decisions taken by the authorities executing legal assistance requests and the Federal Criminal Court. This helps it to enforce the Swiss law on legal assistance. In some cases, it can also be of considerable political importance, particularly on foreign policy matters.

International legal assistance in criminal matters establishes a relationship between states. This relationship has its basis in international law. A state 'lends out' its prosecution authorities, so they can carry out investigative activities at the request of another state. This administrative activity from the Swiss point of view is therefore subject to the supervision of the state providing support. Individual legal assistance proceedings also have considerable political consequences. It is therefore essential that a federal administrative authority can intervene in legal assistance proceedings if required.

In Switzerland the DILA is responsible for carrying out this supervision. It can do this in a pro-active and reactive way.

Pro-actively, the DILA issues guidelines and circulars providing information on the interpretation of certain provisions of the Mutual Assistance Act or on other issues requiring clarification. The guidelines and circulars are published on the DILA's website (see <https://www.rhf.admin.ch/rhf/de/home/strafrecht/wegleitungen.html>). In this respect, the DILA's competences are comparable with those of similar foreign authorities.

In a reactive sense – and here it is different from its foreign partner authorities – the DILA holds a right of appeal against decisions relating to legal assistance (Art. 80h let. a IMAC). It is the only Swiss authority that can appeal on legal assistance issues. This power gives it considerable influence, but it also comes with serious responsibility. In particular the DILA must take account of the principle of expeditiousness that is enshrined in the IMAC and limit itself to fundamental issues when exercising its right of appeal, in order not to delay legal assistance proceedings unnecessarily.

Parliament granted the DILA the right of appeal primarily with a view to achieving the following goals:

- The uniform interpretation and application of legal regulations in relation to international legal assistance in criminal matters:

This task is very important. The Federal Supreme Court (highest court and final appellate authority in the field of mutual legal assistance) cannot itself intervene in cases that have been decided by the Federal Criminal Court as the first instance. Accordingly, the DILA is the only authority that can refer cases to the Federal Supreme Court. For this purpose it must not only carefully monitor the case law of the Federal Criminal Court, but also react immediately if it thinks it should refer a matter to the Federal Supreme Court.

In the past, for example, it was an appeal by the DILA that enabled the French stock market oversight authority (*Commission des opérations de bourse, COB*) as well as its Italian counterpart (*Commissione Nazionale per le Società e la Borsa, CONSOB*) to obtain legal assistance (BGE 126 II 86 and judgment of the Federal Supreme Court 2A.83/2000 of 28 June 2000). In a further case related to stock market offences, the Federal Supreme Court rejected an appeal from the DILA which had held that the criminal offence of insider dealing was interpreted too restrictively. The court however took the view that case law could not bring about a change in practice, but the law itself had to be revised (judgment 1A.325/2000 of 5 March 2001, E. 3e). The appeal brought by the DILA had therefore given the impetus to a revision of the law on the offence of insider dealing.

At the start of 2019, the DILA filed an appeal against a decision of the Federal Criminal Court. The court had ordered the complete revocation of a provisional seizure of securities that the Office of the Attorney General of Switzerland (OAG) had ordered in response to a Greek request for legal assistance in connection with a claim for compensation. The Federal Criminal Court concluded that the execution of a subsequent forfeiture order would be impossible pursuant to the IMAC and that the seizure was therefore pointless. In contrast, the DILA shared the OAG's view that legal assistance could be granted for part of the funds, as the good faith of the custodian bank, which was enforcing a lien on all the funds, was not adequately proven. Accordingly, at least part of the seizure was justified until there was a legally binding decision on the bank's good faith. The Federal Supreme Court agreed with this position (judgment 1C_146/2019 of 17 May 2019, E. 4).

Also in the report year, the DILA filed an appeal in the Federal Criminal Court against a final ruling from a cantonal executing authority. The case involved a request for legal assistance from Germany in criminal proceedings connected with the G20 riots in Hamburg in 2018. Part of the request was for a search of houses and premises in Switzerland. During the search, a request was made for the seized evidence to be sealed. After the cantonal compulsory measures court rejected the executing authority's request to remove seals and ordered the return of the seized evidence, the executing authority had no alternative but to refuse legal assistance in relation to the sealed documents. The DILA appealed against this ruling and the previous decision of the compulsory measures court, taking the view that the compulsory measures court had been wrong to order the return of the seized evidence. In decision RR.2019.255 of 27 December 2019, the Federal Criminal Court upheld the appeal and ordered the seals to be removed from the data.

- Representing the interests of the requesting state in the absence of party status in legal assistance proceedings:

As far back as 1987, the Federal Supreme Court, in response to an appeal from the DILA in a case relating to a request from the Philippines for the handover of assets, authorised the early return (before forfeiture in the requesting state) of most of the funds, around CHF 700 million, that Ferdinand Marcos, the former president of the Philippines, had directly or indirectly held in Switzerland (BGE 123 II 595). In more recent years, in a legal assistance case involving Italy, an appeal by the DILA resulted

in the seizure of more than CHF 150 million that had been held in Switzerland by one of the companies owned by the businessman and politician Silvio Berlusconi being upheld (judgments of the Federal Supreme Court 1C_463/2014 and 1C_465/2014 of 18 August 2015).

In the report year, the DILA was able to support two requests for legal assistance from Brazil, by appealing to the Federal Criminal Court against related rulings from the executing authority. In the first case, the executing authority was prepared to release part of the funds so that the account holder could pay maintenance costs. As his application was not adequately justified and he had not proven that he had no other assets to cover these costs, the DILA requested that the seizure remain in place. The Federal Criminal Court agreed to this (RR.2019.14 of 24 April 2019). In the second case, the DILA appealed because the executing authority had ordered a freezing order to be lifted without allowing Brazil to state its case. In this case too, the Federal Criminal Court upheld the appeal (RR.2018.287 of 29 April 2019).

As these examples show, the DILA can make effective use of its statutory right of appeal in legal assistance proceedings and ensure the uniform application of the law, benefiting foreign

states requesting assistance. In this way, the DILA also helps to further Switzerland's image as a cooperative and dynamic state and, indirectly, to promote Switzerland's reputation as a financial centre. This is in line with the Federal Council policy of ensuring that Switzerland's financial centre cannot be used for criminal purposes and that Switzerland has a major interest in offering foreign prosecution authorities rapid and effective cooperation (Federal Council decision dated 26 October 2005 in the case W and others against FDJP [legal assistance to Taiwan, VPB 70.5], see also VPB 69.59 [legal assistance to France]).

The DILA can also file appeals against decisions of the Federal Criminal Court in the field of extradition. In the report year, it filed one such appeal. The Federal Criminal Court had upheld an appeal by the person concerned against the decision on extradition taken by the DILA, because it was not satisfied that the requirement of dual criminality had been met (RR.2019.213 + 230). The suspect was accused by the US authorities of having acquired four 'defence articles' between October 2018 and January 2019 in the USA and of arranging for them to be exported to Hong Kong without the required licence. In response to the DILA's appeal, the Federal Supreme Court in a judgment dated 16 December 2019 (1C_592/2019) concluded that the facts were *prima facie* covered by the War Material Act and



Thanks to a successful appeal filed by the DILA, the cantonal executing authority was able to examine data carriers seized in response to a request for legal assistance in connection with the G20 riots in Hamburg in 2018 and review the question of granting assistance. Photo: Keystone/EPA/Filip Singer

Goods Control Act, and referred the case back to the Federal Criminal Court for reassessment, as the latter had not considered the other requirements for legal assistance. In the same case, the Federal Supreme Court also upheld an appeal from the DILA on the question of detention (1C_620/2019). In a decision dated 17 January 2020, the Federal Criminal Court subsequently rejected the suspect's appeal against extradition (RR.2019.344 + 345; RP.2019.65). After he decided not to appeal this decision to the Federal Supreme Court, the suspect was extradited to the USA in February 2020.

2.3 The requirement of dual criminality

For Switzerland to be able to order and carry out compulsory measures when executing a request for legal assistance (for example seizing evidence), the requirement of dual criminality must be met. The alleged offence must also be punishable in Switzerland, were it to be committed here.

In principle, legal assistance should be provided whenever possible, even in cases where the offence described in the request for legal assistance would not be a criminal offence in Switzerland. However, if procedural compulsion is required in order to execute a request, as in the seizure of evidence for example, the measure concerned can only be ordered if the offence described in the request is also a criminal offence in Switzerland.

Dual criminality is a fundamental principle of international cooperation. It is expressly stated in the Swiss Mutual Assistance Act and also appears in the bilateral agreements that Switzerland has concluded. In the European Convention on Mutual Assistance in Criminal Matters, the most important multilateral instrument in this field, Switzerland has made a declaration, making the execution of a request for legal assistance that requires the use of a compulsory measure dependent on there being dual criminality. At national level, this is based on the notion that compulsory measures represent a serious encroachment on fundamental rights and therefore should only be possible when the same substantive and formal requirements have been met as would apply under domestic law. In this way, territorial sovereignty is respected in the sense of enforcing Switzerland's own legal order. It is ensured that different values from other states do not have an impact on Swiss territory. From the point of view of equality before the law, it would also be problematic if compulsory measures were to be permitted through legal assistance if no national criminal proceedings would be opened in the requested state in an analogous case and thus state compulsion could not be applied.

If the DILA receives a request for legal assistance, in practice before passing it on to an executing authority it checks *prima facie* as to whether the requirement of dual criminality has been met. To pass on a request for execution where there is an obvious absence of dual criminality would not be appropriate.

The test of punishability under Swiss criminal law is carried out by imagining the conduct described in the request for legal assistance as if it had been carried out in Switzerland. The requirement of dual criminality must be satisfied both at the time that the compulsory measure is ordered and subsequently when the final decision is made. The assessment is made easier if the foreign authority not only provides a written statement of the facts of the case in the request but also the translated text of the legal provisions pertaining to the offences concerned.

The conduct described in the facts of the case must also be a criminal offence under Swiss law. It is not necessary that the legal definition of the offence be the same in the two jurisdictions, nor must the conditions for criminal liability or the potential penalties be the same. In contrast to extradition proceedings, in the case of accessory legal assistance the requirement of dual criminality does not have to be satisfied for every offence for which the

request is made – dual criminality for only one offence is sufficient. Punishability under the foreign law, on the other hand, is not checked.

If the facts of the case do not indicate that the requirement of dual criminality is satisfied, in most cases the matter is queried

with the requesting state. If the requirement of dual criminality is clearly not met and if compulsory measures would have to be ordered, then legal assistance is refused. Exceptions are possible under the Mutual Assistance Act where evidence is sought to exculpate a suspect or to prosecute conduct that involves sexual acts with minors.

Legal assistance in the AfD party donations affair

In the summer of 2017, the German political party Alternative für Deutschland (AfD) received around €130,000 in funding from a Swiss donor. The money was transferred in eighteen tranches of up to CHF 9,000 and bore the remark 'Campaign donation Alice Weidel'. In summer 2017, Alice Weidel was the AfD's lead candidate in the elections to the Bundestag and after the elections became the co-chair of the AfD group in the Bundestag.

Controversially the division of the donations into smaller sums appeared to have the aim of circumventing the statutory duty of disclosure for donations of € 10,000 and over that applies in Germany. The probable reason was that donations to German political parties from abroad made by non-EU citizens are unlawful. This is laid down in the German Political Parties Act and violations carry criminal penalties.

German prosecutors began investigations in order to identify the donor. According to media reports, the payments came from a company based in Zurich. The company claimed that it had been acting on behalf of an unnamed business associate. In order to find out more, the German prosecutors sent a request for legal assistance to the Canton of Zurich Public Prosecutor's Office, asking for transmission of the relevant account statements.

Here the Swiss legal assistance system faced a challenge: a relaxation of banking secrecy is only permitted if the conduct under investigation would also be a criminal offence in Switzerland. In order to establish whether this is the case, an assessment must be made of whether the act committed abroad meets the requirements of any Swiss criminal law pro-

vision. The requirement of dual criminality prevents Switzerland from intervening in areas where there is no clear legal basis for doing so. In the case in question, it was questionable whether the requirement of dual criminality was met, as Switzerland has no law that makes it an offence for political parties to accept specific forms of donation. Legal assistance seemed to be out of the question.

However, the AfD then submitted a list to the authorities of the German nationals who were allegedly behind the donations from Switzerland. If it were the case that the transfers were not made by a Swiss citizen, but by several German citizens, the donations would probably be legal. However, it quickly transpired that the alleged donors were merely 'men of straw': they did not make the donations themselves, but had been paid to allow their names to be put on the list. The case now involved allegations of forging documents and assisting in the commission of criminal offences. These acts would also be offences in Switzerland, so the requirement of dual criminality would now be met if the case could be considered in terms of these provisions. The Public Prosecutor's Office Zurich concluded that it could be. It accepted the request and issued its final ruling in November 2019. The persons concerned have filed an appeal against this ruling. They argued that as Switzerland does not have any offences related to funding political parties, it cannot have an offence of assisting someone to commit such an act. In addition, party funding transactions are political in character, and legal assistance is not available for political acts. Both the Federal Criminal Court and then the Federal Supreme Court rejected these arguments in March and April 2020 respectively and confirmed the final ruling of the cantonal public prosecutor. Legal assistance can be granted.



At the centre of the AfD party donations affair: the AfD politician Alice Weidel. Photo: Keystone/EPA/Lennart Preiss

In a case with Italy involving the transfer of cultural property in the report year, the Federal Supreme Court held that there was no dual criminality – and it was subsequently decided not to grant legal assistance.

The case of the portrait of Isabella d'Este attributed to Leonardo da Vinci

In February 2015, in an investigation into a criminal organisation based on allegations of the unlawful export of paintings of artistic and historical interest, the public prosecutor in Pesaro made a request for legal assistance to Switzerland. One of the works was the oil on canvas portrait of Isabella d'Este attributed to Leonardo da Vinci (the Italian Ministry of Culture has yet to confirm that da Vinci painted the work). The public prosecutor in Pesaro successfully requested the Public Prosecutor's Office Ticino to seize the painting, which was being kept in Lugano. In April 2018, the court in Pesaro requested the execution of its judgment of 9 March 2017, which ordered the forfeiture of the painting and its return to the Italian state. In response, the Ticino legal assistance authority ordered the disputed painting to be handed over to Italy. The appeal filed against this order was rejected by the Federal Criminal Court in a decision dated 4 September 2018. In a judgment dated

13 May 2019, the Federal Supreme Court upheld an appeal against the decision of the lower court, quashed the decision and referred the case back to the Federal Criminal Court so that it could reject the request for legal assistance and revoke the seizure of the painting (BGE 145 IV 294).

The Federal Supreme Court held in its judgment that the requirement of dual criminality was not satisfied. In particular, the court took the view that the provisions of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (SR 0.444.1) was not directly applicable. In addition the agreement between Switzerland and Italy on the import and the repatriation of cultural property did not apply to paintings. The Federal Supreme Court concluded that in the absence of a bilateral agreement that also covered paintings, the disputed work of art was not subject to any provision of international law that restricted its export. For this reason the

painting could not be unlawfully imported into Switzerland in terms of the Federal Act on the International Transfer of Cultural Property (CPTA; SR 444.1). The CPTA only makes an offence of the unlawful import of cultural property or the incorrect declaration of such an import. The *import* of an item of cultural property, however, is only unlawful if it infringes a bilateral agreement in terms of the CPTA. As this condition was not fulfilled in the present case, the painting could not be unlawfully imported into Switzerland (in addition this act, i.e. the unlawful import of the painting, was not even being investigated by the Italian authorities).

Under the CPTA, the unlawful *export* of an item of cultural property is only a criminal offence if the item is listed in the Federal Register of Cultural Property. What is relevant to the question of dual criminality in the present case is therefore whether the painting – in the view of the requesting state,

i.e. Italy – is listed in a similar Italian register. According to the Federal Supreme Court, this was not the case here, as the disputed painting did not belong to the requesting state and it was not claimed that it was listed in an Italian register or that it would be entered in the register in accordance with the UNESCO Convention. Under the UNESCO Convention, contracting states undertake to record important public and private cultural property in a national inventory in cases where its export would constitute an appreciable impoverishment of national cultural heritage, in order to protect their cultural property against unlawful import, export or change of ownership.

The Federal Supreme Court therefore concluded that the requirement of dual criminality was not satisfied. Neither the request for legal assistance in seizing the painting nor the request for the return of the painting to the requesting state could be approved. The Federal Supreme Court had thus taken a landmark decision. According to this legal precedent, foreign states must keep an inventory in accordance with the UNESCO Convention that is comparable to the Federal Register if they hope to obtain legal assistance from Switzerland in cases involving the illegal export of an item of cultural property, unless the cultural property in question is covered by a convention.



The Italian authorities wanted the portrait of Isabella d'Este attributed to Leonardo da Vinci to be returned to Italy. In the absence of dual criminality, the Italian request for legal assistance was rejected. Photo: Keystone/Heritage Images/Fine Art Images

2.4 Special extradition cases

Most extraditions to and from Switzerland involve European states; the most important instrument governing extraditions with Council of Europe states is the European Convention on Extradition. Extraditions also regularly take place with Kosovo, based on Swiss and Kosovar national law, and with the USA, based on a bilateral extradition treaty.

With most other states, however, extraditions are very rare, regardless of whether there is an international basis or whether the extraditions are carried out on the basis of the national law, which in Switzerland is the IMAC. The following paragraphs discuss cases involving a small selection of these states that the DILA dealt with in 2019 in connection with extradition proceedings.

Ecuador

An Ecuadorian-Spanish dual-national resident in Switzerland was sought by the Ecuadorian authorities in connection with the rape of a minor. The DILA received a formal extradition request from Ecuador in November 2018. In July 2019, Ecuador sent Switzerland the additional documentation that it required, including diplomatic guarantees on compliance with the fundamental rights that apply in the case of an extradition. In August 2019 the DILA issued an arrest warrant with a view to the extradition of the suspect. Following his arrest, the suspect was questioned by the cantonal authorities in connection with the extradition request. As he refused to agree to a simplified extradition, the DILA conducted ordinary extradition proceedings. In November 2019 the DILA ordered the extradition. In March 2020, the Federal Criminal Court rejected an appeal against the decision (RR.2019.337 of 9 March 2020). A further appeal to the Federal Supreme Court was also dismissed (1C_170/2020 of 26 March 2020).

Colombia

The authorities in the Canton of Vaud were seeking a Colombian-Spanish dual-national who was alleged to have committed sexual offences on children. An INTERPOL alert for the arrest of the wanted man applied throughout Europe, but he was subsequently located in Colombia. When it enquired, the DILA was informed that Colombia in principle was prepared to extradite one of its own nationals, even without there being a bilateral extradition treaty between Switzerland and Colombia, and without a declaration of reciprocity from Switzerland (which Switzerland could not provide, as it does not extradite its own citizens without their consent). In mid-September 2019, the DILA formally requested Colombia for the arrest and extradition of the suspect.

Colombian law demands compliance with special formalities, including the prior filing of an indictment against the wanted person and the transmission of evidence relating to their identity. As a result, the extradition request included an arrest warrant, a detailed summary of the criminal investigation carried out and all the available material relating to the identification of the person concerned. As this is Switzerland's first extradition case involving Colombia, it was decided in consultation with the prosecutor responsible to comply with all formal and content-related standards normally demanded by states with a common law

legal system. Providing this documentation was a time-consuming process.

Ireland

In a case that attracted a great deal of media attention in the French-speaking part of Switzerland, a man was wanted by the authorities in the Canton of Vaud following the robbery of a jeweller's shop in Vevey. The man was located in Ireland. It was also found that he travelled regularly between his home country, Lithuania, and Ireland. The DILA contacted the Irish authorities and the Swiss embassy in Dublin to find out what formalities had to be complied with in order to make a successful request for the man's arrest and extradition. After receiving information that the wanted man planned to fly on a specific day in March 2019 from Lithuania to Dublin, the DILA requested the Irish authorities via INTERPOL to make his arrest. On the same evening, he was arrested at Dublin airport. Subsequently the DILA formally requested Ireland to extradite the suspect. In addition to the extradition documents normally requested, the DILA had to provide a statement/affidavit from the prosecutor who had issued the arrest warrant, in which the prosecutor declared that he was responsible for issuing the arrest warrant. In August 2019, the suspect was extradited to Switzerland.

This case, which required very close cooperation and coordination at short notice with the Vaud authorities, the Swiss embassy in Ireland and the Irish authorities, is the first extradition to Switzerland that Ireland has authorised.

2.5 INTERPOL searches II; Change of system for INTERPOL searches: Direct access to the ASF

Fedpol has launched the 'INTERPOL searches II' project in cooperation with the DILA and the State Secretariat for Migration. The project aims to simplify and speed up the exchange of information relating to searches via INTERPOL. It involves in particular a link to the INTERPOL web service, allowing direct queries to be made of INTERPOL searches for persons in the ASF (Automated Search Facility) via the Swiss search systems. Operational access has been available to most of the authorities concerned since November 2019. This concerns the cantonal police forces and the Border Guard in particular. Access is practically immediate. Since then, in most cases there has been no need to manually enter foreign INTERPOL searches for persons in the Confederation's RIPOL police search system (*Recherches informatisées de police*).

Previous situation

Search requests from INTERPOL member states with a view to having suspects arrested and extradited have up to now been manually entered by fedpol as an alert in RIPOL according to specific criteria laid down by the DILA. The alert either requested an arrest or simply that a person's whereabouts be traced, unless

all the criteria for a possible extradition were met. This involved a considerable amount of work and certain delays. In addition, the fact that the information was entered manually meant that errors could be made.

Current situation

When a specific query is sent through the Swiss search systems, an indication is first given as to whether there are any hits for the person concerned in the ASF. For each hit, there should also be a note in the query system to the effect that the alert is merely to be treated as an attempt to trace a person's whereabouts and that the DILA should be notified of the result immediately, or that the DILA can provide further information if required.

If there is not only a hit in the ASF, but other hits for the wanted person, in particular in RIPOL or in the SIS (Schengen Information System), an arrest alert (in RIPOL or in the SIS) always takes precedence over a simple request to trace someone's whereabouts. However, this "ranking" is merely technical. If the DILA's decision is to issue an alert for the arrest of a person who comes up as a hit in the ASF, and not simply to trace their whereabouts, an alert will be issued for this person in RIPOL (in addition to the ASF and as was previously the case).



Direct access to INTERPOL's Automated Search Facility (ASF) will simplify and speed up the exchange of information relating to searches via INTERPOL. Photo: Keystone/EPA/Wallace Woon

2.6 If the extradition is based on a judgment issued in absentia

For the DILA as the decision-making authority on extradition matters, awkward questions can arise if it has to rule on an extradition request based on a judgment issued in absentia in the requesting state. It is not always clear at first whether the person concerned was given sufficient rights to a proper defence in the foreign proceedings.

In every state where the rule of law applies, persons accused in criminal proceedings have the right to a fair trial. These procedural rights are regulated in Article 6 of the European Convention on Human Rights for ECHR member states. Thus the accused in criminal proceedings have for example the right to defend themselves or to be defended by a lawyer of their own choice. If they do not have the financial means, they can have the support of a defence lawyer free of charge if this is required in the interests of the administration of justice. In addition an accused has the right to be tried by an independent court and to be present during the trial.

The right to be present when tried is not absolute in its application. For example under the Swiss Criminal Procedure Code, what is known as a 'contumacy judgment' (DE *Kontumazurteil*) may be issued if a duly summoned accused does not appear for trial having had sufficient opportunity at previous stages to state their position with regard to the offences of which they are accused and where the evidence allows a judgment to be made without their being present.

In extradition proceedings, the rights to a proper defence can also play a role, particularly if the judge in legal assistance proceedings concludes that the extradition request is based on a judgment issued in absentia and that the minimum rights to a proper defence were not granted in the foreign proceedings. In such cases, the request for extradition will be rejected, both in accordance with the Swiss Mutual Assistance Act and under the European Convention on Extradition.

The extradition may nevertheless be authorised if the requesting state provides sufficient assurance that the accused will be given the right, after extradition, to request a retrial in which the rights to a proper defence are granted.

In October 2018 the Polish Ministry of Justice requested the DILA to extradite the Polish citizen M.W. This man had been convicted in Poland of threatening and insulting a police officer and possession of cannabis, had been sentenced to six months imprisonment, and was now to be extradited so that he could serve his sentence.

Although M.W. was neither present nor represented by a defence lawyer at the hearing at which the judgment was handed down, and the DILA had not sought the Polish authorities for an assurance of any new court proceedings – such an assurance would not have been possible under Polish law anyway –, the Federal Criminal Court upheld the DILA's decision on extradition in August 2019 (RR.2019.63; RP.2019.17 of 7 August 2019).

M.W. was arrested at the beginning of the criminal proceedings and spent one day in pre-trial detention. In addition, he attended at least one court hearing. Accordingly, M.W. was well aware that he was being prosecuted in Poland when he moved abroad without notifying the Polish authorities of his change of address. Although he subsequently did not receive a summons to the court hearing on two separate occasions, that did not change the fact that the summons was validly served under Polish law.

Lastly, there was no dispute either that M.W. had been served with the judgment. Accordingly he would have had opportunity to appeal against the judgment, or to demand a re-assessment. As he did not do this, the first instance judgment became legally binding. This meant that despite the judgment issued in absentia, the minimum rights to a proper defence had been granted in the Polish proceedings, with the result that M.W.'s extradition to Poland was permitted. M.W. was extradited to Poland based on the DILA's decision at the start of September 2019.

2.7 Further selected cases related to extradition

Brought to justice after almost a quarter of a century on the run

The crimes that Z.P., 18 years old at the time, committed in the war in Republika Srpska in today's Bosnia and Herzegovina were appalling: in October 1993 he and his accomplices promised to smuggle a Muslim family of six, a man, his wife, her mother and her sister-in-law and the sister-in-law's son and daughter across the river Drina to Serbia. Instead the gang robbed and murdered all six members of the family on the riverbank. Z.P. himself pulled the trigger of his semi-automatic rifle three times, murdering the man, one of the women and the girl in cold blood. The gang then threw the bodies into the river.

Only a few months later, Z.P. was involved in another murder. Working again with accomplices and disguised as a military policeman, he lured a Muslim husband and wife under false pretences out of their apartment and led them to the River Drina. The two accomplices robbed the woman and her husband and then shot them dead, allowing the man who had ordered the murder to move into the couple's apartment himself. Z.P. received 300 German marks for carrying out the murder. The three perpetrators shared the 450 DM in cash that they had stolen from the husband and wife before the murder.

In April 1995 Z.P., who had been detained in the meantime, was convicted of murder by the District Court in Bijeljina and sentenced to ten years and ten months in prison. But in October of the same year, just before the appeal court increased his sentence to twelve years and ten months, Z.P. escaped from the district detention centre in Bijeljina. He ultimately fled to Switzerland,

entering the country in December 1995 using his brother's identity.

Z.P. married a Swiss woman and together they had three children. It was only in 2018 that investigations conducted by the Bosnian police uncovered the murderer's false identity. As a consequence, at Christmas 2018, the Embassy of Bosnia and Herzegovina requested Switzerland to extradite Z.P.

Subsequently, based on a warrant issued by the DILA, Z.P. was arrested at his home in the canton of Lucerne and placed in detention pending extradition. In May 2019 the DILA ordered his extradition to Bosnia and Herzegovina. In response, Z.P. appealed to the Federal Criminal Court and, after this appeal was turned down, to the Federal Supreme Court. This court issued a decision to dismiss the action. In October 2019 Z.P. was extradited, almost 24 years to the day since he fled Bosnia and Herzegovina.

Head of international drugs cartel extradited to Croatia

'Operation Familia', conducted by Europol and the American Drugs Authority, the DEA, led in 2019 to 16 arrests being made around the world, as well as to the seizure of over a tonne of cocaine and two million euros in cash. Three of these arrests were made in May 2019 in Basel. One of those arrested in Basel was the 'big boss' of the international drug cartel.

The Balkan cartel smuggled large quantities of narcotics from South America to Europe and Asia, where the drugs were later sold on. To transport the drugs, the organisation bought a private jet, hired Czech pilots and set up an airline. To give the appearance of being a serious company, the airline also carried genuine



The Basel-Stadt cantonal police seized over 600 kilogrammes of cocaine packed into 21 suitcases – the largest quantity of drugs ever seized in Switzerland. Photo: Public Prosecutor's Office Basel-Stadt

passengers and employed flight attendants. Despite this, the gang failed to deceive the prosecution authorities.

The investigations, which began in Croatia and were conducted in parallel with prosecution authorities in other European, South American and Asiatic states, as well as being coordinated by Europol, went on for many months before they uncovered the full extent of the narcotics smuggling operation. As a consequence, the investigating authorities were informed on 16 May 2019 when the cartel's aircraft landed at Basel Euro-Airport. On board the private jet there were 21 suitcases filled with drugs, which the pilot loaded into a van. The pilot, the head of the drug cartel and a third accomplice then drove into Basel. In the meantime the Swiss authorities had received information from their Croatian colleagues about the suspected drugs transport. Thanks to the quick reaction of the Swiss authorities, the three members of the cartel were arrested in the underground garage of a Basel casino. In the 21 suitcases, the Basel-Stadt cantonal police found over 600 kilogrammes of cocaine. It was the largest seizure of narcotics on Swiss soil.

After the successful arrests in Switzerland, a coordination meeting was held at Eurojust in The Hague at which representatives of the states conducting the investigations and the Office of the Swiss Liaison Prosecutor at Eurojust decided on what further action to take. Based on this decision, Croatia requested Switzerland to extradite the persons detained in Switzerland.

After receiving the Croatian extradition request and conducting ordinary extradition proceedings, in September 2019 the DILA authorised the extradition of the three suspects arrested in Basel. While one person accepted the DILA's decision and was extradited to Croatia at the start of October, the head of the Balkan cartel and the pilot appealed to the Federal Criminal Court in Bellinzona. The court rejected both appeals. The Federal Supreme Court decided not to consider a further appeal from the pilot. As result, the two remaining members of the drug cartel were extradited to Croatia in November 2019.

A breach of trade secrecy: the case of G.X.

In a case that involved an alleged breach of trade secrecy to the detriment of a major British pharmaceutical company with a branch in the USA, the USA requested the extradition of one of the suspected offenders, a Chinese citizen. He was accused of the following:

While working as a scientist for a Swiss foundation involved in cancer research, between 2010 and 2016 G.X. emailed confidential commercial information relating to the development of new cancer drugs to his sister, Y.X. His sister was working in Pennsylvania as a scientist for the British pharmaceutical company mentioned above. In return, Y.X. mailed confidential research information from her employer to her brother. Y.X. also set up a company in China in order to market the stolen research results there. G.X. supported his sister in attempting to develop research results she had stolen by secretly conducting research work for the company she had set up in China. He also set up a company in Switzerland in order to try to develop new cancer drugs here.

In July 2018, the US authorities requested Switzerland to extradite G.X. His suspected accomplices, and most particularly his

sister, had already been detained in the USA. After making various enquiries, in particular into whether criminal proceedings against G.X. had already been or were being opened in Switzerland, and after it was established that they were not, the DILA instructed the relevant cantonal public prosecutor's office to arrest G.X. He was arrested in May 2019, but objected to being extradited. First, his appeal to the Federal Criminal Court against detention was rejected. Thereafter the DILA provisionally released G.X. from detention pending extradition subject to various alternative measures, as the risk of absconding was regarded as negligible. In July 2019, the DILA ordered G.X.'s extradition to the USA. In November 2019, the Federal Criminal Court rejected his appeal against this order, along with his appeal against detention, as G.X. had been detained again with a view to his extradition. The Federal Supreme Court rejected his appeal against the decision on extradition made by the lower court. In December 2019 G.X. was extradited to the USA.

2.8 Road traffic offences – international cooperation on enforcing the collection of fines and on identifying drivers

International cooperation on enforcing the collection of fines and identifying drivers is an issue that involves the powers that are available through both legal assistance and police cooperation. For this reason, the DILA is a participant in negotiations on the revision of the police cooperation agreement with Germany.

Nowadays it is simple to drive around Europe in your car. However, road traffic regulations differ from country to country. It is up to drivers to adapt and to comply with the regulations in the country concerned. However, mistakes can easily be made, and may also lead to drivers being fined. If someone is fined in a different country from their own, this raises several issues. International cooperation comes into play.

First of all, the fine must be sent to the person that committed the offence. The countries that Switzerland has concluded agreements with on this matter send the fines they have imposed directly to the address of the registered owner of the vehicle. In most cases, the fine gets paid. If it is not paid, there are usually two issues that have to be resolved: establishing the identity of the driver at the time of the offence and enforcing payment of the fine. It is easy to find out who the registered owner of a vehicle is, as his or her details are recorded in a national register. This does not apply to the driver. In a first step enquiries are made to establish who was driving the vehicle when the offence was committed. If this person can be identified but does not pay the fine, payment must be enforced. However, one state is not entitled to enforce a sanction on another's state's sovereign territory. This means that the states have to work together.

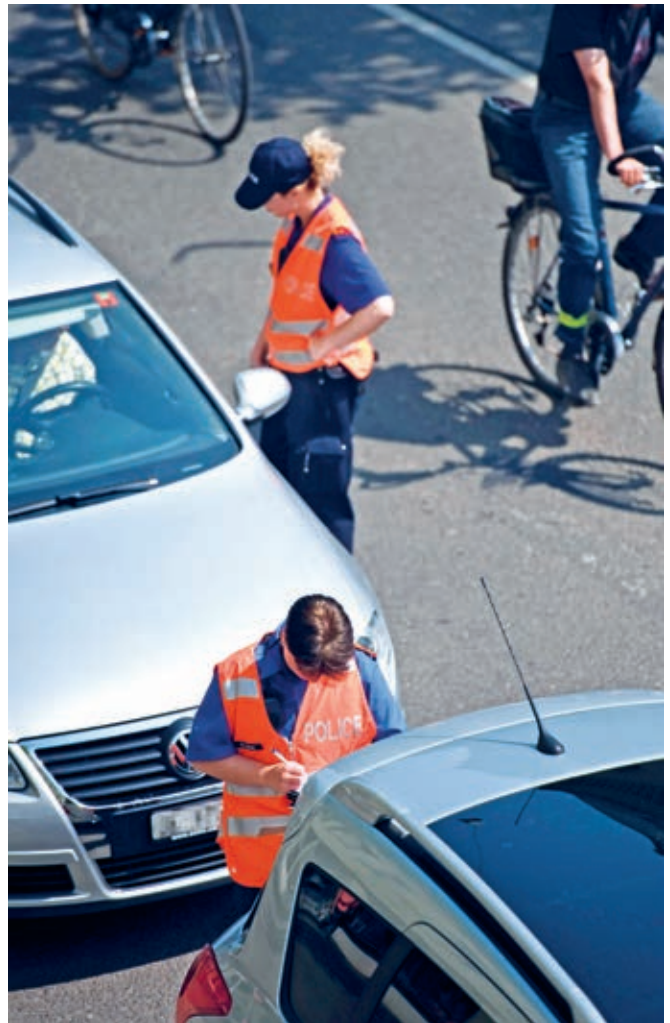
Switzerland has entered into police cooperation agreements with most of its neighbouring countries. It is also a member of EUCARIS, the European system for the exchanging information on vehicles and driving licences. The relevant instruments regulate cooperation in this field. But even if issues related to traffic offences are covered by bilateral agreements, in practice implementing what has been agreed can be difficult.

Standard procedure for road traffic offences in Switzerland

If a traffic offence is registered and a fine is imposed, the fine is sent to the address of the registered owner of the vehicle, assuming that the driver was not stopped and identified at the time of the offence. If the registered owner of the vehicle was not the person sitting behind the wheel when the offence was committed, he or she can notify the authorities that have issued the fine of the details of the person who was driving the vehicle at the time.

As soon as the driver has been identified – either from information provided by the registered owner of the vehicle or in some other way –, he or she is sent the fine. If the person cannot be identified and the registered owner of the vehicle cannot credibly show that the vehicle was being used against his or her will or that he or she was unable to prevent the vehicle from being used despite taking reasonable precautions, the owner becomes liable to pay the fine at a subsidiary level. If the fine is paid within a certain deadline, either by the vehicle owner or by the driver, the case is closed and the identity of the offender is never established.

The fine in itself does not amount to a final decision. If it is not paid or if the recipient decides to dispute the case, the matter is referred to the competent Swiss cantonal public prosecutor's office, which normally issues a summary penalty order. If no objection is raised to the summary penalty order then it becomes a final decision.



Enforcing the payment of fines for road traffic offences committed by people from abroad is a serious challenge for the authorities concerned. Photo: Keystone/Alessandro della Valle

As mentioned, there are essentially two issues to deal with: identifying the driver and making sure the fine is paid.

Identification of the driver

In Switzerland, the Fixed Penalties Act (SR 314.1) provides that the driver is liable to pay the fine, and at a subsidiary level the registered owner of the vehicle. The subsidiary liability of the registered owner is not recognised in every country, however. For example, in the police cooperation agreement between Switzerland, Austria and Liechtenstein (SR 0.360.163.1), a provision was therefore agreed by which the competent authorities can, at the request of another state, conduct investigations to establish the identity of the driver of a vehicle who is suspected of having committed a road traffic offence. In practice, doing this can be complicated. Under the procedure that applies in Switzerland, in principle the fine is sent to the registered owner if it is unreasonably difficult to identify the driver. If the vehicle is registered abroad, the fine is also normally sent to the registered owner. Neighbouring countries like Germany, Austria, France and Liechtenstein can obtain information on the registered owner of a vehicle via EUCARIS. Provided the registered owner of the vehicle pays the fine, there is no need to identify the driver. Certain foreign authorities, however, demand that the Swiss authorities establish the identity of the driver in every case, without contacting the owner beforehand. The systematic process of establishing the driver's identity, which represents a considerable workload for the Swiss authorities, is grossly disproportionate to the result achieved, as in practice the owner of the vehicle pays the fine in the majority of cases. This problem came to light in consultations with the cantonal authorities and a new version of the provision on identifying the driver of the vehicle was drafted that will be discussed in future negotiations. The new provision provides that a request for identification of the driver can only be made if it is not possible to notify the registered owner of the vehicle or if the notification has delivered no results.

Measures to enforce the payment of financial sanctions

The second important point regulated in police cooperation agreements in connection with road traffic offences relates to

measures to enforce the payment of financial sanctions. The execution of court decisions by a foreign state is a matter dealt with through international legal assistance. In view of the high number of fines imposed for road traffic offences, the police cooperation agreements with certain neighbouring countries provide for a simplified procedure. The contracting parties support each other in enforcing decisions on traffic offences. The penalty must be a financial sanction, the amount payable must be at least € 70 or CHF 100, the decision must be enforceable and must not be time barred and must have been issued against a person who is old enough to be prosecuted. The police cooperation agreements provide that the amount collected goes to the state that executes the request.

The fact that the decision must be final, makes it difficult to execute requests issued by Switzerland, because under the Criminal Procedure Code (SR 312.0), as described above, the public prosecutor must open proceedings before a legally binding decision in the form of a summary penalty order can be issued. A Swiss summary penalty order demands payment of the fine, but also of procedural costs, which are normally considerable. Foreign states are occasionally reluctant to enforce Swiss summary penalty orders, and the Swiss authorities make little use of the mechanism for having Swiss summary penalty orders enforced abroad, as there is a clearly disproportionate relationship between the amounts that can be collected in Switzerland and those that Switzerland can have collected abroad. A second point that impedes enforcing penalties is Switzerland's federal system of organisation. This applies in particular when it comes to enforcing financial sanctions, since the responsible authorities differ from canton to canton.

As these issues involve an overlap between police and judicial cooperation, the DILA is participating in the negotiations on the revised police cooperation agreement with Germany and is working with fedpol on a solution that best meets the complex practical needs outlined above and which will be more effective in preventing road traffic offenders from evading penalisation. The negotiations were still ongoing as this report went to print.

3 New instruments to aid cooperation

European Convention on the Service Abroad of Documents relating to Administrative Matters comes into force

In addition to its role as the Swiss central authority for international legal assistance in criminal matters, the DILA also carries out specific tasks in other operational areas of international cooperation, such as assistance in civil and in administrative cases. The entry into force of the European Convention on the Service Abroad of Documents relating to Administrative Matters brings new tasks for the DILA.

The European Convention of 24 November 1977 on the Service Abroad of Documents relating to Administrative Matters (referred to below as 'the Convention', SR 0.172.030.5) came into force for Switzerland on 1 October 2019. It requires contracting states to provide each other with administrative assistance for the service of documents in administrative cases. The contracting parties in addition to Switzerland are Austria, Belgium, Estonia, France, Germany, Italy, Luxembourg and Spain.

In accordance with Switzerland's declaration on Article 2 paragraph 1 of the Convention, the DILA assumes the role of central authority for incoming foreign requests. Switzerland, on the other hand, has not designated a central authority for outgoing requests. However, the DILA can also advise authorities selectively on outgoing requests. As a result, it therefore carried out the required preparatory work with a view to the Convention coming into force in the report year:

The DILA's website, which until now had been devoted exclusively to international legal assistance in criminal and civil matters, was expanded to include the service of documents in administrative cases (<https://www.bj.admin.ch/bj/de/home/sicherheit/rechtshilfe/verwaltungssachen.html>). The relevant page has links to the sample form that must be used for requests for service under the Convention. The country index in the mutual legal assistance guide, which is also available on this page, leads to the country pages, which set out the formalities that have to be observed for each country. A new section on administrative law has been added to the country pages for the eight states that along with Switzerland have ratified the Convention. This section provides Swiss authorities that have to serve documents abroad in administrative cases with useful information, for example on whether a translation is needed, the required number of copies, the forms to use, the transmission channels and foreign central authorities and contacts.

The DILA provided the federal and cantonal authorities that would be affected when the Convention came into force with advance information on the aim of the Convention, its scope of application, the transmission channels, the formalities and procedures for requests for service and the grounds for refusal, as well as about the expanded website.

Aim and scope of application

With Switzerland's accession to the Convention, it should become quicker and easier to serve documents on recipients who are resident in other countries: direct service on the recipient is possible in principle, unless a contracting state has imposed a reservation in relation to this. The transmission of requests for service via the central authorities designated by each contracting state is always possible. The Convention applies to all administrative cases, with exception of tax cases (all fields of tax law). In terms of Switzerland's declaration, the Convention also applies to administrative criminal law investigations, but not to matters relating to financial market supervision or the intelligence service. The statutory or international law provisions on the cross-border service of documents in administrative cases, which already exist in various specific fields, take precedence over the Convention and thus continue to apply.

Ratification of the protocol amending the Additional Protocol to the Council of Europe Convention on the Transfer of Sentenced Persons

On 21 November 2019 Switzerland ratified the protocol amending the Additional Protocol to the European Convention on the Transfer of Sentenced Persons. The protocol creates an international basis in additional cases for a contracting state on request to be able to enforce a custodial sentence imposed on a person in another contracting state even if this is contrary to the wishes of the convicted person (for detailed information see the DILA's 2017 Annual Report, Sec. 3).

Since 1 January 2020, Switzerland has applied this instrument provisionally, but so far only in cases involving Lithuania and Vatican City, which have also ratified the protocol and declared that they would apply it provisionally before it came into force. The instrument has so far been signed but not ratified by ten states.

In Switzerland, it is already possible under the IMAC to take over the enforcement of sentences imposed elsewhere; the Amending Protocol now provides other states with a legal basis to do this in cases where this was not previously possible. Switzerland will also benefit from this. Whether there will be any actual improvement in the situation, currently unsatisfactory in some cases, depends on the relevant states also ratifying the protocol and then implementing it.

4 The DILA's participation in international organisations: the United Nations Office on Drugs and Crime

One of the DILA's core tasks alongside its operational business lies in preparing legislation that enables Switzerland to cooperate as effectively as possible with other states in the area of legal assistance in criminal matters. This should improve procedures for combating serious crime. The DILA's active participation in the relevant UN bodies must be regarded in this light. Furthermore, by participating in the relevant forums and working groups, the DILA can forge and cultivate important contacts for enabling bilateral cooperation.

The United Nations Office on Drugs and Crime (UNODC) is active around the globe in the war on illegal drugs, international organised crime, corruption and terrorism. The Office was established in 1997 as part of the UN Secretariat. Its headquarters are in Vienna and it also has liaison offices in Brussels and New York and twenty field offices all around the globe. It employs around 500 staff worldwide. The UNODC's main task is supporting member states in the fight against the illegal drugs trade, crime and terrorism. It brings its expertise to bear by supporting member states in ratifying the relevant international agreements and in developing national legislation in this field.

As far as the DILA is concerned, the main task of the UNODC lies in combating serious international crime, in particular cross-border organised crime and corruption. By their nature, serious cross-border crimes such as human trafficking or cybercrime require a coordinated global response. The rise in international criminality calls for greater international cooperation among states. Corruption is a social, political and economic problem, the effects of which, whatever their form, affect all states: it undermines democratic institutions and the rule of law, stifles economic development and leads to political instability. Switzerland thus has an interest in fighting corruption; as an important financial centre it regularly finds itself in the international spotlight in connection with unlawfully acquired assets, particularly when it comes to the restitution of such assets acquired by politically exposed persons or through corruption. Cooperation with and the commitment within the UNODC is therefore highly important to the DILA in the fight against cross-border crime and corruption.

The UNODC is responsible for two conventions related to combating serious international crime: the United Nations Convention against Transnational Organized Crime (Palermo Convention; UNTOC, SR 0.311.54) and the United Nations Convention against Corruption (UNCAC, SR 0.311.56):

Combating cross-border organised crime

The UNTOC, which came into force in September 2003, represents a milestone in international cooperation in preventing and combating cross-border organised crime. Signed by 190 states and ratified by 147 of those, it aims to bring the harmonisation of national legislation, to set uniform standards and to increase cooperation among states in relation to organised crime. The Convention has created global legal principles for international legal assistance, extradition and police cooperation for the very first time. The problem, however, is that many of its articles are

not directly applicable. They are rather programmatic in character and can rarely be used as the basis for specific legal assistance measures.

Supplementary to the UNTOC, the UN General Assembly has adopted three additional protocols: the protocol against smuggling migrants, the protocol on preventing, combating and punishing human trafficking, and the protocol on the illicit manufacturing of and trafficking in firearms.

The DILA represents Switzerland regularly at the UNTOC Conference of Parties (COP), held every two years. The COP aims to improve the capacities of the contracting states to fight cross-border crime and to encourage and review the implementation of the Convention. To this end, the Conference has launched a review mechanism, which it aims to use for the first time in 2020. DILA representatives and other experts from the Federal Administration played an active part in meetings of the working group that devised this mechanism.

Apart from the international conference, there are five working groups under the UNTOC: in addition to one working group for each additional protocol, there is a working group on international cooperation and one on technical assistance. The experts in the various working groups meet once a year to discuss matters. The DILA actively monitors the work of the working group on international cooperation, which has vital discussions on the practical aspects of various forms of international cooperation, such as extradition and mutual legal assistance, and also on the restitution of illegally acquired assets.

Combating corruption

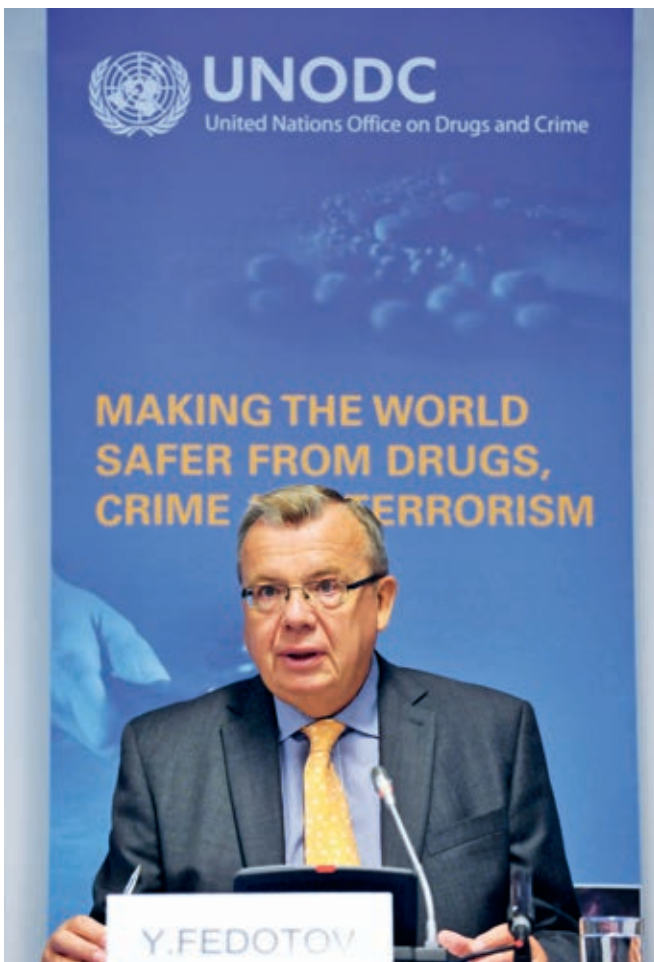
Alongside the UNTOC, the UNCAC is also vitally important to the DILA. This Convention came into force in 2005 and has been signed by 140 states and ratified by 186 parties, including the European Union. The Convention is broadly based in its content and is the world's first and only legally binding instrument for combating corruption. It creates a minimum standard for the prevention, investigation and prosecution of corruption, as well as for the freezing, seizure, forfeiture and restitution of misappropriated assets. It also requires contracting states to penalise various forms of corruption and to cooperate with other countries. However, like the provisions of the UNTOC, those of the UNCAC are in many cases not clear enough to be used as a direct legal basis for legal assistance. Nonetheless the contracting states are required to make money laundering a criminal offence under their national law. One of the main goals of the UNCAC is to facilitate and encourage international cooperation in the fight against corruption, for example by obtaining and transmitting evidence. For Switzerland, international cooperation on the return of misappropriated assets (asset recovery) is especially important.

The UNCAC's main strategic body is the Conference of the States Parties (CoSP), which meets every two years. The most recent CoSP was held in December 2019 in Abu Dhabi, with representatives of the DILA in attendance. The CoSP aims to further the implementation and development of anti-corruption activities under the UNODC and to encourage international cooperation. The CoSP has set up a series of working groups (on prevention, mutual legal assistance and asset recovery) and cre-

ated a review mechanism in 2009 that monitors compliance with the Convention by the contracting states. The DILA and the Asset Recovery Section of the FDFA Directorate of International Law actively participate in the working group on asset recovery. At its meeting, held once a year, participants exchange information and draw up recommendations for the CoSP. The working group simplifies the exchange of information, encourages cooperation between requesting and requested states, and draws up and shares best practices (such as those on identifying the victims of corruption and on compensation factors). In addition, the DILA regularly takes part in the annual meeting of experts on legal assistance. This meeting helps to develop

knowledge and encourage cooperation on legal assistance and makes it possible for contracting states to discuss their experiences in this field.

By participating in the various forums of the UNCAC and UNTOC, the DILA pursues the goal of encouraging cooperation through legal assistance procedures, establishing Switzerland's achievements in returning assets unlawfully acquired by politically exposed persons or through corruption as good practices, campaigning for the rule of law and social participation and ensuring that the review mechanism actually brings about reforms at national level.



The DILA's involvement in the activities of the United Nations Office on Drugs and Crime (UNODC) makes a vital contribution to encouraging international cooperation. Pictured is Yuri Fedotov, Executive Director of the UNODC from 2010-2019. Photo: Keystone/Xinhua

5 The DILA as a service provider

In the report year, representatives from the DILA again outlined the processes, procedures and other selected aspects of international legal assistance in criminal matters, primarily to its Swiss partner authorities, at various events, including the traditional annual Legal Assistance Conference.

On its website, the DILA provides practitioners with tools and information on all aspects of judicial cooperation in criminal matters that they can use in their daily work.

5.1 Legal Assistance Conference 2019: Legal assistance in criminal matters between civil and common law countries

The DILA's Legal Assistance Conference was this year devoted to the special challenges of legal assistance involving countries with common law systems and countries with civil law systems. Representatives from the most important British legal assistance authorities took part in the conference. The mood was optimistic, even though it was once again clear that cooperation across the civil-common law divide comes with serious challenges.

For the seventh time in a row, on 7 November 2019, the DILA organised a conference at which over 100 colleagues from almost all the cantons and from various federal offices took part. The conference was co-chaired by representatives from the UK Central Authority in the Home Office, the Crown Prosecution Service, the Serious Fraud Office, the National Crime Agency, HM Revenue and Customs and Scotland's Crown Office and Procurator Fiscal Service.

Procedural differences – and ways around them

After the DILA and the UK Central Authority had provided an introduction to the procedural differences between a typical common law and a civil law system, consideration was given in podium debates to the (different) roles of public prosecutors in both systems. The fact that in Switzerland the prosecutor is involved in the investigation as the officer in charge of the case, while in the United Kingdom he or she is solely a prosecutor and has no role in the (police) investigation, also leads to differences in roles in legal assistance proceedings. This can lead to misunderstandings on both sides. In the second block, discussions focused on a case study which revealed in particular that the British authorities in some cases need to ask for more information in the request for legal assistance than the Swiss provide. As they regularly have to apply for the requested measures before a court, the requesting Swiss prosecutors should imagine themselves in their role in court when making a request to a common law state. They should describe the facts of the case as if they were trying to convince a (compulsory measures) judge, not as they would summarise them in a simple administrative ruling. The third panel considered the various confidentiality requirements in legal assistance proceedings. The Swiss duty to inform the person affected by the legal assistance measure before issuing the final ruling contrasts in certain cases with the British need for strict confidentiality in secret police investigations in the UK. Informal contact at the outset between the legal assistance authorities

involved, which the DILA and UK Central Authority are happy to facilitate, can alleviate this problem.

Desire to cooperate

The conference devised measures to assist in certain problem areas. These were summarised in a document that can be found on the UK country page in the legal assistance guide. It goes without saying that not all challenges have been overcome yet. However, it became clear that the British authorities are keen to simplify methods of cooperation wherever this is possible. Furthermore, there are now more direct contacts between the Swiss legal assistance authorities and their British counterparts. These new opportunities and contacts should now be tried out to obtain sufficient material for an analysis and, if need be, to take further steps to improve cooperation.

Eurojust – and a quick look at the 'legislative workbench'

The conference was rounded off with a contribution from the Swiss liaison prosecutor at Eurojust and an overview from the DILA of ongoing and forthcoming legislative projects on legal assistance.

The Swiss office at Eurojust has plenty of work to do. In the entire report year, it opened 284 new cases. This meant that of all the third countries, Switzerland had processed the most cases by far. The number of processed cases is also high in comparison with EU states of a similar size: Switzerland is ahead of Sweden, Portugal and the Czech Republic. The high workload of the Swiss office is also confirmed by its figures for coordination meetings, in which Eurojust brings prosecutors from two or more member states directly together to try to agree on a coordinated, targeted course of action. Clearly Switzerland is a very popular partner, as it participated in 49 coordination meetings in 2019.

To conclude the event, the DILA explained the FDJP strategy for extending the network of international agreements, which currently focuses on other important financial centres and emerging business locations. Also discussed were two ongoing revisions of the IMAC and an outlook over areas where there is a need for regulation (e-evidence, mutual recognition instruments, etc.).

In addition to the matters specifically addressed, the conference once again provided an opportunity for practice-relevant discussions on the sidelines and for maintaining contacts, both with British colleagues, and also among the Swiss legal assistance authorities – an aspect much appreciated both by the DILA and by the participants.

5.2 An overview of the electronic tools on the DILA website

For all areas of international mutual legal assistance in criminal matters: FOJ website (www.bj.admin.ch)>Security>International Mutual Legal Assistance>International Mutual Legal Assistance in Criminal Matters)

- General information: contact address and contact form, activity reports, statistics.
- Legal basis.
- Overview of the individual processes involved in international legal assistance in criminal matters.
- Information on the treaty framework.
- Links to the Elorge Database of Swiss localities and courts, to the European Judicial Network (EJN) and to Eurojust.

In addition, under www.rhf.admin.ch>Strafrecht (in German, French and Italian):

- Links to instructions, checklists and circulars, legal foundations, case law and authorities.

Specifically for accessory mutual legal assistance: The Mutual Legal Assistance Guide (in German, French and Italian, at www.rhf.admin.ch)>Rechtshilfeführer)

- Tools for the Swiss authorities for submitting requests to other states for the collection of evidence and service of documents.
- Country pages: an overview of the key requirements for requests to individual states for assistance with criminal, civil and administrative cases.
- Model requests, as well as forms relating to the collection of evidence and service of documents.

Database of Swiss localities and courts (www.elorge.admin.ch)

- This website is aimed primarily at foreign authorities which, by entering a postcode or locality, are able to find the competent local Swiss authority for international accessory legal assistance in criminal and civil matters, and thus, where applicable, make direct contact.
- It also contains a directory of those Swiss authorities which have the power to enter into direct legal assistance relationships with foreign partner authorities to provide and receive accessory legal assistance.

6 Selected decisions by Swiss courts on international mutual legal assistance in criminal matters

6.1 Extradition and transfer

- Decision of the Federal Criminal Court RH.2019.1 of 22 January 2019 (extradition to the Ukraine; arrest warrant with a view to extradition): necessity to state the grounds for arrest in the arrest warrant with a view to extradition.
- Decision of the Federal Criminal Court RR.2019.32 of 22 March 2019 and judgment of the Federal Supreme Court (decision to dismiss the action) 1C_201/2019 of 11 April 2019 (extradition to Serbia): the potential sentence is decisive for eligibility for extradition. Right to respect for private and family life (Art. 8 ECHR).
- Decision of the Federal Criminal Court RR.2019.52 of 30 April 2019 and judgment of the Federal Supreme Court (decision to dismiss the action) 1C_261/2019 of 21 May 2019 (extradition to Italy): following the case law, according to which in view of Italian reforms to reduce overcrowding in Italian prisons, extradition need not be made dependent on guarantees.
- Decision of the Federal Criminal Court RH.2019.6 of 3 May 2019 (extradition to Italy; arrest warrant with a view to extradition): finding that there was a risk of absconding upheld in the case of a suspect who had lived for almost 50 years in Switzerland.
- Judgment of the Federal Supreme Court 1C_214/2019 of 5 June 2019 (extradition to Serbia. Appeal partially upheld against the decision of the Federal Criminal Court RR.2019.50 of 9 April 2019): importance of the right to respect for private and family life (Art. 8 ECHR) in extradition proceedings.
- Decision of the Federal Criminal Court RR.2019.39 of 4 July 2019 (extradition to Spain): a suspect who had sought asylum in Switzerland can in principle be extradited to a state that is not the probable country of persecution.
- Decision of the Federal Criminal Court RR.2019.160 of 13 August 2019 (extradition to the Netherlands): states that have ratified the ECHR are obliged to provide a detainee with the required medical care.
- Decision of the Federal Criminal Court RR.2019.220 of 21 August 2019 (extradition to Turkey): reassessment of the situation following the events in July 2016. Need to obtain diplomatic guarantees.

6.2 Accessory legal assistance

- Decision of the Federal Criminal Court RR.2018.234 of 31 January 2019: right to appeal with regard to the handover of Swiss criminal case files.
- Decision of the Federal Criminal Court RR.2018.214 of 4 February 2019 (the requirements of dual criminality; Federal Act on the International Transfer of Cultural Property, UNESCO Convention on the Transfer of Ownership of Cultural Property of 14 November 1970).
- Decision of the Federal Criminal Court RR.2018.319-320 of 27 February 2019: independent right of appeal for the beneficial owner on the dissolution of a company (account holder); evidence that the liquidation proceeds from the dissolved company go to the beneficial owner.
- Decision of the Federal Criminal Court RR.2019.14 of 24 April 2019: appeal by the FOJ against an interim ruling; partial lifting of the seizure of assets (blocked account); appeal upheld.
- Decision of the Federal Criminal Court RR.2018.287 of 29 April 2019: appeal by the FOJ against an interim ruling; revocation of super-provisional measures (blocking of accounts); appeal upheld.
- Decision of the Federal Criminal Court RR.2019.29-30 of 5 June 2019: Panama Papers; principle of good faith.
- Judgment of the Federal Supreme Court 1C_447/2018 of 13 May 2019: the requirements of dual criminality; Federal Act on the International Transfer of Cultural Property; appeal upheld.
- Judgment of the Federal Supreme Court 1C_146/2019 of 17 May 2019: appeal by the FOJ against a decision of the Federal Criminal Court; execution of foreign decisions on forfeiture (Art. 94 ff. IMAC); compensation claims; appeal upheld.
- Decision of the Federal Criminal Court RR.2019.195 of 14 August 2019: appeal against a decision to remove the seals; dismissal without entering into the substance of the case.
- Decision of the Federal Criminal Court RR.2018.241 of 12 November 2019: legal assistance to Libya; seizure and handover of cultural property; the requirements of dual criminality; proportionality.
- Judgment of the Federal Supreme Court 1C_550/2019 of 26 November 2019: new Chapter 1b of the IMAC, protection of personal data; Art. 11f IMAC, disclosure of personal data to a third country.
- Decision of the Federal Criminal Court RR.2019.255 of 27 December 2019: appeal by the FOJ against a final ruling and against the decision of the compulsory measures court; removing seals; appeal upheld.

7

Important statistical information on international legal assistance 2015–2019

Secondary mutual assistance	Type	2015	2016	2017	2018	2019
Extradition requests to foreign countries		257	282	259	252	272
Extradition requests to Switzerland		397	372	360	350	321
Search requests to foreign countries		278	312	281	249	268
Search requests to Switzerland		29 664	33 401	32 005	34 356	36 511
Prosecution transfer requests to foreign countries		199	164	153	225	221
Prosecution transfer requests to Switzerland		110	117	133	135	142
Sentence execution requests to foreign countries	Custodial sentences	5	10	15	5	3
Sentence execution requests to Switzerland	Custodial sentences		2	6	5	4
	Fines		5		1	
Prisoner transfer abroad	At the request of the sentenced person	48	48	65	57	54
	Under Additional Protocol	3	4	2	2	1
Prisoner transfer to Switzerland	At the request of the sentenced person	13	18	14	15	24
Searches for international tribunals		1				
Mutual assistance requests to Switzerland	Gathering of criminal evidence	1 180	1 268	1 085	1 163	1 270
	Gathering of criminal evidence: supervision	1 113	1 171	1 333	1 146	1 260
	Gathering of criminal evidence: own case	43	46	44	80	71
	Handover of assets	16	13	14	23	19
	Handover of assets: own case	2	4	4	3	2
	Gathering of civil evidence	43	57	34	66	57
Mutual assistance for international tribunals	International Criminal Court		3	4	10	
Mutual assistance requests to foreign countries	Gathering of criminal evidence	900	982	946	850	935

	Handover of assets	5	6	5	4	20
	Gathering of civil evidence	13	34	28	13	23
Secondary mutual assistance	For use in criminal proceedings	10	9	13	15	17
	For forwarding to third country	10	7	2	7	9
Unsolicited mutual assistance	To foreign countries (Art. 67a IMAC)	105	114	121	164	127
	To Switzerland	3	2	2	1	3
Document service requests to Switzerland	Criminal law	306	264	238	265	213
	Civil law	586	777	584	534	536
	Administrative law	59	55	102	249	190
	in administrative cases (Convention No 94)*					22
Document service requests to foreign countries	Criminal law	549	552	562	548	559
	Civil law	924	855	917	798	821
	Administrative law	588	602	529	552	543
	in administrative cases (Convention No 94)*					15
Sharing	International sharing (Swiss forfeiture ruling)	1	9	5	14	11
	International sharing (foreign forfeiture ruling)	5	7	3	6	17
	National sharing	120	33	36	41	70
Office of the Swiss Liaison Prosecutor at Eurojust	Enquiries Eurojust-Switzerland	179	144	131	132	134
	Enquiries Switzerland-Eurojust	50	90	70	91	150
Instruction to the FDJP	Limitation of cooperation (Art. 1a IMAC)			1	1	

*Since 1.10.2019 (entry into force of Convention No 94 for Switzerland)

Judicial decisions

Court	2015	2016	2017	2018	2019
Federal Criminal Court	242	195	241	235	230
Federal Supreme Court	67	56	79	82	66
Total	309	251	320	317	296

