

Bellinzona and Federal Justice in Italian — overview and summary

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On 31 January 2025 the Criminal Chamber of the Federal Criminal Court in Bellinzona convicted the Dutch parent company of the Trafigura commodity group, a former senior manager of the group, an intermediary and a former official of the Angolan state oil company of bribing a foreign public official. It fined the company CHF 3 million and ordered it to pay the Confederation a compensatory claim of USD 145 million.¹ The judgment was the first conviction of a commodity trading company for corruption after a public trial in Switzerland, and an appeal was announced.² A court of first instance located a few hundred metres from the castles of Bellinzona, in the capital of the only wholly Italian-speaking canton, had thus pronounced on the organization of one of the largest trading houses of Geneva and on payments made in Luanda. Cases of this kind arrive in Bellinzona every year. They concern banks in Zurich and Geneva, fund managers, sovereign wealth funds, football officials, Mafia clans and, in growing numbers, requests for mutual legal assistance from foreign states.

This chapter asks what it means for the Swiss financial centre, and for Lugano in particular, that federal criminal justice is administered in Ticino. Its argument is that the location of the Federal Criminal Court south of the Alps was a political decision about the place of Italian Switzerland in the federal State, taken in 2002 against the advice of the Federal Council, and that the decision has since acquired a substantive weight of its own. The court decides the most important cases of economic crime with an international dimension, reviews the coercive measures of the Office of the Attorney General of Switzerland (OAG) and rules on most appeals in matters of international mutual assistance. Its case law on money laundering, corporate criminal liability and foreign bribery defines the risks that banks, asset managers and trading companies in all parts of the

country must manage. Italian is one of its three languages of proceedings, although German and French cases far outnumber Italian ones.

Chapter J.I described Italian as a national and official language of the Confederation and the legal guarantees of multilingualism in federal institutions. Chapter J.III treats legal terminology. Chapter G.III discussed the Ticino cases of money laundering and organized crime, including several that reached the Federal Criminal Court, and Chapter H.IV the mutual legal assistance between Italy and Switzerland in criminal and civil matters. The present chapter does not repeat those cases. It begins with the history of federal criminal justice and the decision on the seat of the court, then describes the court's organization, workload and rules on the language of proceedings, the federal jurisdiction in economic crime and the role of the OAG. Two sections analyse the landmark cases of the last decade for the financial centre. Further sections treat the court's role in mutual assistance, the supervision and criticism of the court, the cantonal courts of Ticino and the other federal courts, and the use of Italian in arbitration. The chapter closes with the practical consequences for those who advise clients in Lugano.

1 Conclusion

The Federal Criminal Court came to Bellinzona because the Federal Assembly decided in June 2002 that Italian Switzerland deserved a federal institution of the first rank. The Federal Council had doubted that a court far from Bern and the large cities could function. Those doubts were not unreasonable. More than two decades later the court has become the centre of Swiss criminal justice in economic and international matters. It tries the largest cases of money laundering, corruption and fraud, reviews the coercive measures of the OAG and decides most appeals in mutual assistance. Its judgments in the Credit Suisse, Lombard Odier, Trafigura, Gunvor and 1MDB cases define the risks that banks and trading companies throughout the country must manage. Its acquittals in the FIFA and Martynenko cases and of a private bank and its former chief executive show that it requires proof of the predicate offence and of the organizational failure before it convicts.

The Italian language has a defined place in this system. Article 3 StBOG assigns each case to German, French or Italian according to the persons involved, the documents and the place of the first investigative acts, so that only about a tenth of the court's cases are conducted in Italian. These cases come mainly from Ticino, from the OAG's Lugano office and from Italian requests for mutual assistance. They would be much harder to handle in a

court without Italian-speaking judges and clerks. The right to interpretation and translation under Article 68 CrimPC and Article 6(3) ECHR protects defendants who do not understand the language of their trial. In arbitration, by contrast, the parties choose the language freely, and Lugano's advantage lies in the availability of Italian as an equal language of Swiss law and of the Swiss Rules.

The court's weaknesses are institutional. Its Appeals Chamber is overloaded and housed provisionally, the relationship between its instances is unresolved, and the crisis of 2020 showed the fragility of a small court under public pressure. For the cantonal judiciary, the failed purchase of a building in Lugano in 2024 showed that political choices about premises affect the administration of justice in a financial centre. For practitioners in Lugano the lesson is practical: the federal criminal law that governs their clients is made a short train ride away, in their own language when the case begins in Ticino, and it rewards those who understand both its procedure and its languages. Chapter J.III turns from the courts to the legal language itself and to the differences between Swiss Italian and the legal Italian of the Republic.

2 In five sentences

The Federal Criminal Court in Bellinzona, created under Article 191a of the Federal Constitution and operating since 1 April 2004, owes its seat to a decision of the Federal Assembly of 21 June 2002 that gave Italian Switzerland a federal institution of the first rank. Under Articles 23 and 24 CrimPC it tries the federal cases of money laundering, corruption, organized crime and international economic crime, while its Board of Appeal reviews the OAG's coercive measures and most appeals in international mutual assistance. The OAG chooses the language of each case under Article 3 StBOG according to the persons, documents and place of the first investigative acts, so that about a tenth of the court's cases are conducted in Italian and defendants who do not understand the language are entitled to interpretation and translation. Its judgments of 2022 to 2026 in the Credit Suisse, Lombard Odier, Trafigura, Gunvor and IMDB cases, together with its acquittals, define the requirements of corporate criminal liability for banks and traders throughout Switzerland. For Lugano the court means proximity to federal justice, a body of case law in Italian and a professional environment that complements the cantonal courts in Lugano and the use of Italian in arbitration under the Swiss Rules.

3 Notes

1. Federal Criminal Court, press release on judgment SK.2023.49 of 31 January 2025, <https://www.bstger.ch/de/media/comunicati-stampa/2025/2025-01-31/1454.html>. The press release anonymizes the parties. Their identities were reported by the press: "Trafigura and ex-COO convicted of bribery by Swiss court", SWI swissinfo.ch, 31 January 2025, <https://swissinfo.ch/eng/trafigura-and-ex-coo-convicted-of-bribery-by-swiss-court/88809216>. ↩
2. Public Eye, "Swiss court sentences Trafigura's 'wolves'", press release, 31 January 2025, <https://www.publiceye.ch/en/media-corner/press-releases/detail/swiss-court-sentences-trafiguras-wolves>; "Trafigura and former executive found guilty of bribing Angolan official", The Edge Malaysia (Reuters), 31 January 2025, <https://theedgemalaysia.com/node/742918> (the former manager's lawyer announced an appeal). The judgment was not final when published. ↩

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