

Mergers and successor liability

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A second question arose from the disappearance of Credit Suisse itself. In a separate case concerning loans arranged in 2013 and 2014 by London subsidiaries of Credit Suisse for Mozambican state enterprises, the OAG indicted UBS as legal successor of Credit Suisse under Article 102 SCC in connection with money laundering, together with a former employee of Credit Suisse. On 8 April 2026 the Criminal Chamber discontinued the proceedings against the bank. It held that Credit Suisse had ceased to exist as a legal entity by its absorption into UBS, that criminal liability requires personal culpability on the part of the undertaking as much as on the part of a natural person, and that criminal responsibility was not transferred by the merger, all the more since the alleged organizational deficiencies dated from 2016, when UBS had no influence over Credit Suisse. The decision was open to appeal, while the proceedings against the former employee continued.¹

For banks considering acquisitions the decision is significant. If it is confirmed, a merger extinguishes the criminal liability of the absorbed bank under Article 102 SCC, although civil liability and the confiscation of illicit assets remain possible. Prosecutors may therefore be expected to advance cases against banks that are being acquired, and acquirers will continue to price the risk of confiscation and compensatory claims into transactions even if the risk of a criminal fine disappears.

1 Acquittals for lack of a proven predicate offence

The Appeals Chamber has also set limits on the prosecution of banks and bankers for money laundering where the predicate offence was not proven. On 15 December 2021 the Criminal Chamber acquitted the former chief executive of a Swiss private bank of qualified money laundering involving about EUR 194 million between 2012 and 2016, but convicted the bank under Article 102 SCC and fined it CHF 3.5 million. The date and the

amount correspond to the conviction of Falcon Private Bank that Chapter G.III recorded. On 28 June 2023 the Appeals Chamber acquitted both the former chief executive and the bank. It had irreducible doubts about whether the share transaction alleged to constitute the predicate criminal mismanagement was unlawful. Without a predicate offence there could be no money laundering, and without money laundering no corporate liability. The judgment was not final.²

On 27 June 2024 the Appeals Chamber acquitted a former member of the Ukrainian parliament, Mykola Martynenko, and a co-defendant of qualified money laundering involving about EUR 2.87 million that had passed through Swiss accounts between 2009 and 2011. The Criminal Chamber had convicted them in 2020 and ordered the confiscation of about CHF 3.6 million. The Appeals Chamber found that neither unlawful commissions, nor abusive influence on procurement procedures, nor damage to the Ukrainian State or to the Czech company concerned had been proven. It lifted the confiscation. That judgment was also open to appeal to the Federal Supreme Court.³

2 Notes

1. Federal Criminal Court, press release on decision SK.2025.57b, 10 April 2026, <https://www.bstger.ch/de/media/comunicati-stampa/2026/2026-04-10/1554.html>. The indictments were filed on 25 November and 15 December 2025. ↩
2. Federal Criminal Court, press release on judgment CA.2022.12, 3 July 2023, <https://www.bstger.ch/de/media/comunicati-stampa/2023/2023-07-03/1351.html> (first-instance judgment SK.2020.21 of 15 December 2021). The press release anonymizes the bank. On the conviction of Falcon Private Bank in December 2021 see "Banche elvetiche alla sbarra", RSI, February 2022, <https://www.rsi.ch/info/svizzera/Banche-elvetiche-alla-sbarra--1784445.html>. ↩

3. Federal Criminal Court, press release on judgment CA.2020.14, 28 June 2024, <https://www.bstger.ch/de/media/comunicati-stampa/2024/2024-06-28/1410.html> (first-instance judgment SK.2019.77 of 26 June 2020). The press release names Martynenko. ↩

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