

The efficiency bill and the reform of the judiciary

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Two reforms around the turn of the century changed this structure. The first was the so-called efficiency bill (*Effizienzvorlage*), an amendment to the Swiss Criminal Code that entered into force on 1 January 2002 and gave the Confederation jurisdiction over organized crime and certain cases of economic crime with an international or intercantonal dimension.¹ The federal prosecution service received new investigators and prosecutors, and the Federal Criminal Police was built up to support it. The second reform was the reform of the judiciary (*Justizreform*), which the people and the cantons accepted on 12 March 2000. Its new Article 191a of the Federal Constitution authorized the Confederation to establish a federal criminal court of first instance and other lower federal courts.² The purpose was twofold. The Federal Tribunal in Lausanne, overloaded with appeals, was to be relieved of its first-instance functions, while the new federal jurisdiction in economic and organized crime required a court able to try long and technically demanding cases.

Parliament adopted the Federal Act on the Federal Criminal Court (SGG) on 4 October 2002.³ The Federal Assembly elected the first eleven federal criminal judges on 1 October 2003. The court took up its work on 1 April 2004.⁴ In 2005 the new Federal Supreme Court Act and the Federal Administrative Court Act transferred to it most appeals in international mutual assistance in criminal matters, for which a second Board of Appeal began its work on 1 January 2007.⁵ The Swiss Criminal Procedure Code (CrimPC), which entered into force on 1 January 2011, unified criminal procedure in the cantons and the Confederation. On the same day the Federal Act on the Organization of the Federal Criminal Authorities of 19 March 2010 (Criminal Authorities Organization Act, CrimAA; in German *Strafbehördenorganisationsgesetz*, StBOG; in Italian *Legge sull'organizzazione delle autorità penali*, LOAP), SR 173.71, replaced the SGG as the court's organic statute.⁶

1 The choice of Bellinzona

The seat of the new court was disputed. Lausanne already housed the Federal Tribunal and Lucerne the Federal Insurance Court, which was then a separate court. The new Federal Criminal Court and the new Federal Administrative Court offered an opportunity to distribute federal institutions more evenly among the regions. Italian-speaking Switzerland and eastern Switzerland presented themselves as candidates. The Federal Council initially rejected the candidacy of Bellinzona, arguing that the technical difficulties of a seat far from the capital and the large cities were insurmountable. The Council of States took the opposite view and supported Bellinzona clearly.⁷

On 4 June 2002 Luigi Pedrazzini, the Ticino Director of Institutions, addressed members of the Federal Assembly in Bern on the eve of the decision in the National Council. He took up each of the objections against Bellinzona, namely the distance, the transport of prisoners, the costs, the recruitment of staff, the state of the project and the timetable for construction. In a small country with modern infrastructure, he argued, none of them was insurmountable. The real demand of Italian Switzerland was a "concrete and evident recognition of the dignity of Italian Switzerland as an important national region", in accordance with the federalist principle of an equitable distribution of institutions. Jobs, he insisted, were a secondary consideration.⁸ On 21 June 2002 the Federal Assembly decided to place the Federal Criminal Court in Bellinzona and the Federal Administrative Court in St. Gallen.⁹ Twenty-two years later the President of the Ticino government, Christian Vitta, recalled the decision at the court's twentieth anniversary as a source of pride for the canton.¹⁰

The decision was political in the best sense. Italian Switzerland, with about 8 per cent of the Swiss population, had no federal institution of comparable rank on its territory. A court staffed by judges from all language regions, sitting in the Italian-speaking capital, gave the region a permanent place in the federal judiciary and brought federal judges, clerks and lawyers from Zurich, Bern and Geneva to Ticino on a regular basis. The costs were real. Defence lawyers from Geneva or Basel must travel to Bellinzona for trials that last weeks, and detainees must be transported across the Alps. These burdens have been reduced by the Gotthard and Ceneri base tunnels, which brought Lugano, and Bellinzona a quarter of an hour further north, within less than two hours of Zurich by train, as Chapter C.III explained.¹¹

2 Notes

1. Federal Criminal Court, "Cronistoria", <https://www.bstger.ch/de/il-tribunale/cronistoria.html> (entry for 1 January 2002: amendments to the Criminal Code on organized crime and economic crime). The provision was then Art. 340bis SCC (old), whose substance is now Art. 24 CrimPC. ↩
2. Federal Criminal Court, "Cronistoria" (above), entry for 12 March 2000. Federal Constitution of the Swiss Confederation of 18 April 1999 (Cst.), SR 101, Art. 191a. ↩
3. Federal Criminal Court, "Cronistoria" (above), entry for 4 October 2002. ↩
4. Federal Criminal Court, "Cronistoria" (above), entries for 1 October 2003 and 1 April 2004. ↩
5. Federal Criminal Court, "Cronistoria" (above), entries for 17 June 2005 and 1 January 2007. ↩
6. Federal Criminal Court, "Cronistoria" (above), entries for 19 March 2010 and 1 January 2011; Federal Criminal Court, "Il Tribunale in generale", <https://www.bstger.ch/de/il-tribunale/organizzazione/il-tribunale-in-generale.html> (Arts. 32 ff. StBOG, SR 173.71). This book uses "StBOG" for the Act because the court and the Federal Supreme Court cite it under that abbreviation in German-language decisions. ↩
7. Luigi Pedrazzini, speech at the "aperitivo sudorientale", Federal Palace, Bern, 4 June 2002, <https://www3.ti.ch/DI/discorsi/20020604cnita.pdf>. ↩
8. Pedrazzini, speech of 4 June 2002 (above). ↩
9. Federal Criminal Court, "Cronistoria" (above), entry for 21 June 2002; Repubblica e Cantone Ticino, Gran Consiglio, Rapporto No. 7968 R on the restructuring and enlargement of the Pretorio of Bellinzona (2021), https://www4.ti.ch/fileadmin/POTERI/GC/allegati/rapporti/25050_7968R.pdf. ↩
10. Federal Criminal Court, press release "20 Jahre Bundesstrafgericht", 18 October 2024, <https://www.bstger.ch/de/media/comunicati-stampa/2024/2024-10-18/1435.html>. ↩

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11. Ticino Turismo, "La nuova ferrovia transalpina (NFTA)", <https://www.ticino.ch/it/campaigns/alptransit.html> (Zurich–Lugano in less than two hours; Bellinzona–Lugano about 15 minutes); see Chapter C.III. ↩

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