



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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CONFERENCE OF PROSECUTORS GENERAL OF EUROPE
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House of Parliament
Hotel Margitsziget Termál

RECOMMENDATION REC (2000) 19
RECENT DEVELOPMENTS IN SWITZERLAND

by Mr Valentin Roschacher, Prosecutor General of the Confederation

1 January 2002 saw the entry into force of "measures for improving efficiency and lawfulness in criminal prosecution", known as the "Efficiency bill", passed by Parliament in December 1999. The Bill grants the federal prosecution and police authorities (Public prosecutor's office of the Confederation, Federal office of police and Federal investigating judges) exclusive competence for conducting criminal proceedings in the areas of organised crime, money laundering and corruption at inter-cantonal and international level. The Confederation is also competent, but only on a subsidiary basis, for combating economic crime (for further details, see the internet site of the Public prosecutor's office of the Confederation: <http://www.ba.admin.ch/francais/start.php>).

Since 1 January 2002, the Public prosecutor's office of the Confederation has held the status of an independent judicial authority, subordinate to the Federal department of justice and police solely in administrative terms: from the judicial point of view, the Public prosecutor's office of the Confederation comes under the supervision of the Federal court, and more specifically its Indictments Chamber (now the Complaints court of the Federal criminal court).

On 3 December 2004, with a view to creating a single authority supervising the Public prosecutor's office of the Confederation, the Federal Council instructed the Federal department of justice and police to present *a draft law assigning all responsibility for supervision (administrative and judicial) to that Department*, apart from appeals, which would continue to fall within the competence of the Federal court (currently the Federal criminal court at 1st instance), and powers in the disciplinary and appointments sphere (within the competence of the Federal Council).

A group of experts has drawn up a proposal which should, after being approved by the Head of the Department of Justice, be put up for consultation with the bodies concerned and then submitted, later this year, to Parliament.

During the consultation procedure, *the Public prosecutor's office indicated its strong disagreement with this proposal and its very distinct preference for supervision exercised solely by the judiciary*, possibly by a Judicial Service Commission. The Public prosecutor's office clearly expressed a desire to be supervised professionally and monitored but *by individuals who were totally independent of political authority* and who had *expertise and sufficient experience in criminal procedure practice* enabling them to fully exercise their task of supervision and gain acceptance by the criminal prosecution authorities.

It has of course been asked that all necessary measures be taken under the bill to preserve the independence of the Public prosecutor's office of the Confederation. However, we do not hide the fact that we are unsure what to think of the proposal, particularly as full supervision exercised by the Ministry of Justice is presented as the model used by most of the European countries around us and is said to cause no major problems. Until we actually receive the bill to be put up for consultation, we are unable to say any more on the subject, which we will continue to monitor most attentively, particularly in the light of the aforementioned Recommendation.