

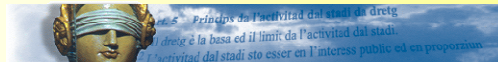
Presentation on 10 December 2007  
Basel Institute on Governance / ERA

## **ACTORS, PROCEDURES and PROBLEMS** with regard to the enforcement of letters rogatory in Switzerland\*



Rudolf WYSS, BJ

\* Informal translation



### 1. ACTORS

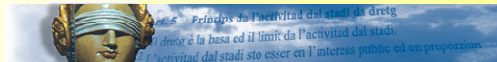
- Cantonal Public Prosecution Services
- Office of the Attorney General of Switzerland
- Federal Customs Administration (FCA)
- Federal Office of Justice



## 2. PROCEDURES

### **Basis: IMAC (Federal Act on International Mutual Assistance in Criminal Matters)**

- Disposal of entry
- Execution in a narrow sense
- Final disposal
- Particularities: extradition



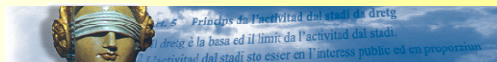
## 3. AUTHORITIES OF RECOURSE

- FEDERAL CRIMINAL COURT
- FEDERAL COURT



## 4. PROBLEMS

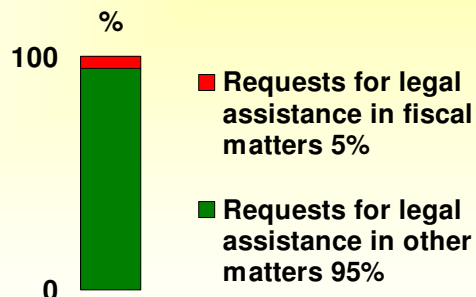
- CONTENTS
- DURATION
- FISCAL OFFENCES
- MONEY LAUNDERING



## 5. Cooperation in Fiscal Matters

2006:

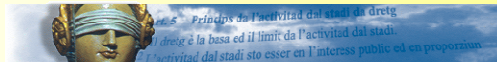
- BJ (Federal Office of Justice) 1800 petitions in total
- out of these 90 petitions with connection to fiscal matter





## LEGAL ASSISTANCE IN FISCAL MATTERS TODAY

- 👍 Tax fraud {
  - direct taxes
  - indirect taxes
- 👍 No extradition
- 👍 No tax evasion
- 👍 No confiscation



## 6. Cooperation in fiscal matters (since Schengen/fight against fraud)

### Year XXXX

Requests for legal assistance:

- With fiscal background: ↗
- Other offences: steady



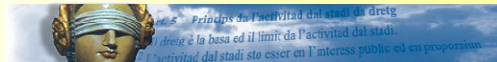
## Requests for legal assistance in fiscal matters

- 👉 Tax fraud
- 👉 Extradition of indirect taxes/duties
- 👉 Evasion of indirect taxes/duties
- 👉 Confiscation of indirect taxes/duties

### Only remaining gap:

Requests for legal assistance in relation to the evasion of direct taxes

Instead: Income due to treaty on taxation of interest!



## 7. Money Laundering

### TODAY:

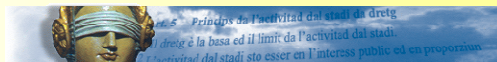
- Number of requests for legal assistance in 2006: 98
- Predicate offence: Crime
- No legal assistance in relation to money laundering if predicate crime is a fiscal offence



## **Agreement on combating fraud**

Number of requests for legal assistance in relation to money laundering: ? aber ↗

- Predicate offence money laundering:
  - 6 months imprisonment
  - indirect taxes/duties
- Dogmatic „fall of mankind“: No dual criminality for coercive measures



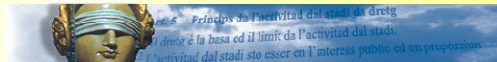
## **8. Conclusion**

- **POSSIBILITIES OF COOPERATION: strongly enlarged**
- Indirect taxes/duties: to a large extent at EU level: legal assistance and extradition
- Direct taxes:
  - tax evasion excluded
  - tax fraud included
- Duration of procedure: nothing is achieved



### Federal Office of Justice:

- Additional staff
- Need for training on both sides
- Switzerland:
  - hard in negotiations
  - reliable in implementation



# Questions?