

**SURVEY OF ANTI-CORRUPTION MEASURES IN THE PUBLIC SECTOR IN OECD
COUNTRIES: SWITZERLAND**

1. What anti-corruption mechanisms exist for the public sector in your country?

a) *Legislation proscribing corrupt activities and establishing sanctions*

Swiss Penal Code, Compendium of federal legislation (*Recueil systématique du droit fédéral*) RS 311.0:

- Art. 281: electoral corruption;
- Art. 282: electoral fraud;
- Art. 288: corruption of authorities and officials;
- Art. 293: publication of secret official debates;
- Art. 312: abuse of authority;
- Art. 314: disloyal management of public interests;
- Art. 315: passive corruption;
- Art. 316: accepting benefits;
- Art. 317: forgery committed in the exercise of public duties.

Public service regulations: (*Règlement des fonctionnaires*) (1)

- Art. 20: ban on accepting donations (RS 172.221.101).

Public service instructions : (*Statut des fonctionnaires*)

- Art. 27: professional secrecy (RS 172.221.10)

Federal Law on unfair competition

- Art. 4: incitement to break or cancel a contract;
- Art. 23: unfair competition (RS 241).

b) *Other anti-corruption regulations or orders*

- Federal Law on public procurement (RS 172.056.1);
- Public Procurement Order (RS 172.056.11).

c) *Oversight by the legislature or parliament (directly or through scrutiny committees)*

- Finance Committee and Finance Delegation reporting to the Federal Chambers (parliament);
- Management Committee reporting to the Federal Chambers.

d) *Investigation systems or bodies with powers to investigate corrupt activity*

Law enforcement authorities operate in each canton and the confederate public prosecutor deals with offences involving federal officials.

Under the Federal Constitution of the Swiss Confederation (Art. 102, ch. 15): the Federal Council oversees the management of all federal officials and government employees within the framework of a disciplinary procedure (RS 101).

e) *Supreme financial audit authority*

- Federal Law on public procurement (RS 172.056.1);
- Federal financial control, as specified in the Federal Law of the same name, *i.e.* the financial auditing of all administrative units in the Confederation, based on requirements regarding proper procedure, legality and cost-efficiency (RS 614.0);
- Inspection and review bodies in individual departments and offices.

f) *Ombudsman*

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g) *Bodies to enforce sanctions and prosecute corrupt activity, e.g. specialised prosecutors, investigators, courts, tribunals, etc.*

- Law enforcement authorities in each canton;
- Confederate Public Prosecutor;
- Federal Council
- Heads of Department (see the answer to *Question 1 (d)*).

h) Human resources management procedures intended to prevent corruption

- Order on security controls in federal government (RS 172.013);
- Order on security controls for military personnel (RS 510.418).
- At the recruitment stage, some categories of staff are subject to security vetting in compliance with the Order on federal government security controls (RS 172.013).

i) Financial management controls intended to prevent or deter corrupt practices

The Federal financial auditors have to analyse this sort of risk (see answer to *Question 1(e)*).

j) Organisational management policies, systems and controls intended to minimise opportunities for corrupt activity

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k) Transparency mechanisms e.g. independent or public scrutiny, systems for declaring or reporting potential conflicting interests or corrupt activity

There are sector-specific provisions only, e.g. for public procurement and construction contracts in the Confederation, subject to the Federal Law on public procurement (RS 172.056.1).

The public service regulations require authorisation to pursue a secondary activity.

l) Guidance and training for public officials or politicians (e.g. codes of conduct, ethics awareness training)

Awareness-raising among managers and experts is made via the reports and surveys listed in the answers to *Questions 3 and 4*.

m) Other measures intended to control, detect or deter corruption

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2. Which anti-corruption mechanisms are regarded as most effective (in terms of implementation and impact)?

- Good salaries for public officials;
- Preventive measures at the organisational level;
- Criminal sanctions.

3. Is the effectiveness of these mechanisms formally evaluated? If so, what evaluation methods are used?

- Report by the Federal Office for foreign economic affairs on corruption in international trade (draft report available only);
- Report, dated 29 January 1997, on “Bribery: refusal of tax deductibility” by the National Council’s Economic and Tax Committee;
- Report, dated 27 June 1996, entitled *Grobrisikoabklärung in der Eidgenössischen Finanzverwaltung* (comprehensive risk evaluation in the Federal Finance Department);
- Report, dated 13 November 1996, by the Delegation of Management Committees reporting to the National Council and the States Council on “Events in the Federal Department of Military Affairs”;
- Final report, dated October 1996, by the *Département fédéral de justice et de police* (federal justice and police department, or DFJP) on “Security controls and corruption”, including a broad analysis of the situation in Switzerland, identifying policy needs and setting out conceptual proposals;
- Report and draft of June 1998 by the DFJP “Révision du droit pénal suisse de la corruption” (Revision of Swiss criminal legislation on corruption);
- Report by the Administrative Control body of the Federal Council “Risques de corruption et mesures de sécurité au sein de l’administration fédérale” (risks of corruption and prevention measures in the federal administration) of 26 March 1998.

4. What if any new actions against corruption in the public sector is your country currently considering?

- Improving criminal and tax legislation, competition law, internal/external government audits and complex administrative procedures;
- Extending the list of offending acts to cover gifts offered to officials; broadening the definition of corruption as an offence, reinforcing the threat of criminal sanctions and extending time limits; making the active corruption of foreign public officials a punishable offence;
- Reinforcing financial audits;
- Raising awareness about the risks of corruption via management training;
- Setting up a monitoring committee;
- Giving the Federal Finance Department a mandate to draw up standard arrangements regarding the acceptance of gifts and personal benefits by public officials;

- Mandates from the Federal Council of 20 May 1998 given to:
 - the Federal Finance Department to draw up a “Code of conduct” with a view to prevent corruption (according to the OECD *Principles for Managing Ethics in the Public Sector*);
 - Departments to include topics on corruption and ethics in training and development and exchange experiences;
 - Departments to examine, against their inventories, activities which might give rise to corruption, prevention measures, and to undertake necessary improvements.
- See also the answer to *Question 2*.

5. Is there an official awareness or a policy position on the part of your government about which areas are of most concern in terms of corrupt or questionable activities involving the public sector?

On the basis of the recommendations listed in the answer to *Question 4*, the Federal Council will be taking in 1998 further measures to prevent corruption.