



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Justice and Police FDJP  
**Federal Office of Justice FOJ**  
Division for International Legal Assistance

# Human Rights – A Challenge to Speedy Extraditions?



UNTOC WG on IC – Vienna, 16 October 2018

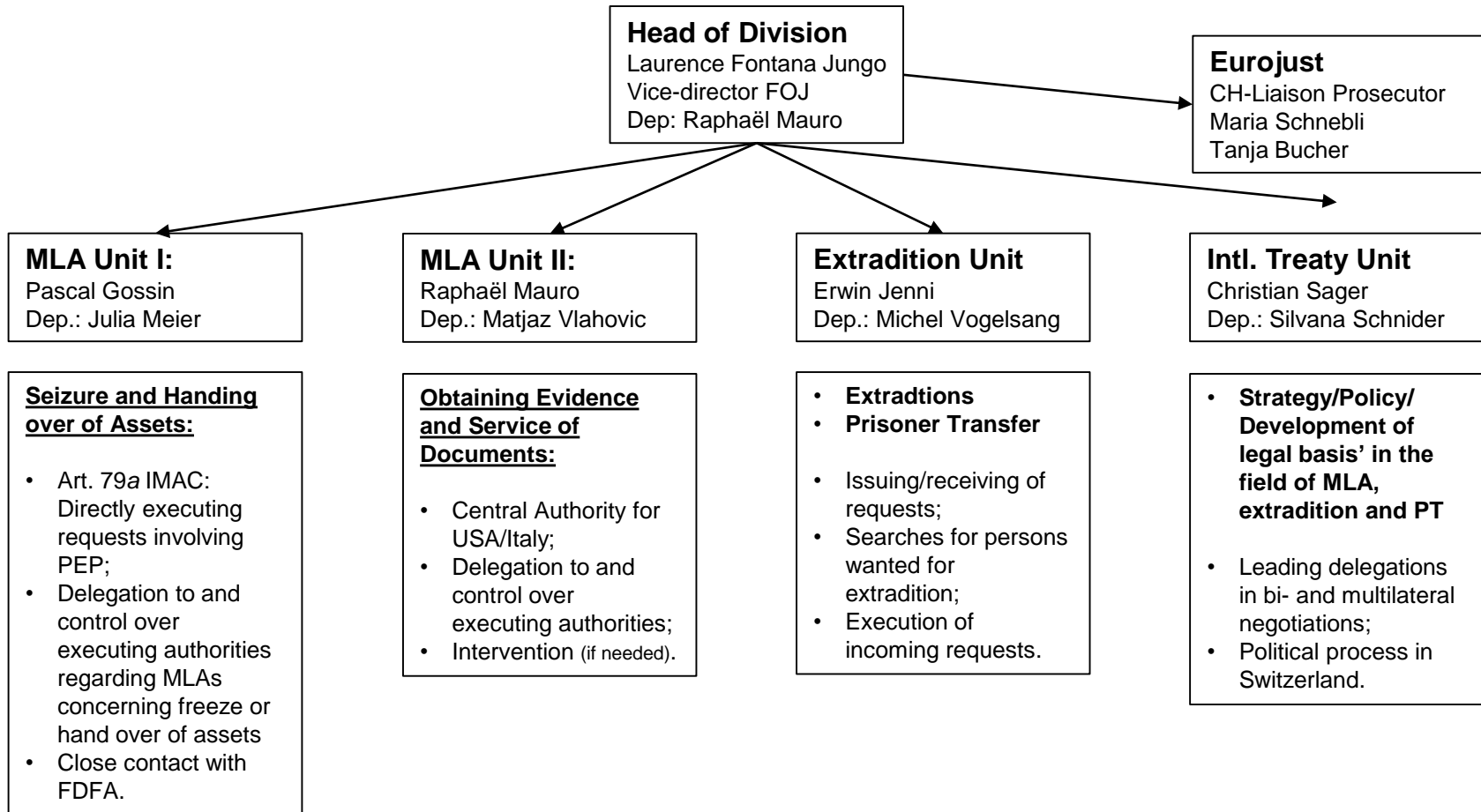
Dr Christian Sager, Head International Treaty Unit



**Total staff of Swiss CA:**

- 45 persons (36.5 full time equivalents)
- 31 women, 14 men
- 32 lawyers, 1 financial analyst, 12 administrative/paralegals

# Organisation chart





# Human Rights Obligations

## Art. 5 R

1 All activities of

2 State activities  
ends sought.

3 State institution

4 The Confederat



proportionate to the



# Obligation to Extradite?

6. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

7. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.



# Standards of Domestic Law

## Art. 2 Foreign proceedings<sup>7</sup>

A request for cooperation in criminal matters shall not be granted if there are reasons to believe that the foreign proceedings

- a.<sup>8</sup> do not meet the procedural requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950<sup>9</sup>, or the International Covenant on Civil and Political Rights of 16 December 1966<sup>10</sup>;
- b.<sup>11</sup> are being conducted so as to prosecute or punish a person on account of his political opinions, his belonging to a certain social group, his race, religion, or nationality;
- c. could result in aggravating the situation of the defendant for any of the reasons mentioned under letter b; or
- d. have other serious defects.



# Human Rights Guarantees

## **Art. 80p** Conditions subject to acceptance

<sup>1</sup> The executing and the appellate authority as well as the Federal Office may make the granting of mutual assistance wholly or partly subject to certain conditions.

<sup>2</sup> The Federal Office shall communicate the conditions to the requesting State when the ruling on the granting and the extent of the mutual assistance is final and shall give it an appropriate deadline by which to accept or refuse. If the deadline given is not respected, mutual assistance may be granted on the points that are not subject to conditions.

<sup>3</sup> The Federal Office shall examine if the response of the requesting State satisfies the conditions set.

<sup>4</sup> The ruling of the Federal Office is subject to an appeal to the Appeals Chamber of the Federal Criminal Court within ten days of its notice being given in writing. The decision of the Appeals Chamber is final.<sup>129</sup>



# Conclusions

- Guarantees = useful tool;
- In-depth analysis and monitoring are essential;
- Human rights are a challenge to speedy extraditions, but if we understand each other, we can overcome!





## **Publications of FOJ:**

Website: <http://www.rhf.admin.ch>

Guideline „International Mutual Legal Assistance in Criminal Matters“, 9th Edition 2009 (German, French, Italian, English).

Checklist (German, French, Italian, English, Russian, Spanish)

Leaflet “Recovering unlawfully obtained assets located in Switzerland”

## **Our Office:**

Federal Office of Justice  
Division of International Legal Assistance  
Bundesrain 20  
3003 Berne

Telephone : +41 58 462 11 20

Fax : +41 58 462 53 80

E-Mail : [irh@bj.admin.ch](mailto:irh@bj.admin.ch)