

LALIVE



## Anti-Corruption – Developments in Switzerland

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CAN SWITZERLAND’S NEW “LEX FIFA” COMBAT CORRUPTION WITHIN INTERNATIONAL SPORTS FEDERATIONS?



Swiss bring in 'Lex FIFA' laws giving power to prosecute sports corruption

21st April 2016

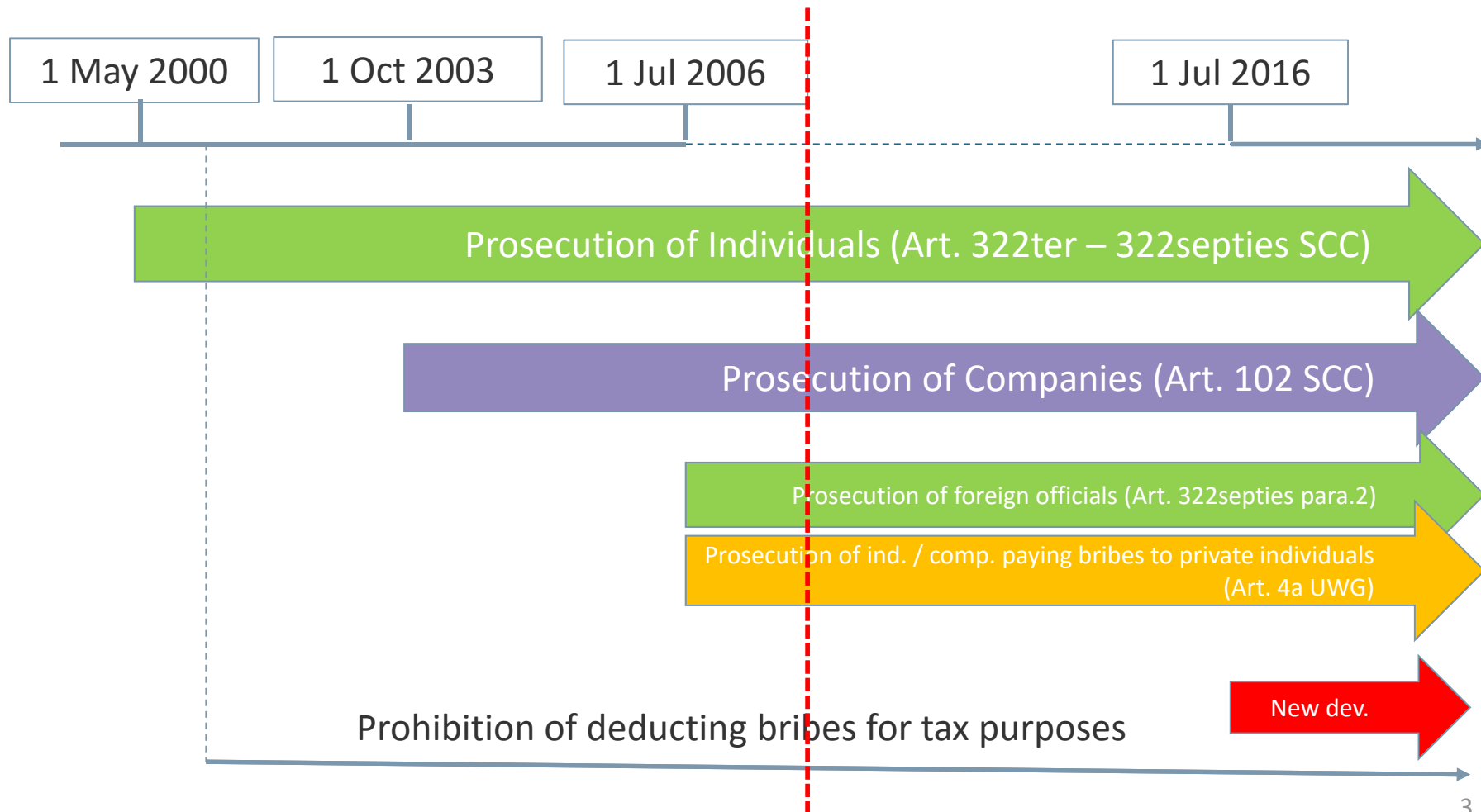
By **Andrew Warshaw**

April 21 – Swiss authorities have enacted potentially ground-breaking new rules, dubbed by Swiss media 'Lex FIFA' (the FIFA Law), as part of an initiative to crack down on corruption in sport.

With a string of international sporting organisations based in the country and the ongoing FIFA scandal still making headlines, it is hoped that tightening the law will address gaps that previously made it difficult to prosecute private individuals who either offer or accept bribes.

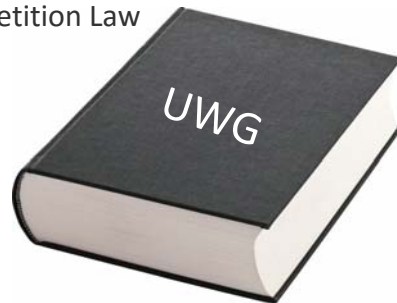


# Anti - corruption in Switzerland



## New Developments (1. July 2016)

Federal Act on Competition Law  
(UWG)



Swiss Criminal Code  
(SCC)



## New Developments (1 July 2016)

### Art. 322<sup>octies</sup> Bribery

Bribery of private individuals

Bribery

<sup>1</sup> Any person who offers, promises or grants an employee, company member, agent or any other auxiliary to a third party in the private sector an **undue advantage** for that person or a third party in order that the person carries out or fails to carry out an act in connection with his official activities which is **contrary to his duties or dependent on his discretion** is liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> In minor cases, the offence is only prosecuted on complaint.

## New Developments (1 July 2016)

### Art. 322<sup>novies</sup> Bribery

#### Accepting bribes

<sup>1</sup> Any person who as an employee, company member, agent or any other auxiliary to a third party in the private demands, secures the promise of, or accepts an undue advantage for himself or for a third party in order that the person carries out or fails to carry out an act in connection with his official activities which is contrary to his duties or dependent on his discretion is liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> In minor cases, the offence is only prosecuted on complaint.

## New Developments (1 July 2016)

### Art. 322<sup>decies</sup>

#### General provisions

<sup>1</sup> The following are not undue advantages:

- a. advantages permitted under public employment law or contractually approved by a third party;
- b. negligible advantages that are common social practice.

<sup>2</sup> Private individuals who fulfil official duties are subject to the same provisions as public officials.

## Corporate Criminal Liability (Art. 102 para. 2 SCC)

- The corporate itself will be criminal liable if bribes have been paid to either an official or a private individual in course of its business activities, if the organisation failed to take measures to prevent such offences;
- Necessity to establish an adequate risk and compliance management process to prevent commercial bribery.
- Fines up until CHF 5 Mio. and disgorgement of profits
- Self-reporting is being promoted by the authorities



## Questions



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