



Options and limits in using private investigators for judicial cases

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Options and limits in using private investigators for judicial cases

■ Three practical cases

- Internal investigation within a firm in order to determine whether a CEO has committed / commits acts of disloyal management, or even fraud
- Worldwide investigation to find assets of a Middle East bank which was defrauded of hundreds of millions
- Private investigation by the defence in order to demonstrate that the suspect did not commit a fraud (hearing of other persons, investigations in banks, wire tapping)

Options and limits in using private investigators for judicial cases

- The Legal Framework in Switzerland
 - Material Criminal Law
 - Administrative Penal Law
 - Procedural Criminal Law
 - Mutual Legal Assistance
 - Law of Privacy
 - Cantonal Law on Private Investigators

Options and limits in using private investigators for judicial cases

- Material Criminal Law
 - Art. 162 Crim Code
 - Disclosure of Trade Secrets or Confidential Business Information
 - Art. 179 ss Crim Code
 - Offences against Privacy
 - Art. 271 Crim Code
 - Prohibited Acts for a Foreign State
 - Art. 273 Crim Code
 - Economic Intelligence Service
 - Art. 320 Crim Code
 - Breach of Professional Secrecy for Public Servants

Options and limits in using private investigators for judicial cases

- Jurisdiction of Switzerland
 - Principle of Territoriality
 - Place of action
 - Place of result (not in formal offences)
 - Active / Passive Personality Principle
 - Protection
- Self defence (art. 15-16)
- State of necessity (art. 17-18)

Options and limits in using private investigators for judicial cases

- Administrative / Penal Law
 - Law on Data Protection (art. 6-7)
 - Swiss Banking Law (art. 47)
 - Law of Free Movement of Attorneys (art. 12 a)

Options and limits in using private investigators for judicial cases

- Law of Criminal Procedure
 - Code Crim Procedure (Art. 139-141)
 - Law of Civil Procedure (art. 150 ss; art. 155 para. 3)

Options and limits in using private investigators for judicial cases

- Law of Privacy
 - General protection of privacy (art. 27-28ss Civil Code)
 - Protection of workers (art. 328 Code of Obligation)

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