

Article 47: the criminal-law protection of secrecy

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Article 47 of the law of 1934 punishes breaches of professional secrecy by persons who have access to banking information. *Le Temps* quotes its wording: any person who, in their capacity as a member of a governing body or employee of the bank, as an auditor or assistant auditor, as a member of the banking commission, or as an official or employee of its secretariat, violates the discretion to which they are bound by law or the professional secrecy they owe, or who incites or attempts to incite another to commit that offence, is liable to a fine of up to twenty thousand francs or to imprisonment of up to six months.¹

Several sources stress that this provision gave rise to hardly any debate. According to *Le Temps*, neither the National Council nor the Council of States opened a discussion on Article 47.² The Wikipedia article on bank client secrecy in Switzerland likewise notes that Article 47 was not the subject of any particular debate during the various stages of the procedure.³ This silence contrasts with the importance the provision would acquire in the following decades.

It is important to state precisely what Article 47 covers. According to the historians of the Federal Archives quoted by swissinfo, private law already obliged bankers to silence long before 1934, and Article 47 concerns solely the criminal-law protection of the secrecy owed to bank clients.⁴ Bank client secrecy, as the banker's duty of discretion towards the client, flows from the contract and from the protection of personality rights; the law of 1934 added a criminal sanction, which considerably strengthened its reach.

The innovation of 1934 therefore lies in criminalisation. A bank employee who discloses information about a client now commits, in addition to a breach of contract, a criminal offence prosecuted *ex officio*. This criminalisation made it much harder for foreign authorities to obtain information, since they could no longer count on the voluntary

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cooperation of bank employees. Several authors also point out that the law extends this protection to non-resident clients.⁵

Element	Scope
Duty of discretion	pre-existing, based on private law and the contractual relationship
Article 47 of the law of 1934	criminal-law protection of secrecy, punishing its breach by governing bodies, employees, auditors and members of the supervisory authority
Initial penalty	fine of up to twenty thousand francs or imprisonment of up to six months
Parliamentary debate	no particular discussion of Article 47
Beneficiaries	bank clients, including non-resident clients

1 Notes

1. Le Temps, 4 April 2009, cited above. ↩
2. Le Temps, 4 April 2009, cited above. ↩
3. Article “Secret bancaire en Suisse”, Wikipédia (fr), cited above. ↩
4. “Le secret bancaire à la croisée des chemins”, swissinfo.ch (accessed September 2026). ↩
5. Article “Secret bancaire”, Wikipédia (fr) (accessed September 2026); paradisfj.info, article cited above. ↩

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