

The confidentiality of correspondence and the protection of information

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Information constituted the principal asset of the bankers of the eighteenth century, and its protection a constant concern. Letters could be intercepted, opened and read by the postal services of states. In France, a specialised service examined certain correspondence on behalf of the king.¹ Bankers therefore took precautions: they relied on trusted messengers, used cautious wording and avoided committing the most sensitive information to paper; the substitution code books in use in the diplomacy of the period also offered a model of discretion.²

Confidentiality protected clients against the curiosity of competitors, creditors and the authorities. It also protected the bankers themselves, whose operations might displease the powers of the day. For Protestants established in a Catholic kingdom, discretion was as much a matter of political prudence as of professional ethics.

In the twentieth century Swiss law enshrined a statutory duty of discretion for banks, backed by criminal sanctions (Art. 47 of the Banking Act, BankA), and today it protects personal data through legislation whose revised version entered into force in 2023.³ This protection now coexists with extensive obligations to transmit information to foreign tax authorities and to criminal prosecution authorities. The protection of information has also taken on a new technical dimension, with the risk of cyberattacks threatening financial institutions. The letter book of the eighteenth century has given way to computer systems; the value of information and the need to protect it have remained the same.

1 Notes

1. Wikipedia (en), “Cabinet noir”: a service within the postal system responsible for opening and reading correspondence before its

delivery; a practice attested under Louis XIII and Louis XIV, a separate office, the “cabinet du secret des postes” or cabinet noir, being created only under Louis XV; used by the revolutionaries and by Napoleon. ↩

2. Wikipédia (fr), art. “Histoire de la cryptologie”: the nomenclator, a collection of codes and keys compiled in 1379 by Gabriele de Lavinde, secretary to the pope, made it possible to substitute symbols for common words and syllables and was “used for several centuries by European and American diplomats”; the Great Cipher of Louis XIV, reserved for communications “of extreme importance”, resisted attempts at decipherment until Étienne Bazeries broke it around 1893. ↩
3. Federal Act of 25 September 2020 on Data Protection (FADP; LPD; SR 235.1), in force since 1 September 2023 together with the Data Protection Ordinance. ↩

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