

Gelli in Geneva and the limits of Swiss law

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The Ambrosiano case reached Switzerland a second time through the person of Licio Gelli. On 13 September 1982 Gelli was arrested in Geneva while trying to withdraw tens of thousands of dollars from a Geneva bank. He escaped from the Champ-Dollon prison on 10 August 1983, went to South America and surrendered to the Swiss authorities in 1987. Switzerland then extradited him to Italy, but only for some of the offences for which Italy had requested him.¹ The limits of Swiss law were discussed in the National Council in November 1989, when the Geneva deputy Guy-Olivier Segond moved to introduce the offence of criminal organization into the Criminal Code. His motion cited the Gelli affair: Gelli had surrendered in Switzerland and escaped the Italian charges of "association de malfaiteurs" connected with P2, although he was the organization's leader, because Swiss law knew no corresponding offence and the double criminality requirement for extradition was therefore not met. The Federal Council accepted the motion.²

1 What Ambrosiano meant for the financial centre

For the Federal Council the Ambrosiano case belonged, together with the Pizza Connection, to the affairs that had made the link between money laundering and the Swiss financial centre a settled element of international opinion.³ Three features of the case continued to shape Swiss practice. The first was the risk of foreign-owned banks used by their parent groups for transactions of doubtful purpose, which later led to consolidated supervision. The second was the role of offshore companies in Panama and Liechtenstein, whose real owners were concealed behind fiduciaries, a risk that the banks' due diligence agreement tried to address through the identification of the beneficial owner. The third was the limit that double criminality placed on cooperation with Italy whenever the Italian charge had no Swiss equivalent, a limit that the offence of criminal organization of 1994 was meant to remove.

Essentials. Banco Ambrosiano collapsed in 1982 after Roberto Calvi had built a foreign network that began with the Banca del Gottardo in Lugano and used offshore companies linked to the IOR to buy the bank's own shares. Offshore debts of about USD 1.2 billion led to criminal convictions in Italy and a voluntary payment of about USD 250 million by the IOR. In Switzerland the case revealed the risks of foreign-owned booking banks, offshore companies and the double criminality barrier, which in the Gelli case prevented extradition for criminal association. The Federal Council named the Ambrosiano affair in 1989 as one of the causes of Switzerland's international reputation for money laundering.

2 Notes

1. "Licio Gelli", Italian Wikipedia, https://it.wikipedia.org/wiki/Licio_Gelli (consulted as a last resort; arrest in Geneva on 13 September 1982 "mentre cercava di ritirare decine di migliaia di dollari"; escape on 10 August 1983; surrender in Switzerland in 1987). On the limits of the extradition see the motion Second cited in the next note. ↩
2. National Council, Motion Second, "Association de malfaiteurs et crime organisé dans le Code pénal suisse" (No. 89.655), debate of 28 November 1989, Amtliches Bulletin der Bundesversammlung, digitized at https://entscheidsuche.ch/docs/CH_VB/CH_VB_001_89-655_1989-11-28.pdf. ↩
3. Botschaft of 12 June 1989 (as above), 1066. ↩

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