

German pressure and the myth of the Jewish accounts

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The second strand of the debate concerns Germany. The Weimar Republic had introduced a Reich flight tax in December 1931, and after 1933 the National Socialist regime tightened the currency controls and sent agents to Switzerland to discover the assets of German residents. The German law against economic sabotage of 1 December 1936 threatened Germans who hid assets abroad with death.¹ From the late 1960s onwards, Swiss banks and their associations presented Article 47 as a measure that had protected the money of persecuted Jews and other opponents of the regime against Gestapo espionage.² Historical research has refuted this account. In the abstract of his study in the *Business History Review*, Guex states that, contrary to popular opinion, the institution of Swiss banking secrecy did not arise from a desire to protect the funds deposited in Switzerland by Jewish victims of Nazi persecution, but had substantially different origins.³ The chronology supports him. The bill was drafted in 1933 and 1934 in response to the French affair and the Swiss banking crisis, before German persecution of Jewish property reached its height. Robert U. Vogler came to similar conclusions in his study of the origins, significance and myth of Swiss banking secrecy.⁴

The two strands are compatible with each other. Article 47 protected all clients against all foreign authorities. It protected the French deputy who had evaded French tax, the German Jewish family that had saved part of its wealth from confiscation, and the Italian industrialist who had exported capital in breach of the currency monopoly of December 1934. The law did not distinguish between motives, because its purpose was to protect the Swiss bank and the Swiss financial centre. Guex adds a further dimension: the maintenance and reinforcement of banking secrecy became a major objective of the Swiss authorities throughout the twentieth century and exerted a substantial influence on Swiss domestic and foreign policy.

During and after the Second World War, it gave rise to tensions with the Great Powers and poisoned relations with the United States.⁵

1 What Article 47 meant for Lugano

For the banks of Lugano and Chiasso, whose foreign clients were overwhelmingly Italian, Article 47 had a specific meaning. It coincided almost exactly with the Italian foreign exchange monopoly of December 1934 and with the introduction of criminal penalties for Italian residents who held undeclared assets abroad. An Italian client who opened an account in Lugano after 1935 committed an offence in Italy. If his name became known to the Italian authorities, he faced prosecution, confiscation and, under the Fascist regime, political persecution. The Swiss statute now protected him against disclosure by the bank's employees, and the Swiss authorities refused assistance in currency matters. The combination of a foreign prohibition and a domestic secrecy obligation created the legal structure on which the Lugano business with Italian clients rested for the next eighty years. Chapter E.II describes how it was dismantled between 2009 and 2018.

Article 47 did not, however, place bank information beyond the reach of Swiss law. The act reserved the federal and cantonal provisions on the duty to testify and to provide information to the authorities.⁶ Swiss criminal courts, debt enforcement offices and tax authorities, within the limits of their own procedures, could obtain information from banks. Banking secrecy protected the client against private persons and foreign States, while the Swiss State retained its access. The distinction mattered in Ticino, where cantonal and federal prosecutors would later use their powers against Italian organized crime, as Chapter D.IV describes.

Common misconception. Swiss banking secrecy is often said to have been created in 1934 in order to protect Jewish assets from the Nazis. Historical research by Sébastien Guex and Robert U. Vogler has shown that the immediate causes lay elsewhere: the Swiss banking crisis of 1931–1933 and the French tax affair of the Basler Handelsbank in October and November 1932, in which the names of French clients were read out in the Chamber of Deputies. The legend of the protection of Jewish funds was spread later as part of the defence of banking secrecy. Article 47 protected all clients, including German, French and Italian residents who had evaded the tax and currency laws of their countries.

2 Notes

1. Gesetz gegen Wirtschaftssabotage of 1 December 1936 (above). Wikipedia (English), "Reich Flight Tax", https://en.wikipedia.org/wiki/Reich_Flight_Tax (consulted as a last resort), for the decree of 8 December 1931 (25 per cent; assets above RM 200,000 or annual income above RM 20,000). ↩
2. Wikipedia (German), "Schweizer Bankgeheimnis" (above), dating the spread of the legend to a public relations campaign of the Schweizerische Kreditanstalt in 1966. ↩
3. Guex, "The Origins of the Swiss Banking Secrecy Law" (above), abstract. ↩
4. Robert U. Vogler, Das Schweizer Bankgeheimnis: Entstehung, Bedeutung, Mythos (Zurich: Verein für Finanzgeschichte, 2005), cited after Wikipedia (German), "Schweizer Bankgeheimnis" (above, consulted as a last resort), which reports Vogler's conclusion that the belief that Switzerland created banking secrecy in the 1930s to protect Jewish assets from National Socialist persecution is factually wrong. ↩
5. Guex, "The Origins of the Swiss Banking Secrecy Law" (above), abstract. ↩
6. Banking Act of 1934, original Art. 47(4). The present Art. 47(5) BankA, SR 952.0, reserves "die eidgenössischen und kantonalen Bestimmungen über die Zeugnispflicht und über die Auskunftspflicht gegenüber einer Behörde", German text at <https://www.droit-bilingue.ch/de-fr/9/95/952.0-47-100.html>. ↩

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