

The banking initiative of the Social Democrats

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The Social Democratic Party took the argument to the people. Its popular initiative "against the abuse of banking secrecy and the power of the banks" (*gegen den Missbrauch des Bankgeheimnisses und der Bankenmacht*), soon known simply as the banking initiative (*Bankeninitiative*), was submitted on 8 October 1979, three months after the Chiasso verdict, with 121,882 valid signatures collected in 356 days.¹ It would have amended the Federal Constitution to oblige banks to provide information to the authorities and courts in tax and criminal matters, subject to exceptions for income documented by salary statements and small amounts. It required legislation on assistance to foreign criminal proceedings, compulsory insurance of deposits where no State guarantee existed, the publication of consolidated accounts showing the banks' active and passive participations and the client assets they managed, limits on the interlocking of banks and other enterprises, and an annual report to Parliament on the banking sector.²

The Federal Council recommended rejection in its message of 18 August 1982. It argued that a constitutional revision was not necessary to achieve the initiative's legitimate aims, that measures in that direction had been taken by legislation, partly after the initiative had been submitted, and that its exemptions would create arbitrary inequalities. It also pointed to the roughly 90,000 jobs that the banks in Switzerland could offer thanks to the development of the financial centre. Among the measures it cited was the due diligence agreement of 1977, which was intended to ensure "that the banks reliably establish the identity of their clients and prevent unlawful acts from being made possible or facilitated through the abusive use of banking secrecy", and which prohibited "active assistance in capital flight, tax evasion and the like".³ The National Council rejected the initiative by 111 votes to 51, the Council of States by 31 to 6.

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Banking initiative, vote of 20 May 1984 Result Yes votes 26.96 % Cantons in favour 0 of 23 Turnout 42.52 % Signatures 121,882 National Council 51 yes, 111 no Council of States 6 yes, 31 no

On 20 May 1984 the people and the cantons rejected the initiative by a large margin. Only 26.96 per cent of voters supported it, and not a single canton voted in favour. Turnout was 42.52 per cent. The Social Democrats, the Greens, the Party of Labour and other parties of the left recommended a yes vote, while the Christian Democrats, the Radicals, the Swiss People's Party, the Liberals, the Independents and the Evangelicals recommended rejection.⁴

1 Assessment

The vote of 1984 is sometimes read as a vote for banking secrecy. It was more precisely a vote against a constitutional solution to problems that the authorities and the banks claimed to be solving by other means. The Federal Council's message relied heavily on the due diligence agreement, the new Act on International Mutual Assistance of 1981 and the planned revision of the Banking Act. The success of this argument depended on whether self-regulation would work. The scandals of the following years, from the Pizza Connection to the Kopp affair (Chapter D.IV), tested that claim and led to the criminal provisions of 1990 and the Anti-Money Laundering Act of 1997. Several of the initiative's demands, among them deposit insurance, information to foreign authorities in tax matters and the publication of consolidated accounts, became law in later decades through other channels.⁵

2 Notes

1. Swissvotes, vote No. 319, "Volksinitiative «gegen den Missbrauch des Bankgeheimnisses und der Bankenmacht»", <https://swissvotes.ch/vote/319.00> (121,882 signatures, collection period 356 days); Federal Council, Botschaft über die Banken-Initiative of 18 August 1982, BBl 1982 II 1201–1229, <https://swissvotes.ch/vote/319.00/botschaft-de.pdf> (submission on 8 October 1979; 121,882 valid signatures). ↩
2. Text of the initiative as submitted to the vote, <https://swissvotes.ch/vote/319.00/abstimmungstext-de.pdf> ("Die Banken ... sind den Behörden und Gerichten in Steuer- und Strafsachen zur Auskunft verpflichtet"; "Die Gesetzgebung regelt die Versicherungspflicht der Banken für Einlagen"; publication of "aktiven

und passiven Beteiligungen" and of the managed client assets; "Begrenzung der Verflechtung zwischen Banken und anderen Unternehmen"). ↩

3. Botschaft über die Banken-Initiative (above), 1202, 1213, 1217 and 1221 ("Die Vereinbarung will sicherstellen, dass die Banken die Identität ihrer Kunden zuverlässig abklären und verhindern, dass unter missbräuchlicher Verwendung des Bankgeheimnisses unzulässige Handlungen ermöglicht oder erleichtert werden"; "die aktive Beihilfe zu Kapitalflucht, Steuerhinterziehung und dergleichen"). ↩
4. Swissvotes, vote No. 319 (above): 26.96 % yes, 0 of 23 cantons, turnout 42.52 %, National Council 51:111, Council of States 6:31; recommendations for yes by GPS, PdA, POCH, SD and SPS, for no by CVP, EDU, EVP, FDP, LdU, LPS, REP and SVP. ↩
5. Deposit protection: BankA (above), Art. 37a in the version of the Federal Act of 18 March 2011 (in force since 1 September 2011), <https://www.droit-bilingue.ch/de-fr/9/95/952.0-37a-78.html>, and Arts 37h–37k in the version of the Federal Act of 17 December 2021 (in force since 1 January 2023), <https://www.droit-bilingue.ch/de-fr/9/95/952.0-37h-89.html>; consolidated accounts: BankA, Arts 6(1)(c) and 6a, <https://www.droit-bilingue.ch/de-it/9/95/952.0-6-29.html>; information in tax matters: Federal Act on International Administrative Assistance in Tax Matters of 28 September 2012 (TAAA), SR 651.1, <https://www.droit-bilingue.ch/de-fr/6/65/651.1-3-6.html>. See Chapters C.IV and E.II. ↩

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