

The verdict of 3 July 1979

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The Court of Assizes delivered its verdict on 3 July 1979. Kuhrmeier and Laffranchi, whom the court regarded as equal in professional responsibility, were each sentenced to four and a half years' imprisonment (*Zuchthaus*) and a fine of CHF 10,000. Two company lawyers received suspended sentences of sixteen months and fines of CHF 200,000 each.¹ Swissinfo's retrospective of 2002 reports that Kuhrmeier and his two associates received four and a half years each, while the cantonal account states that the two main defendants were sentenced to four and a half years and other defendants to sixteen months suspended.² Kuhrmeier died shortly after the trial.³

The reactions divided along political lines. The Kreditanstalt stated that the trial had produced no new findings beyond those of its own internal investigation and that the important criminal aspects of the case had now been settled. Critics replied that the Texon construction had had no purpose other than to rescue flight capital from the tax authorities of the countries of origin, and that the trial had left this dimension untouched. Social Democrats and members of the Christian Democratic People's Party described the sentences as lenient for crimes of this scale.⁴ For the Federal Banking Commission, the conclusion of the Ticino proceedings on 3 July 1979 offered no new perspectives that would require it to reassess the conduct of the persons who now led the bank.⁵

1 What the trial could and could not address

The trial of 1979 reveals the limits of criminal law as an instrument for regulating a financial centre. The court could punish bank officers who had damaged their employer, but it had no jurisdiction over the conduct that had made Texon possible: the acceptance of Italian flight capital without questions about its origin, the use of a foreign shell entity to keep business off the bank's books and the assistance given to Italian clients in hiding

money from their own State. None of this was a crime in Switzerland in 1977. The gap between what was punishable and what was harmful to the financial centre was the reason why the response to Chiasso had to come from outside criminal law. The agreement on due diligence filled part of this gap in 1977. The criminal provisions on money laundering and on lack of due diligence in financial transactions, introduced in 1990 and described in Chapter D.IV, filled another part.⁶

Essentials. The criminal case against the Chiasso branch officers turned on the damage caused to the Kreditanstalt itself, since capital flight from Italy and the evasion of foreign taxes were not offences under Swiss law. The Ticino Court of Assizes sentenced Kuhrmeier and Laffranchi on 3 July 1979 to four and a half years' imprisonment and fines of CHF 10,000, while two lawyers received suspended sentences of sixteen months and fines of CHF 200,000 each. The prosecutor, Paolo Bernasconi, found no direct responsibility of the bank's top management but criticized its negligent controls.

2 Notes

1. "Chiasso retour", Der Högger, No. 27, 13 July 1979, <https://zop.zb.uzh.ch/bitstreams/526b09e8-49b5-4ad0-9b9a-5e82b3825ec5/download>: "Viereinhalb Jahre Zuchthaus und 10 000 Franken Busse für den ehemaligen SKA-Chiasso-Direktor Kuhrmeier und den auch beruflich gleichgestellten Laffranchi, 16 Monate bedingt für zwei Firmenanwälte und je 200 000 Franken Busse". ↩
2. SWI swissinfo.ch, "La grande leçon du scandale Texon" (above) (3 July 1979, four and a half years and CHF 10,000 for Kuhrmeier and his two associates); Ente Ticinese per il Turismo, "Lo 'scandalo' di Chiasso" (above) ("i due principali imputati furono condannati a 4 anni e mezzo di reclusione, altri imputati a 16 mesi con la condizionale"). ↩
3. SWI swissinfo.ch, "La grande leçon du scandale Texon" (above); Le Temps, "Grandes affaires économiques suisses (26)" (above). The English Wikipedia article "Chiasso scandal" states that Kuhrmeier died before his first court appearance, which is contradicted by the report of his statement at the trial in l'Unità of 4 June 1979. ↩
4. "Chiasso retour", Der Högger, 13 July 1979 (above): the bank's statement ("keine neuen Erkenntnisse"), the critics' view that the "Texon-Konstruktion habe nichts anderes bezweckt, als Fluchtgelder vor dem Fiskus der Herkunftsländer zu retten", and the reactions of Social Democrats and the CVP. ↩

5. EBK, Jahresbericht 1979 (above), 23. ↩
6. EBK, Jahresbericht 1990, 21,
<https://finma.ch/FinmaArchiv/ebk/d/publik/bericht/pdf/jb90.pdf>:
"Am 1. August 1990 trat die Änderung des Strafgesetzbuches in Kraft,
mit welcher die vorsätzliche Geldwäscherei (Art. 305bis) und die
mangelnde Sorgfaltspflicht bei Finanzgeschäften (Art. 305ter) unter
Strafe gestellt werden." ↩

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