

## The indictment of 1983

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In 1983, federal prosecutors in New York indicted Marc Rich and Pincus Green on sixty-five criminal counts, including tax evasion, wire fraud, racketeering and trading with Iran in violation of the embargo. The indictment described the case as the largest tax evasion case in the history of the United States.<sup>1</sup> The prosecution was led by the United States Attorney for the Southern District of New York, Rudolph Giuliani.<sup>2</sup> Rich, who had learnt of the impending indictment, left the United States for Switzerland and never returned. He relinquished his American citizenship.<sup>3</sup>

In 1984, Rich's companies pleaded guilty to thirty-five counts of tax evasion and paid penalties of ninety million dollars. Rich himself remained a fugitive, living in the canton of Zug, and for many years he was on the list of the persons most wanted by the Federal Bureau of Investigation.<sup>4</sup>

The Swiss authorities refused to extradite him. The offences with which he was charged were, in the Swiss view, either fiscal offences, for which Swiss law did not grant extradition, or offences connected with the violation of American sanctions that Switzerland did not recognise.<sup>5</sup> The refusal, and the life that Rich led in Zug, in full view and with the protection of Swiss law, made the canton a symbol of the use of Switzerland as a refuge from foreign justice. The distinction that Swiss law then drew between tax evasion, which was not a crime and did not justify international cooperation, and tax fraud, which was, lay at the heart of the case. The Geneva volume describes how the same distinction shaped the history of Swiss banking secrecy, until international pressure forced Switzerland to abandon it for foreign clients after 2009.

## 1 Notes

1. Wikipedia (English), "Marc Rich": in 1983 federal prosecutors indicted Rich and Green on 65 criminal counts, including tax evasion, wire fraud, racketeering and illegal Iranian oil transactions; the indictment described it as "the biggest tax evasion case in U.S. history". ↩
2. SRF, "Von der Marc Rich AG zu Glencore": in 1983 Rich faced indictment for tax evasion and Iranian trade violations under the prosecutor Rudolph Giuliani. ↩
3. Wikipedia (English), "Marc Rich": learning of the pending indictment, Rich fled to Switzerland and remained there for nearly two decades, avoiding extradition and never returning; SRF, "Von der Marc Rich AG zu Glencore": Rich relocated to Switzerland and relinquished his US citizenship. ↩
4. Source as cited in the printed edition. ↩
5. swissinfo.ch, "Clinton pardons indicted trader who sought refuge in Switzerland", 22 January 2001: Rich and Green avoided prosecution by staying in Switzerland, which refused to extradite them to the United States; Christian Science Monitor, "The Marc Rich case: US tax collector vs. Swiss secrecy", 22 August 1983, csmonitor.com: Switzerland does not recognise tax evasion as a crime, only tax fraud, and gives legal assistance to foreign countries only where fraud is involved; Cultures Contexts (University of Texas), "Marc Rich and Switzerland: An Uneasy Relationship", 30 June 2013: the distinction between tax evasion and tax fraud prevented extradition, and Swiss neutrality meant abstention from trade embargoes. For the exclusion of assistance for fiscal offences under Art. 3 para. 3 IRSG see the footnote in the section on mutual assistance below. ↩

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