

Legacy: from conflict to compliance

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The history of Zurich and Germany is a history of dependence in both directions. For almost two centuries, German capital, German people and German ideas have contributed to the growth of the Zurich financial centre, and Zurich has in return offered German savers, companies and institutions a stable currency, efficient banks and a legal order that protected property. The same interdependence repeatedly produced conflict, because the protection that Zurich offered German money was protection against the German state: against inflation in the 1920s, against exchange control in the 1930s and against taxation from the 1950s onwards. Each German government that tried to reach that money came up against Swiss law, whereas each Swiss government that defended that law had to reckon with German power.

The confrontation of 2008 to 2013 was the last and sharpest round of this conflict. Its legacy is visible in several places. In German law it left a constitutional case law that permits the use of purchased data, an administrative practice in which each Land decides for itself whether to buy data, and a stricter regime of voluntary disclosure under §§ 371 and 398a AO, whose effect on the number of disclosures after 2015 was immediate.¹ In Swiss law it left a revised Article 47 of the Banking Act, a more frequent use of Articles 271 and 273 of the Criminal Code and a clear policy that Swiss banks accept only declared money. In the practice of the Zurich banks it left a culture of tax compliance for German clients that includes tax statements in German format, regular confirmations of compliance and a careful approach to cross-border activities under the KWG.

The relationship has also left traces in the way the two publics speak of each other. Steinbrück's cavalry is still remembered in Switzerland, as the Swiss arrest warrants against German tax investigators and the Swiss spy in Frankfurt are remembered in Germany. Yet the substance of the conflict

has disappeared. Since German clients hold declared money in Zurich, the German state has no interest in obstructing their business there. Nor do the Swiss banks have any interest in concealing it. Trust between the two tax administrations, which cooperate daily under the automatic exchange and the double taxation agreement, has replaced the mutual suspicion of the years of confrontation.

For the Zurich financial centre, the lesson is one that recurs throughout this book. Its competitive advantage lies in qualities that do not depend on secrecy: the stability of the franc, the depth of the capital market, the expertise of its asset managers, the reliability of its courts and the quality of its legal advice. German clients who come to Zurich today do so for these reasons, and German regulators and tax authorities accept them as legitimate. The relationship has thus returned to the form it took in the nineteenth century, when German capital and Swiss institutions worked together for mutual benefit, with the difference that the rules governing that cooperation are now written jointly, or at least in knowledge of each other, and are enforced on both sides of the Rhine.

1 Notes

1. Legal Tribune Online, “Zahl der Selbstanzeigen bricht ein” (cited above), which attributes the fall in disclosures from 2015 onwards primarily to the stricter rules. ↩

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