

Nachrichtenlose Vermögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialisti- schen Regimes und Restitutionsprobleme in der Nachkriegszeit

Dormant Accounts in Swiss Banks. Deposits, Accounts, and Safe-Deposit Boxes of Nazi Victims and the Problem of Restitution in the Post-War Period

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Summary

The study, which is based primarily on sources from bank archives, is concerned with the existence of unclaimed assets in Swiss banks since 1931 and after 1945. It was partly due to the conduct of the banks and the federal government that assets belonging to victims of National Socialism remained in Swiss banks throughout the entire post-war period.

Conditions between 1931 and 1945

In the 1920s and 1930s, many foreign clients who would later become victims of persecution under National Socialism deposited part of their assets with Swiss banks. Much of these assets were again withdrawn from Swiss banking centers after 1931 and during the war before the first searches for unclaimed assets were undertaken in the post-war period. The foreign clients invested their resources in the form of savings and current account balances, which the banks used as balance-sheet-relevant deposits in their lending operations. As «balance-sheet-irrelevant» securities clients deposited their assets in open deposits or rented strongboxes, in order to safeguard their bank notes, jewellery, gold or other valuables.

Immediately after the introduction of foreign exchange controls in Germany in 1931, its financial and customs authorities attempted – through bank espionage in Switzerland – to obtain information about German clients. In individual cases, bank employees supplied this client information to German foreign exchange investigators. In order to protect clients from attempted espionage and the banks from substantial capital withdrawals, some financial institutions introduced restrictive provisions on mail despatch to private clients. Banks also took preventive measures against forced withdrawal and espionage against clients' funds by designating accounts, deposits or safes by number rather than by client name. The information on which client belonged to which number was only accessible to a small circle of senior banking staff.

In 1933 and 1936, through the introduction of capital flight legislation and under threat of draconian penalties, the National Socialist regime forced the German population and, in 1938, the Austrians to report their foreign exchange to the state and later to hand it over. As a result, banks along the German and Austrian borders were particularly affected by capital withdrawals. In consequence, in 1934 and 1938, following the Anschluss of Austria, the Swiss National Bank concluded a compensation procedure with the Reichsbank: the frontier banks could compensate their mortgage-backed claims blocked in Germany and/or Austria with savings deposits in Switzerland, as long as these had been reported to the National Socialist authorities. The credit accounts affected by the compensation thus ceased to exist. However, negotiations on the compensation of the claims of Swiss banks in Alsace-Lorraine with deposits originating from these areas were unsuccessful. The sums available for the payment of compensation were too small, as only a small proportion of the deposits had been reported to the German foreign exchange authorities. However, at the beginning of 1942, Swiss banks reported Swiss-owned shares in Alsace to the National Socialist authorities in accordance with the decrees issued by the occupying power. The shares of Jewish depositors were thus devalued.

From the Swiss point of view, the following events influenced the fluctuation in the value of foreign assets in Switzerland profoundly: The Emergency Decrees passed by the German government in August 1931, which were enacted as a result of the banking crisis, resulted in a decline in the Swiss banks' deposit-taking operations in Germany for the first time. On 12 June 1933, the National Socialist government enacted the «Law against Betrayal of the German Economy» which contained an obligation to register all assets and foreign currency deposited abroad by persons residing in Germany. These measures led to another major withdrawal of German assets from Swiss banks. In April 1936, the electoral victory of the Popular Front in France caused an inflow of French capital into Swiss banks, with some individuals investing their assets in real estate in Switzerland or entrusting them to Swiss fiduciaries. On 19 November 1936, with the seventh implementation decree to the Foreign Exchange Law, the National Socialist government called on all Germans to deposit their securities held abroad with a German foreign exchange bank, which once again led to the dissolution of numerous client deposits with Swiss banks. On 23 March 1938, with the «Foreign Exchange Law for the Province of Austria», the National Socialist regime required the inhabitants of Old Austria to tender their securities deposited abroad to the Reichsbank. As a result, many Austrian clients withdrew their assets from Swiss banks and handed them over, under pressure, to the «Third Reich». The «Decree on the Registration of Jewish Assets» of 26 April 1938, which required all Jews in the German sphere of influence to register their assets, overlapped with the existing foreign exchange law in Austria. In autumn 1938, the pogrom against Jews in the night of 9–10 November and the racial laws enacted in Italy resulted in the transfer of securities owned by Jewish clients out of Germany and Italy, mainly to North America. Finally, the Swiss froze the assets of creditors from occupied territories in July 1940 to make it impossible for creditors in these countries to make further withdrawals from the banks. While most of the major banks did not introduce guidelines on the treatment of unclaimed assets until after the war, the management of dormant assets by the cantonal banks and other banks specialising in the acceptance of savings funds was already routine business by the end of the war. In consequence, the administration of unclaimed assets by Swiss banks was already a topic before 1945, as is apparent from the source material.

Developments after 1945

In an exchange of letters in the context of the 1946 Washington Agreement, the Swiss negotiators committed themselves to tracing the assets located in Switzerland of persons murdered as a result of the National Socialists' extermination policy. In numerous cases, the murder of the clients and their rightful heirs meant that the Swiss banks no longer had contact with those entitled to claim. Although legitimate claimants – either heirs or authorised representatives – were still alive in many cases, they did not establish contact with the banks for many years, both during and after the war. In addition, many foreign clients of Swiss banks had fled during the war, had lost all their bank documents and possessed only vague memories of relatives' assets, deposits or safes still existing in Switzerland. There is evidence that banks withheld information about their former clients from these heirs, pointing out that client documents were only kept for ten years after the closure of the account. While the restoration of communications after the war allowed contact to be re-established, this was made more difficult not only by the restrictive information practice of banks but also the Cold War which began from 1948, preventing many clients or their heirs from having access to Swiss accounts or deposits. However, some banks, particularly cantonal and private banks, were successful in re-establishing contact with their clients abroad after the war.

In 1947 and 1956, the Swiss Bankers' Association (SBVg) carried out a number of surveys on unclaimed assets in Swiss banks. The SBVg was thus responding to a federal decision on the registration of unclaimed assets of victims. However these inquiries revealed only small sums. The Swiss Bankers Association (SBVg) and the banks assumed that the federal decision on the registration of unclaimed assets would not be enacted if the value of unclaimed assets was low. Thus, the banks registered heirless accounts restrictively to the

SBVg. Until 1995, the SBVg neglected to ask its member banks to adopt a standard procedure for the handling of unclaimed assets. In the years after the war until 1962 it pursued intensive lobbying to avoid the legislation on registration. As a result of such policies by the banks, the SBVg and the administration, some heirless accounts have remained with Swiss banks until today. Legislation requiring registration of unclaimed assets was finally enacted by the Federal Council 17 years after World War Two. Nonetheless, the purpose of this 1962 decision, adopted as a result of pressure from abroad, was not achieved: only some unclaimed assets of victims of National Socialism were restituted to heirs or – in case no heirs were found – to charitable causes.

As far as the banks' registration procedure is concerned, all assets of persons who had been persecuted on racial, religious or political grounds during the National Socialist period had to be reported to a registration office at the Federal Department of Justice and Police by the end of February 1964. Between September 1963 and February 1964 the banks agreed on how this registration was to be carried out in practice. These agreements led to a reduction in the number of cases made known to the registration office. In most banks, the identification of victims' assets was carried out on the basis of Jewish-sounding names of clients who had not contacted the banks for some time. This procedure meant that other reasons for persecution were not taken into account. Assets of Sinti and Roma, Jehovah's Witnesses, homosexuals or the physically and/or mentally disabled, who were also the victims of National Socialism, were rarely covered by the decision on registration. In all, 46 banks reported 739 assets with a value of SFr. 6.2 million. However, the majority of the declared assets were returned to the banks concerned, because the registration office had found heirs, or decided for some other reason that the assets did not fall within the scope of the decision. Some of the cases referred by the registration office back to the banks have remained there until today, even though the registration office had traced possible heirs. In many cases, the banks were not prepared to contact heirs if they were uncertain whether the heirs were entitled to inherit the assets in question. They justified their caution on the grounds that they did not wish to infringe property rights and bank secrecy.

On the basis of current sources, it is no longer possible to assess the value of unclaimed assets of victims with Swiss banks at a specific time after 1945. Many assets have increased in value thanks to the banks' safeguarding of clients' interests or the increase in the value of investments over the years. However, many assets have declined in value over a period of decades as a result of bank charges. Whereas open unclaimed securities deposits have increased in value over the decades, assets in safes and accounts have generally decreased in value. Since 1945, the banks have frequently closed accounts and safe deposits which had become worthless. When closing these accounts, some banks transferred small and very small amounts of unclaimed assets to their profit and loss accounts. After ten years, the banks could destroy all documents relating to these clients. As a result, in many cases today, there is no further evidence of a prior client relationship, even though such persons had deposited part of their assets with Swiss banks before losing their lives as the victims of National Socialism.

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