

After the precautionary blocking of the Marcos funds : bank secrecy has not been diluted

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Bank secrecy has not been diluted

The decision by the Swiss Federal Council and the Federal Banking Commission to freeze the assets held in Swiss banks by the Philippines ex-dictator Ferdinand Marcos gave rise to a certain discontentment, above all among foreign customers of the banks. However, in the words of Federal Councillor Otto Stich, fears that this could be the prelude to a change in the practice of the Swiss authorities in regard to foreign deposits in Swiss banks and to bank secrecy, are unfounded. This view is shared by the banks themselves.

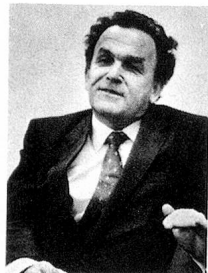
With the blocking of the Marcos accounts, the good image of financial centre Switzerland and thus the confidence of foreign investors in the Swiss banks appeared to be undermined and bank secrecy in danger of crumbling. At least, this was how a number of foreign commentators saw it, whereas the Federal Council's decision was favourably received by the Swiss press.

Unique circumstances

But neither bank secrecy nor financial centre Switzerland are placed in jeopardy by the step, criticised in many quarters as «over-hasty», of the Federal Council. For one thing, secrecy is not the only trump of Swiss banks: at least as important are the above-average qualifications of Swiss bank personnel, the many years' experience of the banks, and the confidence of the public in the system of law and order which has long prevailed in Switzerland. For another thing, both the Banking Commission and Finance Minister Otto Stich made it clear that the precautionary blocking of the Marcos accounts was ordered without prejudice for the future – a stance which the majority of the banks agreed with. According to Mr. Stich's account, it was more a matter of an exceptional step

taken in out-of-the-ordinary, even unique, circumstances.

There are thus no grounds for misgivings that confidence in the legal system could be undermined; however, this does not ab-



Federal Councillor Otto Stich: «Our concern was only to provide for the granting of legal assistance should a request for such be made».

(Photo: E. Rieben)

solve the banks from the fraught task of clarifying the events and explaining them to their worried foreign clients. But, as representatives of various banks have made clear, the creation of any sense of insecurity among such clients has fortunately not re-

sulted in termination of business relations with Swiss banks.

Bank secrecy not a cover-up for everything

«The point was to show that there are limits to the way in which Switzerland can be used as a turntable for any cash deposits whatsoever». Thus, in an interview, Federal Councillor Stich subsequently justified the action taken. He added that Swiss bank secrecy was neither absolute nor all-embracing. In substance, this reasoning would hardly be contested by the banks whose criticism was directed mainly at the method of procedure which was censured as being «hasty» (but not only by the banks). It was something quite new, the critics argued, for the Swiss authorities to act in the way they did before a request for legal assistance had been made and granted, and criminal proceedings instituted. It is self-evident to all parties concerned that it cannot be of advantage to Switzerland, as a financial centre, to gain the reputation of having a penchant for dealing persistently in dirty money.

To sum up, it can be said that bank secrecy has not been shaken; even this would have accorded ill with the massive rejection by the Swiss people, some two years ago, of the Social Democratic Party's *banking initiative*. ●

André Michel, Berner Zeitung

The Marcos case

Part of the fortune amassed by the former President of the Philippines, Ferdinand Marcos, lies in Swiss banks. Before the new government of the Philippines had instituted criminal proceedings against the ex-dictator, and thus before creating the preconditions for an application to Switzerland for legal assistance, on 25th March, 1986, the Swiss Federal Council unexpectedly ordered a precautionary freezing of all Marcos funds deposited at the five Swiss big banks and the Geneva bank, Paribas. On the following day, the supervisory authority, the Federal Banking Commission, extended the freeze to all banks.

In mid-April the new government of the Philippines indicted Marcos on charges of misappropriation and corruption, thereby creating the basis for a regular request for legal assistance. Anticipating such a request, the Federal Office for Police Affairs had already instituted regular proceedings a few days previously, and – analogously to the case of Haitian ex-President Jean-Claude Duvalier – had charged the cantonal authorities with the enforcement of the freeze. Thus, in the event, the decision taken by the Federal Council became just as invalidated as that of the Banking Commission. Both orders have in the meantime been cancelled.