

Zeitschrift: Swiss review : the magazine for the Swiss abroad
Herausgeber: Organisation of the Swiss Abroad
Band: 39 (2012)
Heft: 6

Artikel: Switzerland and the nuclear smugglers
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DOI: <https://doi.org/10.5169/seals-907493>

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Switzerland and the nuclear smugglers

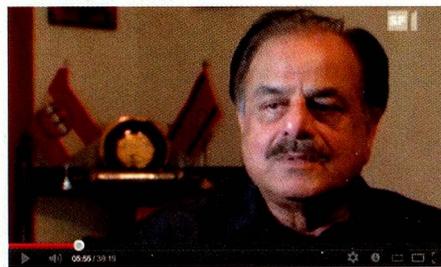
For years the CIA, the US intelligence agency, and the Federal Council attempted to prevent nuclear smugglers Friedrich, Urs and Marco Tinner from being brought to trial. This affair has however reached a legally acceptable conclusion thanks to a deal with the judicial authorities.

By René Lenzin

An espionage thriller, an affair of state and almost a judicial scandal – such was the astonishing story of Friedrich Tinner, a mechanic from eastern Switzerland, and his two sons, Urs and Marco. The Tinnings were part of the network of Abdul Qadeer Khan, who is known as the “father of the Pakistani nuclear bomb”. This engineer, who is now 76 years old, stole documents on uranium enrichment centrifuges from a Dutch research laboratory in the early 1970s and made a significant contribution to Pakistan’s ability to carry out successful nuclear weapons tests in 1998. Khan also later offered his services to other states. The Tinnings supplied his network with components for such centrifuges, some of which were designed for the Libyan nuclear weapons programme that the US thwarted on 4 October 2003 with the seizure of a German ship in Taranto, southern Italy.

The Federal Criminal Court sentenced the Tinnings to 50 months’ imprisonment each plus a financial penalty in September 2012 for offences against the War Materials Act. However, this verdict was not reached in a normal court hearing but rather in summary proceedings, where prosecution and defence agree on a sentence. Such a deal can only be concluded if a confession has been made, at least to some extent, and the punishment does not exceed five years of imprisonment. The judgement was preceded by tough negotiation and court intervention. Before accepting the deal, the judges had demanded an increase in the sentences originally negotiated. The Office of the Attorney General of Switzerland met this demand with unconditional financial penalties for Friedrich and Marco Tinner. It was nevertheless still able to ensure the two sons would not be sent to prison since the period spent in detention awaiting trial was equal to their custodial sentences.

The judges still had difficulty in accepting the deal despite the stiffer sentences because they regarded the Tinnings as extremely culpable. They only finally consented because a conviction would probably not have been achieved outside summary proceedings.



Main protagonists in the affair, from top to bottom: Urs Tinner, Bush and Kahn.

After all, the feasibility of instituting constitutionally legitimate proceedings against the Tinnings had hung in the balance for some time. This was due to the fact that the Federal Council had ordered the destruction of practically all documents and data carriers seized from the Tinnings in February and June 2008.

Blocher called for shredding

National government justified its decision to destroy the files on the grounds that they contained blueprints for nuclear warheads. However, it had actually taken this course of action under enormous pressure from the US and its intelligence agency, the CIA. Friedrich, Urs and Marco Tinner had cooperated with the CIA from June 2003 and had thus helped to stop the Libyan nuclear weapons programme. As a result, the US at-

tempted to sabotage the Swiss investigations against the Tinnings using all means available. This was partly to protect their informants and partly to prevent the documents detailing the collaboration from being made public. The US exerted tremendous pressure, particularly on Christoph Blocher, Minister of Justice at the time. Secretary of State Condoleezza Rice, Secretary of Defense Robert Gates and the heads of the FBI and CIA approached Blocher and other Federal Councillors directly. As Switzerland refused to hand over the files to the US, it insisted upon them being destroyed as comprehensively as possible.

Switzerland also had a strong interest in the destruction of the files. This is because the authorities wanted to conceal the fact that they had long been aware of the Tinnings’ illegal activities but had still issued them with export permits for internationally prohibited war material. In 2007, Minister of Defence Samuel Schmid had declared that “the Swiss authorities had known about the activities of persons and companies in Switzerland working for the Khan network for almost 30 years. The inadequacies of the competent authorities in Switzerland in dealing with the greatest and most dangerous proliferation case in history were extremely serious”. This can be read in the report produced by Parliament’s Control Delegation after the destruction of the files came to light.

Little prospect of success for conventional proceedings

Although the Office of the Attorney General of Switzerland was able to obtain some of the files destroyed through international judicial assistance, conventional legal proceedings would have had little prospect of success. The destruction of the files would have restricted the Tinnings’ rights of defence to such an extent that they would probably have been acquitted by the European Court of Human Rights. The proceedings would still have taken several years to reach that point. This provided Friedrich Tinner, now 76 and suffering ill health, with leeway to strike a deal with the judicial authorities. This deal drew a line under an affair that saw Switzerland appear in the international headlines and pushed the nation to the brink of a crisis of state.

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