TAX

The $2 billion data heist

How the German taxman put the squeeze on Swiss bankers

BY EDWARD TAYLOR, MATTHIAS INVERARDI AND MARK HOSENBALL

REUTERS/DADO RUVIC

RENDEZ-VOUS: Sina Lapour and his go-between would allegedly meet up in the Banane Fitness Centre in Winterthur, Switzerland (left). It was at the Kronen Hotel in Stuttgart that the Swiss say German tax inspectors asked the middle-man for more data. **REUTERS/ARND WIEGMANN, MICHAEL DALDER**

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In the digital age, pen and paper are useful tools for intrigue. In 2007, Sina Lapour, an assistant to a private banker at Credit Suisse, hand-copied the names of potential tax evaders listed on two of the firm's internal computer systems. By not downloading information, Lapour avoided leaving electronic fingerprints. His employer did not detect his actions.

He put the notes in his briefcase and took them home, where he created an Excel spreadsheet which he called "Mappe1-test1.xls." The spreadsheet held names, addresses, and amounts held by clients.

Despite trying to cover his tracks, Lapour was eventually convicted of economic espionage, among other crimes. According to a statement he made in a plea bargain, the data he stole gave details of as many as 2,500 clients with combined assets up to 2 billion Swiss francs ($2.2 billion). He sold it to a middleman, who then sold it to German tax inspectors. The information led to police raids in 2010 on Credit Suisse's main offices in Germany.

Lapour's spreadsheet was one of a half-dozen sets of stolen data for which Germany has paid millions of euros over the past five years. Those purchases pushed the boundaries of German law; Reuters' inquiries have found Germany's 16 federal states all cooperated in making them.

German parliament and court records, Swiss legal documents and interviews with bankers and politicians show the states and the central government in Berlin gradually constructed a system, partly funded by Germany's federal finance ministry, to buy information on tax evaders. It's a campaign which involves hundreds of Germany's roughly 2,500 tax inspectors, includes a formula to calculate each state's share of a purchase, and continues to this day, German tax officials say.

Some German politicians say buying stolen data added to pressure on Switzerland to share more information about tax evaders. Last month, Switzerland, which for decades has nurtured bank secrecy as a cornerstone of its offshore wealth industry, signed a convention to exchange some tax information with other countries. If approved by the Swiss parliament, it could be the end of a long and passionate battle.

Swiss officials accuse the Germans of breaking Swiss laws on banking secrecy and of committing economic espionage. According to arrest warrants seen by Reuters, the Swiss prosecutor is seeking the arrest of three German tax inspectors on these charges. Swiss finance minister Eveline Widmer-Schlumpf declined to comment, but a spokesman for her ministry said Germany's handling of stolen goods "is highly questionable with respect to the rule of law."

In June this year, Germany's parliament received a draft law with a clause to exempt from prosecution civil servants who handle stolen data. As Berlin parties haggle over a new government, it has yet to be passed.

Nonetheless Norbert-Walter Borjans, finance minister for North Rhine-Westphalia, the state which bought the Lapour data, says he would support the purchase of such information "so long as there is data containing valuable tips to be bought." His predecessor, who signed off on the Lapour deal, could not be reached. Switzerland has filed no charges against the politicians involved.

Buying stolen data is an "emergency remedy", a spokesman for Germany's federal finance ministry told Reuters: It was justified because Germany and Switzerland did not have a deal through which Germany could enforce its tax claims. None of the tax inspectors could be reached, and the state declined to comment on their behalf.

THE DECEASED WITNESS

The Swiss prosecutors suspect the German tax inspectors of more than handling stolen goods. They allege the taxmen even solicited the theft of specific information, according to an international request for legal assistance that Switzerland sent to Germany on the case.

In that confidential document, seen by Reuters, Lapour is quoted as saying a middleman showed him a text message in which tax inspectors allegedly requested specific information.

Tax inspectors in North Rhine-Westphalia say they don't solicit data stealing. Ingrid Herden, a spokeswoman for the state's finance ministry, said German tax authorities had not actively encouraged theft of client data from Swiss banks. "There is no evidence that tax inspectors from NRW did such a thing," she added in a written statement to Reuters.

However, Herden added that she could not rule out that a middleman may have incited Lapour to steal information.

That go-between, named in the Swiss request as an Austrian graphic designer called Wolfgang Umfogl, committed suicide in prison in Switzerland in 2010, weeks after his arrest on suspicion of money-laundering, according to police in Berne, Switzerland.

Lapour, who was given a two-year jail sentence but spent less than six months in custody, could not be reached for comment. His lawyer declined to be interviewed. North Rhine-Westphalia declined to comment on the details of the case.

> "It's not like I commission a purchase, or people come directly to me.
>
> **Norbert-Walter Borjans**
> Finance Minister, North Rhine-Westphalia

THE FITNESS CENTRE

Lapour was born in 1983 in Tehran, Iran. By the mid-2000s he was working at Credit Suisse in Zurich and would meet up with Umfogl at the Banane Fitness Centre in Winterthur, according to the Swiss request for assistance, which is also based on Umfogl's testimony and other material gathered by Swiss police. How the two got talking about stealing data is not revealed.

Lapour created a data file on March 2, 2008, containing names, addresses, net worth and contact details for clients, the request for assistance says; Umfogl flew to Duesseldorf to meet German tax inspectors at the end of that month to see what this information was worth. His opening price: 6.75 million euros ($9.13 million).

By that time, North Rhine-Westphalia already had experience of handling stolen information from other sources. In 2008, it emerged that the state's tax inspectors had obtained data stolen from LGT Group, a Liechtenstein bank, from a thief who originally sold it to Germany's federal intelligence service, the BND.

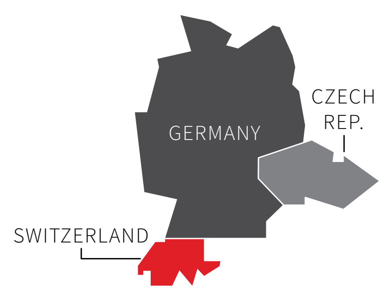
That year, North Rhine-Westphalia officials commissioned a legal opinion from the regional prosecutors to determine if they were within their rights to buy stolen data from Lapour. The prosecutors found in their report that for civil servants, dealing with LGT data did not amount to handling stolen goods - the theft happened in Liechtenstein, to a foreign company. They also said "emergency measures" are justified if tax claims cannot be enforced by other legal means: Authorities in Liechtenstein had not cooperated with requests for legal assistance.

Tax authorities at three German states would go ahead with deals, buying at least five sets of data since 2008 according to media announcements they made; the data was stolen from banks including UBS, Julius Baer and HSBC. The banks declined further comment or said they had resolved the issues.

The taxman cometh

In their pursuit of tax evaders, German tax inspectors pushed the boundaries of the law by buying Credit Suisse data stolen by Sina Lapour. The Swiss prosecutor also suspects the Germans of asking for specific data to be stolen. The tax inspectors say they didn't do this directly.

Sources: Swiss legal documents; Reuters



March 2, 2008
Zurich
Sina Lapour creates a data file after meeting with **Wolfgang Umfogl** in Winterthur in 2007/2008.

Late March, 2008
Duesseldorf
Umfogl allegedly meets German tax inspectors. His asking price: €6.75 million.

April 14, 2008
Hamm
Prosecutors conclude tax inspectors' previous use of stolen data was legal.

June 24, 2008
Duesseldorf
Tax inspectors allegedly ask Umfogl for more data.

July 21, 2008
Zurich
Lapour updates the spreadsheet.

IN THE MARKET: Norbert-Walter Borjans, Finance Minister of North Rhine-Westphalia, says he would buy stolen data today if it contained valuable tips. **REUTERS/INA FASSBENDER**

THE UPDATED FILE

In Switzerland, Lapour was busy. The Swiss prosecutor says his data file was updated on July 21, 2008, four months after Umfogl allegedly first met the German tax inspectors, to add the dates each account was opened.

This, the Swiss prosecutor asserts, suggests he was stealing to order: German tax authorities needed the dates to see how long a client had evaded taxes. In the request for legal assistance, Lapour is cited as saying Umfogl asked him to get that extra data: Umfogl had shown him a text message from June 24, 2008 in which the tax inspectors purportedly demanded more information. The alleged message's exact contents are not described.

In May 2009, Umfogl and the German tax inspectors met again, at the Kronen Hotel in Stuttgart, the Swiss document says. There, prosecutors say, tax inspectors asked for a sample of the data and for information beyond names and dates.

According to the Swiss prosecutor, Lapour confessed he stole and sold a PowerPoint presentation that Credit Suisse made for staff on how to handle German clients who were "non compliant" – evading German tax. The presentation told staff how to avoid implicating themselves or the bank in aiding tax evasion. The Swiss say the Germans wanted to use it as evidence Swiss banks had a strategy to look after foreign tax-evading clients.

Credit Suisse would eventually pay 150 million euros to the state of North Rhine-Westphalia to end an investigation into allegations it helped German citizens evade taxes. Neither the bank nor North Rhine-Westphalia would comment further.

Back in 2009, after another meeting in the German lakeside city of Konstanz, Umfogl handed tax inspectors a USB stick containing a sample of 10 percent of the data, according to the Swiss request for assistance. In mid-July, he purportedly handed over the PowerPoint presentation. It's not clear from the document when or how the rest of the information was handed over or paid for.

In all, Umfogl allegedly paid Lapour at least 65,000 euros for his information; Lapour later told Swiss prosecutors that he used most of the money to support his Czech girlfriend. He showered her with gifts including a car, paid for vacations to Italy, Spain and Egypt, and helped her to pay off a mortgage in the Czech Republic. She was not accused of wrongdoing and could not be reached for comment.

Germany's legal machinery continued to gather opinions on how far tax inspectors could go. In 2010, the North Rhine-Westphalia inspectors got some legal reassurance.

A CHANGE OF VIEW

"With the LGT CD, many said it's a one-off, but then came 2010," said Borjans, the finance minister of North Rhine-Westphalia.

On Feb. 23, representatives from the

May 28, 2009
Stuttgart
Tax inspectors ask Umfogl for a sample, which he delivers the next day.

Feb. 23, 2010
Berlin
North Rhine-Westphalia (NRW) and Germany's finance ministry agree to coordinate purchases.

June 29, 2010
Berlin
Germany's finance ministry informs NRW that it is legally safe to use stolen bank data to pursue tax evaders.

Sept. 14, 2010
Wil
Umfogl is arrested. He is found dead in his police cell in Berne on Sept. 29.

Sept. 15, 2010
Czech Republic
Lapour is arrested and in November, extradited to Switzerland.

Federal Central Tax Office, an authority under the jurisdiction of the German Ministry of Finance, contacted officials from what is now Borjans' ministry and decided to coordinate bank data purchases so different states would not all buy the same set, parliamentary questions show.

Days later, Borjans' predecessor, a member of Chancellor Angela Merkel's CDU party, announced he had struck a deal to buy a "client data CD" – the Lapour data - for 2.5 million euros.

In November, a legal opinion from Germany's Federal Constitutional Court added weight to that plan. The court found that if data had been "received" rather than actively solicited, then those who used it were not guilty of abetting the theft. Whether it was legal to buy stolen data was a question it referred to other courts.

"It's not like I commission a purchase, or people come directly to me," Borjans told Reuters this year. Tax inspectors, not politicians, are in the driving seat, he said. They act on tips and then ask him for resources.

THE KEY OF KOENIGSTEIN

By 2010, all Germany's tax collectors had reached agreement on how to split the cost if the federal ministry decided to join the states in funding a purchase, parliamentary questions show.

Acquisitions of taxpayer names are funded using a formula known as the "Koenigsteiner Schluessel," which translates as "the key of Koenigstein." The formula, named after a wealthy Frankfurt suburb, was devised after World War Two to work out how to spread the cost of funding scientific research in Germany.

€65,000

Price Lapour allegedly received for the data he stole

Source: Swiss request to Germany

"Should the Federal Ministry of Finance decide to make a purchase, it will contribute 50 percent of the acquisition costs," a spokesman for the ministry told Reuters. All 16 states told Reuters they have helped pay for data: Berlin and Hamburg say these purchases led to the recovery of more than 100 million euros each.

But not all are convinced the system is legal. After initially joining in, one state - Brandenburg – said it was opting out because of such doubts. Last June, when the draft law on handling stolen data went to parliament, Brandenburg's finance minister issued a news release saying it would "provide long overdue legal certainty for our finance officials." The state which bought the material paid the shortfall, a spokesman for Brandenburg said.

Volker Kauder, head of the parliamentary group for the CDU, is still "highly critical" about buying such data, a spokesman told Reuters. "In doing so the state is in danger of slipping into the role of a dealer in stolen goods," he said.

THE TELEVISION CABLE

In March 2010, Umfogl opened a bank account in Austria. According to the Swiss request for legal assistance, he was trying to divide the 2.5 million euros he had received between banks in Germany, Austria and the Czech Republic. Staff at a savings bank in Dornbirn, Austria, got suspicious about a deposit of 893,000 euros, and raised the alarm with police on March 25, 2010, believing Umfogl could be a money-launderer.

Austrian authorities froze Umfogl's funds that September, said the prosecutor's office in Feldkirch, Austria. Swiss Federal Police were notified because Umfogl lived in Switzerland. They arrested him at his work. A day later, Lapour was tracked down and arrested in the Czech Republic where he was visiting his girlfriend.

Lapour was convicted in Switzerland's Federal Criminal Court of economic espionage, violating bank secrecy and violating trade secrecy, by passing client data outside the bank. Besides his 24-month sentence, he was fined 3,500 Swiss francs.

At a house in a suburb on the outskirts of Winterthur, given in the request for assistance as Lapour's parents' address, a man told a reporter he did "not know where Sina is."

At about 6.30 a.m. on Sept. 29 2010, just days after Umfogl was arrested, he was found dead in his police cell in Berne. He had left a note before hanging himself with a television cable, according to a joint statement issued by the coroner and police. Both declined to reveal the note's contents.

That month, Switzerland's government said it had agreed to resolve the problem of untaxed money stashed away by Germans

Nov. 30, 2010
Karlsruhe
Federal Constitutional Court says it's legal to receive, not solicit, stolen data.

Dec. 16, 2010
Duesseldorf
German prosecutors raid homes of Credit Suisse employees.

Aug. 10, 2011
Berne
Swiss and German negotiators agree outline dual taxation agreement.

June 7, 2013
Berlin
Draft law in parliament exempts civil servants from prosecution if they handle stolen data.

October, 2013
Berne
Swiss authorities decide to sign administrative assistance convention.

CLEAR SKIES: Last month, the Swiss signed a deal to disclose more information with other countries. **REUTERS/CHRISTIAN HARTMANN**

in Swiss accounts.

North Rhine-Westphalia's Borjans believes the purchase of stolen names was crucial to that. "You could tell this was not only a question of decency," he told Reuters. "It was also about hardcore commercial interests. And that's why Switzerland was suddenly willing to negotiate."

The Swiss finance ministry said it had been Swiss financial market policy since 2009 to seek international tax agreements.

By August 2011, Switzerland and Germany had reached an outline deal on sharing tax information. But the pact failed to win political support within Germany and the upper house threw it out in November last year.

Borjans was one of the pact's opponents. He said he felt Berlin had sold itself short. "It left the door open to bank secrecy and tax evasion," he said.

Last month, Switzerland finally signed onto the international tax convention, giving Germany some of what it wanted. The Swiss request to Germany to arrest three tax inspectors has gone unanswered: Germany's finance ministry said it is still evaluating it.

Hosenball reported from Berne, Switzerland; Additional reporting by Andreas Rinke and Michelle Martin in Berlin and Jan Lopatka in Prague; Edited by Sara Ledwith.

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