



April 26, 2011

European Court of Human Rights Rejects Tinnners' Appeal

European Court rules that Tinnners' incarceration in Switzerland for suspicion of violating anti-proliferation laws did not violate their human rights. U.S. government should encourage the Tinnners to make a plea agreement with Swiss prosecutors. Despite working for the CIA in busting the A.Q. Khan network, the Tinnners are not above Swiss laws. Treating them as such weakens precedents worldwide that those who engage in nuclear smuggling will be prosecuted.

The brothers Urs and Marco Tinner and their father, Friedrich, had a long relationship with the notorious A.Q. Khan network, which outfitted Iran, North Korea, Libya, and possibly others with the wherewithal to make nuclear weapons. [The brothers were held in a Swiss jail for several years](#) because of suspicions that they violated Swiss anti-proliferation laws, their lack of cooperation with the prosecutors, and concerns that they would flee if released.¹

In 2003, the Tinner family signed a contract with the CIA agreeing to expose and to help bust the Khan network. [Despite their cooperation with the CIA](#), Swiss prosecutors did not view the Tinnners as above Swiss law, anymore than mafia informants escape being held accountable in the United States. The Swiss prosecutors believed the Tinnners should remain accountable for years of alleged violations of Swiss laws for outfitting Libya's nuclear weapons program.

Urs and Marco's relatively long confinement in jail and judicial proceedings led them to file a complaint in late 2008 with the European Court of Human Rights that Switzerland had violated their rights. In a statement to the court in 2010, the Swiss government denied violating the Tinnners' rights. The statement cited the federal courts, including the Swiss Supreme Court, which ruled that their detention was legal. The government also stated that there remains significant suspicion about the Tinnners' actions based on existing evidence.²

On April 26, 2011, the European Court of Human Rights rejected the Tinnners' appeal.³ The court has not yet ruled on a second appeal about the Swiss Executive Branch's destruction of evidence.

The Tinner case presents difficult issues for the U.S. government because the Bush administration took actions which amounted to interference in the Swiss judicial process in order to free the Tinnners for their cooperation with the CIA. These actions instead resulted in the Tinnners remaining in jail longer and causing more revelations about the secret U.S. intelligence operation to shut down the Khan network.

The Obama administration should adopt a new policy of cooperation with the Swiss judicial branch. The U.S. government should encourage the Tinnners to settle with the Swiss prosecutors and the court. It should recommend that the Tinnners seek a settlement whereby they would suffer no additional jail time and receive reduced fines. Given the complexity and ongoing controversy of this case, the Swiss prosecutors and courts would likely be interested in finding a way to settle with the Tinnners.