

DR. DAVID KEANU SAI
POLITICAL SCIENTIST
C/O AV. EUGENE LANCE 44, CH-1212 GRAND LANCY/GE

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge the receipt of the following document from Dr. David Keanu Sai deposited with the Swiss Consulate General in the city of San Francisco, United States of America, pursuant to Article 91, para. 2, Swiss Criminal Procedure Code:

1. Application for New Time Limit to File Objection with the Swiss Federal Criminal Court Objections Chamber pursuant to Article 94 para. 2, Swiss Criminal Procedure Code.

A. Koppel
(Signature)

Consulate General of Switzerland
456 Montgomery, Suite 1500
San Francisco, CA 94104-1233

9th of June 2015
(Date)



Dr. David Keanu Sai

Politikwissenschaftler
c/o Av. Eugene Lance 44
CH-1212 Grand Lancy/GE

Beschwerdekammer des Bundesstrafgerichts
Postfach 2720
6501 Bellinzona/TI

SWISS COMMERCE GENERAL SAN FRANCISCO	
to	
date	9 JUN 2015 aa
visa	426.3

DR. DAVID KEANU SAI
POLITICAL SCIENTIST
C/O AV. EUGENE LANCE 44, CH-1212 GRAND LANCY/GE

June 8, 2015

The Federal Criminal Court Objections Chamber
P.O. Box 2720
CH-6501 Bellinzona/TI

Re: Application for New Time Limit to File Objection

To whom it may concern,

Enclosed please find an application for a new time limit in order to file an objection to the decision by the Office of Attorney General pursuant to Article 94 para. 2, StPO. In order to file this application within the allotted 30 days, I traveled to the United States of America and deposited it with the Swiss Consulate General in the city of San Francisco.

Sincerely,

A handwritten signature in black ink, appearing to read "David Keanu Sai". The signature is fluid and cursive, with a period at the end.

Dr. David Keanu Sai

THE FEDERAL CRIMINAL COURT OBJECTIONS CHAMBER

APPLICATION FOR NEW TIME LIMIT

Dr. David Keanu Sai
c/o Michico Testini
Av. Eugene Lance 44
CH-1212 Grand Lancy/GE

Attorney for Objectors

Federal Criminal Court Objections Chamber
P.O. Box 2720
CH-6501 Bellinzona/TI

APPLICATION FOR NEW TIME LIMIT
(Pursuant to Art. 94 para. 2, StPO)

Mr. Kale Kepekaio Gumapac and Mr. [REDACTED] (henceforth collectively known as “OBJECTORS”), by and through their attorney-in-fact, respectfully apply for a new time limit from the Federal Criminal Court Objections Chamber (henceforth “OBJECTIONS CHAMBER”) in order to object to the decision of non-acceptance by the Office of the Federal Attorney General (henceforth “ATTORNEY GENERAL”), regarding war crime complaints by Gumapac (henceforth individually known as “GUMAPAC”), a Hawaiian subject, and [REDACTED] (henceforth individually known as “[REDACTED]”), a Swiss citizen, according to Article 264c, para. 1, lit. d and 264g, para. 1, lit. c StGB [Swiss Criminal Code]; Art. 108 and 109 aMStG [Swiss Military Criminal Code].

I. STATEMENT OF FACTS¹

1. On December 22, 2014 [REDACTED], introduced a report by the attorney for OBJECTORS, Dr. David Keanu Sai (henceforth “SAI”) of December 7, 2014 to the ATTORNEY GENERAL, which stated that war crimes had been committed in Hawai‘i.
2. According to this report, SAI alleges the US-American authorities of committing war crimes of pillaging by way of the unlawful levying of taxes, since all locally established authorities are unlawful according to Hawaiian Kingdom law and the international laws of occupation.
3. By way of a letter dated January 21, 2015, [REDACTED] and his representative SAI made a criminal complaint with the ATTORNEY GENERAL, stating that [REDACTED] was a victim of a war crime according to Art. 115 StPO, because during the years 2006-2007 and 2011-2013, he had paid taxes to US-American authorities in Hawai‘i without justification, and that [REDACTED], in addition, is the victim of fraud, committed by the State of Hawai‘i, because together with his wife he wanted to acquire a real estate property, which however on the basis of the lacking legitimacy of the official authorities of Hawai‘i to transfer the property title, was not possible, for which reason the governor of the State of Hawai‘i Neil Abercrombie (henceforth “ABERCROMBIE”), Lieutenant Governor Shan Tsutsui (henceforth “TSUTSUI”), the director of the Department of Taxation Frederik Pablo (henceforth “PABLO”) and his deputy Joshua Wisch (henceforth “WISCH”)

¹ The recital of facts are from the Federal Criminal Court Objections Chamber decision of *Gumapac et al. vs. Office of the Federal Attorney General*, reference no. BB 2015.36+37 (April 28, 2015).

are to be held criminally accountable for the pillaging of ██████'s private property and for fraud.

4. In addition, by way of a letter dated January 22, 2015, SAI, in the name of GUMAPAC contacted the office of the ATTORNEY GENERAL and requested that criminal proceedings against Josef Ackermann (henceforth "ACKERMANN"), the former CEO of Deutsche Bank National Trust Company (henceforth "DEUTSCHE BANK") be opened and in this connection invoked rights deriving from Art. 1 of the friendship treaty between the Swiss Confederation and the then Hawaiian King of July 20, 1864, which has not been cancelled; that this complaint arose from a civil dispute between GUMAPAC and DEUTSCHE BANK; that GUMAPAC was the owner of a property on Hawai'i and a mortgagee of DEUTSCHE BANK; that however the title of property, due to the illegal annexation of the Kingdom of Hawai'i, was null and void, since the local US-American notaries were not empowered to transfer title; that DEUTSCHE BANK did not recognize this fact and that it had foreclosed on GUMAPAC's house to cover the mortgage debt, instead of claiming its rights stemming from a "title insurance;" that the bank therefore pillaged GUMAPAC's house according to the international laws of war (case files, box section 3 and 5).
5. The office of the ATTORNEY GENERAL on February 3, 2015 decreed a decision of non-acceptance of the criminal complaints and civil suits against ACKERMANN, ABERCROMBIE, TSUTSUI, PABLO and WISCH on account of war crimes allegedly committed in Hawai'i between 2006 and 2013 (case files, box section 3 = act. 1.1).
6. In opposition to this, GUMAPAC and ██████ introduced an objection on April 1, 2015 to the OBJECTIONS CHAMBER and accordingly requested the cancellation of the decision of non-acceptance, and the carrying out of the criminal proceedings against the defendants indicated by them (act. 1).
7. An objection against a decision of non-acceptance by the office of the ATTORNEY GENERAL according to the regulations of Art. 393 ff. StPO to the OBJECTIONS CHAMBER is admissible (Art. 310 par. 2. in connection with Art. 322. par. 2 StPO and Art. 37 par. 1 StBOG).
8. The objection is to be submitted in writing and by providing cause to the objections authority within 10 days (Art. 396, par. 1, StPO).
9. The deadline of objection in connection with decisions or administrative decrees begins to be counted with their delivery to the addressee (Art. 384 lit. b StPO).
10. The decision objected had been delivered on March 23, 2015 to the addressee named by the OBJECTORS (case files, box section 3), a fact which was mentioned by the OBJECTORS themselves (act. 1 S. 2).

11. The time limit of 10 days to object therefore terminated on April 2, 2015.
12. The time limit is adhered to if the objection is handed at the latest on the last day of the time limit to the objections authority, to the Swiss postal service, to a Swiss diplomatic or consular office, or in case of incarcerated persons, to the administration of the institution (Art. 91 par. 2 StPO).
13. When a private mail or courier service is used, the relevant moment of time takes place when the submission is delivered to the objections authority (decision of the Federal Criminal Court, BB.2012.155-156 of October 31, 2012).
14. The delivery of the objection at hand from Honolulu to the OBJECTIONS CHAMBER was executed by the private courier service FedEx on April 1, 2015; the objection was handed to the court on April 8, 2015, and therefore after the expiration of the ten-day time limit for an objection (act. 4).
15. The OBJECTIONS CHAMBER concluded that the objection was late, for which reason it was not to be accepted, and therefore the execution of an exchange of correspondence was declined (Art. 390 par. 2 StPO e contrario).

II. ISSUES PRESENTED AND RELIEF SOUGHT

A. Issues Presented

16. The OBJECTIONS CHAMBER justified not accepting the objection because OBJECTORS did not meet the time requirement according to Article 396, para. 1, StPO, when the objection arrived at the OBJECTIONS CHAMBER by FedEx on April 8, 2015. The deadline for filing the objection in this case was April 2, 2015.
17. Because of this default, OBJECTORS have incurred a significant and irremediable loss of rights and hereby apply for a new time limit to be set by the OBJECTIONS CHAMBER pursuant to Article 94, para. 2, StPO.
18. Although the official language used in these proceedings is German, the OBJECTORS and their attorney do not speak German. Therefore, when the OBJECTORS received the ATTORNEY GENERAL's decision on March 23, 2015, by email from Michico Testini in Grand Lancy, OBJECTORS proceeded to get it translated into the English language.
19. On March 27, 2015, OBJECTORS received the English translation of the decision by the ATTORNEY GENERAL and immediately began to draft the objection in the English language. The objection was completed on March 30, 2015 and translation into the German language began on the same day. The German translation, dated March 31, was actually completed on April 1, 2015.

20. On the same day, OBJECTORS, by their attorney SAI, immediately went to FedEx in Honolulu to have the objection air-shipped to the OBJECTIONS CHAMBER in Bellinzona. FedEx received the objection at 4:21 p.m. Hawaiian time on Wednesday, April 1, 2015, but it did not arrive at the OBJECTIONS CHAMBER until 11:29 a.m. Central European daylight savings time on Wednesday, April 8, 2015. See Attachment “1.”
21. Within the 10-day period allowed to prepare an objection, OBJECTORS only had 3 days to draft the objection. The remaining 7 days of the 10 day period was devoted to translating the ATTORNEY GENERAL’s decision into English, and, thereafter, translating the English objection into German.

*a. A. and B. Ltd vs. Office of the Federal Attorney General
(BB.2012.155-156 of October 31, 2012)*

22. In its decision of April 28, 2015, the OBJECTIONS CHAMBER relied on a previous decision by the Federal Criminal Court, BB.2012.155-156 of October 31, 2012. This case concluded that if a private courier, such as FedEx, is to be used to deliver submissions to the court, the court can only accept the date the submission was received and not the date the submission was sent. The court stated that the post date would only be recognized as relevant for fulfilling the time limit if the submission were “handed for delivery to SwissPost, [or] a Swiss diplomatic or consular representation.”
23. In this case, the OBJECTORS did not have access to SwissPost because OBJECTORS reside outside of Swiss territory. The OBJECTORS also did not have access to a Swiss diplomat or consular representative in the Hawaiian Islands because the nearest Swiss consular representation is in the city of San Francisco, United States of America.
24. The Swiss honorary consulate in Honolulu was not established pursuant to the 1864 Hawaiian-Swiss Treaty, which the OBJECTIONS CHAMBER stated, in its April 28, 2015 decision, “has not been cancelled.” Article VII of the treaty states, “It shall be free for each of the two contracting parties to nominate Consuls, Vice-Consuls or Consular Agents, in the territories of the other. But before any of these officers can act as such, he must be acknowledged and admitted by the government to which he is sent, according to the ordinary usage, and either of the contracting parties may except from the residence of consular officers such particular places as it may deem fit.” Therefore, since the Swiss honorary consulate in Honolulu was established by virtue of the United States-Swiss Treaty and not the Hawaiian-Swiss Treaty, OBJECTORS could not recognize the Swiss honorary consulate in Honolulu as lawful.

25. In the absence of SwissPost and/or lawful Consular representation of Switzerland in the Hawaiian Islands, OBJECTORS had no other recourse but to use a private courier to deliver their submission to the OBJECTIONS CHAMBER after the objection was duly signed by the OBJECTORS' attorney on April 1, 2015. In good faith, OBJECTORS' attorney sought to comply with the 10-day time limit by sending the objection postage dated on April 1, actually one day early to meet the April 2, 2015 deadline.
26. The OBJECTORS submit that the decision by the OBJECTIONS CHAMBER is inequitable given the extraordinary circumstances of this case, and has caused significant and irremediable loss of rights.

b. Switzerland Confronts War Crimes Committed Abroad with Impunity

27. On April 26, 2010, Switzerland's Permanent Mission to the United Nations transmitted to the Secretary General Switzerland's observations on the scope and application of the principle of universal jurisdiction in accordance with General Assembly resolution 64/117 dated December 16, 2009.
28. The Permanent Mission stated, "Switzerland understands universal jurisdiction to be the principle according to which a court can exercise its jurisdiction even in the absence of a link between the case and the forum State, such as territory, nationality of perpetrator or victim, or infringement upon the fundamental interests of the State. This principle is based on the idea that certain crimes are so serious that they affect the whole international community and that, as a result, every State has the *right* to exercise its jurisdiction to prosecute the perpetrators. Examples of crimes for which universal jurisdiction can be used are: genocide, crimes against humanity, war crimes and apartheid. Piracy was the first crime for which universal jurisdiction was recognized in international law. While universal jurisdiction is a *legal* principle, it can also be an *obligation* as a result of an international convention."²
29. On January 1, 2011, Swiss lawmakers introduced legislation to broaden existing frameworks for the investigation and prosecution of war crimes. Central to this was Switzerland's implementation of the International Criminal Court's Rome Statute's universal jurisdiction that signaled Switzerland's commitment to fight against war crimes committed abroad with impunity under the complementary jurisdiction of the International Criminal Court.

² United Nations General Assembly, Sixth Committee (Legal), *available at* http://www.un.org/en/ga/sixth/65/ScopeAppUniJuri_StatesComments/Switzerland_E.pdf.

30. In 2011, the Swiss Criminal Code transferred the prosecution of war crimes from the Swiss Military Justice to the ATTORNEY GENERAL. As a result, the ATTORNEY GENERAL established the *Centre of Competence for International Crimes* in order to investigate war crimes and to prosecute the accused. The principle of universal jurisdiction is that since war crimes are so heinous that third States are empowered to prosecute these crimes committed in a foreign state, by a foreign citizen, against foreign victims. Switzerland can also prosecute war crimes committed abroad by a Swiss citizen or where the victims are Swiss under *active* and *passive personality* jurisdiction pursuant to Articles 4-6 of the Swiss Criminal Code.
31. The decision by the OBJECTIONS CHAMBER denying OBJECTORS' rights to fairness and equity as victims of alleged war crimes is at odds with Switzerland's policy of confronting war crimes committed abroad with impunity.

B. Relief Sought

32. The OBJECTORS, by their attorney-in-fact, request the OBJECTIONS CHAMBER grant its application for a new time limit in order to object to the decision of non-acceptance by the ATTORNEY GENERAL, and to carry out the criminal proceedings against defendants as indicated in the war crime complaints.

DATED: Honolulu, Hawai'i, June 8, 2015.



Dr. DAVID KEANU SAI
Attorney for Objectors

Attachment “1”



Ship

Track

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780439949540Ship (P/U) date :
Wed 4/01/2015 4:21 pm**Delivered**

Signed for by: .BENAGLIA

Actual delivery :
Wed 4/08/2015 11:29 am

KANEHOE, HI US

BELLINZONA, TI CH

Travel History

▲ Date/Time	Activity	Location
- 4/08/2015 - Wednesday		
11:29 am	Delivered	BELLINZONA CH
10:01 am	On FedEx vehicle for delivery	MONTAGNOLA CH
- 4/07/2015 - Tuesday		
11:18 am	In transit	BASEL CH
9:30 am	At local FedEx facility	MONTAGNOLA CH
9:30 am	At local FedEx facility	MONTAGNOLA CH
	Package not due for delivery	
7:34 am	At local FedEx facility	MONTAGNOLA CH
- 4/05/2015 - Sunday		
11:53 am	International shipment release - Import	BASEL CH
11:53 am	In transit	BASEL CH
	Package available for clearance	
9:00 am	At destination sort facility	BASEL CH
- 4/04/2015 - Saturday		
9:55 pm	Departed FedEx location	ROISSY CHARLES DE GAULLE CEDEX FR
9:11 pm	In transit	ROISSY CHARLES DE GAULLE CEDEX FR
7:58 pm	Arrived at FedEx location	ROISSY CHARLES DE GAULLE CEDEX FR
4:37 am	Departed FedEx location	MEMPHIS, TN
4:27 am	In transit	MEMPHIS, TN
- 4/03/2015 - Friday		
3:49 pm	In transit	MEMPHIS, TN
10:50 am	Arrived at FedEx location	MEMPHIS, TN
- 4/01/2015 - Wednesday		
9:28 pm	Shipment information sent to FedEx	
4:21 pm	Picked up	HONOLULU, HI
4:21 pm	Picked up	HONOLULU, HI
	Tendered at FedEx Office	
4:21 pm	At FedEx origin facility	HONOLULU, HI

Shipment Facts

Tracking number	780439949540	Service	FedEx International Economy
Weight	2.3 lbs / 1.04 kgs	Dimensions	9x12x3 in.
Delivered To	Receptionist/Front Desk	Total pieces	1
Total shipment weight	2.3 lbs / 1.04 kgs	Packaging	FedEx Small Box
Special handling section	Deliver Weekday		



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