

Affidavit

I, the undersigned, Dr. Constantine Zaverdinos, am an Honorary Senior Lecturer in the recently formed School of Mathematics, Statistics and Information Technology at the University of Natal, Pietermaritzburg, Private Bag X01, South Africa, 3209. I was appointed Lecturer in 1970 and in 1981 was promoted to Senior Lecturer in the Department of Mathematics until my retirement last year. I have published mathematical articles in international journals. My interests include classical Greek (in 1989 I obtained a first-class Honours degree) as well as modern history, especially the Second World War. My political convictions tend to be liberal and civil libertarian, entailing strong views on freedom of expression. I was pleased to see our country undergo fundamental changes at the start of the last decade, and have a profound admiration for ex-president Nelson Mandela.

This affidavit is written on behalf of Germa r Scheerer (born Rudolf) whom I regard as a victim of a show trial. Modern Germany is fully democratic except when it concerns open discussion of its recent past. In December 1994 a much-strengthened law against "Holocaust denial" was passed - described by the United States Human Rights/Helsinki group as "too tough" (the South African *Citizen*, 6.4.1995). Under the new law even casting doubt on the official version of this tragic period can lead to a prison sentence of up to 5 years. The earlier law, though not as harsh, was repressive enough, as we will see. There is no doubt whatever that a great injustice was done to Europe's Jews between 1933 and 1945, but it does not follow that everything claimed at Nuremberg must be true by governmental decree.

My first contact with Germa r Scheerer was a letter written in 1992 to him at the Max Planck Institute for Solid State Physics at Stuttgart, where he was employed at the time. I inquired about an expert report (hereafter, the *Gutachten*) which he had composed for the defense of the former Major-General O.E. Remer who was accused under §130 and §131 (among other sections) of the German Criminal Code of "mass incitement" and "inciting hatred" because he had frequently disputed whether Jewish people had been gassed to death at Auschwitz. Scheerer's report was disallowed at the trial since in Germany legal precedent has it that the Holocaust is "obvious" or "notorious" and so cannot be disputed, even in part. Remer was subsequently convicted and sentenced to 22 months imprisonment.

On June 23, 1995 Germa r Scheerer was himself convicted and sentenced to 14 months imprisonment without the possibility of payroll in the Stuttgart Regional Court under the same sections the Criminal Code. (Landgericht Stuttgart, Az. 17 KLS 83/94). Although he was tried under the older law and while his *Gutachten* does not dispute the Holocaust as such, I will try to demonstrate that the essence of Scheerer's "crime" was precisely that he cast doubt on whether the homicidal gas chambers at Auschwitz could *technically* have functioned as is generally accepted. Still worse, the Court completely ignored the arguments of the *Gutachten*. My information is based on a close reading of the 240-page *Urteil* (Judgement).

Because the *Gutachten* was disallowed in Remer's case, the former Major-General added politically spiced comments like "with the help of an unbelievably satanic distortion of history our nation has been made defenseless and subject to blackmail" and distributed this version to leading figures in German society, including all professors of inorganic chemistry. Although there is no mention of Jews in Remer's preface, the Court held that they were the target of a hate

campaign which Scheerer was part of, and this was in fact the main charge against him. The Court accepted that Scheerer had only written the *Gutachten* proper but found that this in itself constituted "aggravating circumstances". Further aggravating circumstances were that the accused continued his revisionist work, for example on the collection of essays in the book *Grundlagen zur Zeitgeschichte* (Grabert Verlag, 1994) "in spite of and while the trial was proceeding", so that a suspended sentence was out of the question (*Urteil*, pp. 238ff).

Since Remer's preface does not blame Jewish groups for the "satanical distortion of history", but rather German politicians and the media, it appears that the main charge against Scheerer was paper-thin from the start. In my view, the "aggravating circumstances" were in fact the principal reason for his conviction.

Scheerer's original report, *Das Rudolf Gutachten: Gutachten über die Bildung und Nachweisbarkeit von Cyanidverbindungen in den 'Gaskammern' von Auschwitz* ("The Rudolf Report: Expert Report on the Formation and Detectability of Cyanide Compounds in the 'Gas Chambers' of Auschwitz") contains no political or subjective statements whatever and is written in the typically dry and objective style of a scientific article. It has 67 footnotes and refers to 220 authorities on chemistry, history and other topics, almost all of them coming from standard literature.

In his submission dated 16 November 1995 to have the judgment set aside and for a review of the trial, defense attorney Ludwig Bock strongly emphasized that no attempt whatsoever had been made by the court to study the actual content of the *Gutachten*, let alone have it evaluated by experts. On the contrary, in order to denigrate its worth, it is always referred to in quotes as "Gutachten", is repeatedly called "allegedly scientific" (*angeblich wissenschaftlich*), and although the Court did not point out a single factual error, it took it for granted that each of its arguments was a "show argument" (*Scheinargument*). Other allegations about Scheerer's work, like exhibiting a "maximum appearance of scholarship" (p. 26), are also derisive.

The closest the *Urteil* comes to admitting that Scheerer approaches the subject scientifically is on p. 23, where it states that the *Gutachten*, "which forms the basis of all his publication activities is written in an essentially scientific style (*im wesentlichen in wissenschaftlichem Stil gehalten*). It concerns itself with a chemical detail (the problem of hydrocyanic acid) and refrains from coming to general political conclusions". The Court however made it abundantly clear that this *Stil* was the result of a "strategy" to give the "impression of unbiased science", and that "following a common 'revisionist' strategy, the real purpose was to focus on a central point and then draw general conclusions" (p. 23f). The accusation that Scheerer applied such a "strategy" is repeated frequently in the *Urteil*. In handing down sentence, the court gave special weight to the conclusions of the *Gutachten*, characterizing Scheerer's "strategy" as "particularly refined and concealed", and therefore "very difficult for the victims [i.e. survivors] to defend themselves against" (p. 237f).

According to the verdict of the German Federal Constitutional High Court (GFHC) of January 11, 1994 (ref. 1 BvR 434/87), considerations of form and content, among others, decide whether a work is to be judged scientific, but the meaning of words such as "central point" in the *Urteil* is left undefined, no doubt to avoid any discussion of the *content* and *argument* of the *Gutachten*. According to the GFHC a main criterion for judging a work to be *unscientific* is if it

systematically ignores evidence opposing its thesis. This most certainly cannot be claimed of Scheerer's work, but the Court failed to acknowledge this.

The court also failed to say why the central problem addressed by the *Gutachten*, namely whether traces of cyanide compounds should still be detectable in the gas chambers - had they been used for mass-murder - was a "difficult to explain ... chemical detail" (pp. 15, 23) except to claim that the accused employed the "strategy of objectivity".

Elsewhere, the claim is made that, "judging by the way he treats facts [presumably in the added foreword, although the Court accepted that Scheerer had not written it], the Court does not need to test whether parts of the work have a scientific character or not". (p. 236). Therefore, a 119 page carefully argued work is judged on the basis of a page or two not written by Germar Scheerer and actually rejected by him! In fact, Scheerer brought legal action against Remer to stop distribution of the pirated *Gutachten*, which the court arbitrarily dismissed as "concealment" (*Vertuschung*, pp. 118-125).

Another real aim of the accused, the Court stated, was "to force a public debate on the issue". (*Urteil*, pp. 11-12, and pp. 228-229). In which countries is it a crime to "force a debate"?

Why did the Court not accede to attorney Bock's submission for a review of the trial? After all, there was a precedent. On 30 September 1981, an official expert, W. Scheffler, submitted a report stating that W. Stäglich's controversial book *Der Auschwitz Mythos* had only the "appearance of objectivity", and was "unscientific". In Scheerer's case the Court's characterization of the *Gutachten* as "allegedly objective" etc. was left in the air.

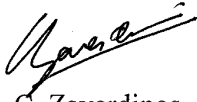
The Court claimed that Germar Scheerer is especially close to Nazi "racial ideology" and that he is an anti-Semite, allegations repeated by the British press, especially the *Sunday Telegraph*. This in my view is totally without foundation, since the only evidence adduced by the Court was to be found in Remer's additions and is contradicted by all Scheerer's writings as well as witnesses for the defense, including his friend Horst Lummert, who is Jewish. The Court simply ignored their statements and likewise regarded as insignificant the fact that the accused had given a public lecture praising the German-Jewish patriot Eduard von Simson, the first president of the Reichstag. In an introductory chapter of *Grundlagen zur Zeitgeschichte* Scheerer expresses the hope that an open discussion of the Holocaust issue might lead to a re-establishment of the fruitful German-Jewish "symbiosis", as he calls it. "In any case it is my wish, that both peoples may again find each other in a partnership of mutual respect and resume an epoch which brought so many benefits to the world, to Jewry and to the German people. It is also my wish that a chapter of history which has been full of mutual contempt, mistrust and fear can be finally closed. I long for the end of a period which, like none other before it, has brought so much unhappiness to the world, to Jews and Germans." The court arbitrarily dismissed this sincere appeal for reconciliation as an "attempt to make an impression" (*Urteil*, p. 26f.) Without justification the court regarded as insincere even statements Scheerer made in private letters, such as the one to his godmother in which he rejected David Irving's "propaganda methods" and wrote of Remer, "I do not wish to be associated with his totally obnoxious views." (*Urteil*, pp. 171-172).

Scheerer subsequently lost his position at the Max Planck Institute and was also prevented from submitting his PhD thesis (via a 1939 Hitler law!) because he was deemed "unworthy" of such a

title. (Incidentally, I was quite impressed with the sophisticated mathematical content of his thesis).

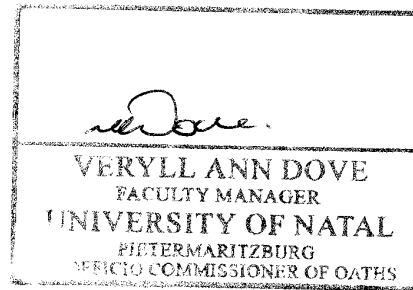
In my view justice was not even remotely served at the trial of Germar Scheerer which can only be described as a show trial, since the crimes of which he was convicted have little or no basis. No attempt was made to judge the *Gutachten* on its scientific merits because German law equates questioning of the standard version of the Holocaust, whether scientifically based or not, with racial prejudice.

Should Germar Scheerer return to the country of his birth he would have to face further charges as well as a 14-month prison term, precisely because of scientific research the quality of which was not even considered.



C. Zaverdinos

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this Affidavit which was sworn to and signed before me at PIETERMARITZBURG on this the 8 day of NOVEMBER 2000 and that the terms and regulations as contained in Government Gazette No. 3619 of 21st July 1972 have been duly complied with.



COMMISSIONER OF OATHS