

Affidavit
Analysis of the Verdict Against Germar Scheerer
Landgericht Stuttgart, Az. 17 KLs 83/94

Introduction

I, Germar Scheerer, am the author of the work “Gutachten über die Bildung und Nachweisbarkeit von Cyanidverbindungen in den ‘Gaskammern’ von Auschwitz” (Expertise about the formation and detectability of cyanide compounds in the ‘gas chambers’ of Auschwitz) which I distributed in several version during 1992-1993. In April 1993, General Major Otto Ernst Remer distributed one version of my report, to he had added a preface and an epilog without my knowledge. For this version I was prosecuted and tried in late 1994/1995. The following are my observations of this trial.

1. General Remarks About the German Penal Procedures

In contrary to US law, German law treats defendants who allegedly have committed crimes in a much different way. First of all, no German Penal Court ever prepares transcripts of the trial. Not even a summary is prepared. If a witness is heard, or a lawyer, prosecutor or judge makes a statement, nothing can be found in the protocol about what actually was said. The protocol merely consists of a list of events, like: “The witness *abc* made a statement. The lawyer *def* filed a document. The judge *ghi* made a decision.” There is therefore no way to control whether or not the judges in their verdict reproduced and interpreted the evidence presented to the court in a fair manner. This observation is even more important, as in cases of severe crimes, such as Germar Scheerer was accused of, the trial is held immediately in the second instance (Landgericht) which excludes the possibility of appeal. In this court, three judges and two laymen make the decision and agree upon a verdict. Since in the minority, the laymen in most cases play a very minor role. The verdict can only be overruled by a decision by the German Federal Supreme Court because of formal errors, i.e., violations against the German Criminal Code of Procedures. Factual errors, like misrepresentation or distortions of evidence by the judges, can not be challenged, and new evidence cannot be introduced.

Secondly, the German Criminal Code of Procedures (Art. 244, sec. 4) allows German judges to reject any evidence offered by any party that is meant to prove or refute a claim that the court considers to be “offenkundig” (self-evident). German legal practice has it that the established historiography about the Holocaust, though frequently changed, is considered to be irrefutably accurate and true. Any attempt to offer evidence to the court that intends to partly or totally refute this accuracy and truth is considered to be impermissible. Furthermore, offering such evidence can be considered to be itself a crime, as it is equivalent with challenging the accuracy of the

establishment version of the Holocaust, which is a crime under the new Art. 130 of the German Penal Code. Even a defense lawyer trying to offer such evidence might be prosecuted. So, if a defendant is accused of having partly or totally “denied” (correct: challenged) the Holocaust, any attempt of his to prove that he is right and that his arguments are superior to those of his opponents, will not only be rejected out of hand by any German court, but the accused and his lawyer may be prosecuted for this new attempt of “Holocaust denial” as well. This German concept, whereby an attorney can himself be charged with a crime for defending his client, is so bizarre and foreign to the American concept of law and fairness that Americans must be graphically educated so as to grasp the gross unfairness of contemporary German law.

2. The Verdict Against Germar Scheerer

a) The Legal Situation

Until end of November 1994, dissenters from the established Holocaust-Story could only be sentenced to a prison term in Germany, if they had publicly claimed that Jews had invented and exaggerated stories about the Holocaust in order to gain political and financial advantages. This was changed with a revision of Art. 130 German Criminal Code on Dec. 1, 1994. Now, any dissent from the established views on Jewish persecution is subject to prison terms up to five years. The German Bundeskriminalamt (Federal Bureau of Investigation) summarizes these and other similar offenses under the title “Propagandadelikte” (Propaganda Offenses), which *per se* is an indicator for institutionalized political persecution in Germany in general.

In his first court case, Germar Scheerer was prosecuted by the 17th “Große Staatsschutzkammer” (Great State Protection Chamber) of Stuttgart District Court under the old version of above mentioned Art. 130, because he allegedly had supported the publication of an Expert Report about chemical and technical details of the gas chambers of Auschwitz. This Report was indeed authored by him, but supplemented with comments of an unknown author. So the court had to prove that Scheerer at least participated in publicly claiming that Jews had invented and/or exaggerated the Holocaust story in order to gain political and financial advantages, by both proving that Scheerer at least agreed to the inclusion of the supplements, and by demonstrating that the crime was indeed committed by these supplements. The court failed to do this, which will be demonstrated subsequently.

b) The Trial

During the trial, Scheerer denied of having been involved in, or having agreed to, the publication of the particular edition of his Expert Report for which he was prosecuted. He claimed that this version of his Report was published and distributed by third persons without his consent. The court had to establish therefore that Scheerer was somehow involved in or had at least silently agreed with the inclusion of additional comments to his Report. Hence, some 220 pages of the verdict deal with attempts of the court to prove that Scheerer was involved in this publication activity and, on the other hand, to refute the huge amount of evidence Scheerer introduced to prove the contrary. Since it is not the aim of the present analysis to establish the veracity of the court’s claims, we shall restrict ourselves to a mere discussion of whether or not the indicted publication was a crime in the first place – under the strict German censorship law.

That it was not a crime under a US law is self-evident and need not be stressed here (see the indicted comments on pp. 109a-114 of the verdict for this). Beyond that, we may only mention that the way the German court argued is quite antithetical to Anglo-Saxon jurisprudence. The German court used the alleged or real political opinions of friends and acquaintances of Mr. Scheerer to “prove” *his* political extremism, and it ignored or explained away all the liberal and politically moderate friends and acquaintances of Scheerer who proved the opposite. The whole verdict thus shows a massive political bias by the court itself, an extremism endemic in the present German court system.

c) The Main Works of Scheerer

By the time the judges handed down their verdict in June 1995, Scheerer had published three books. About the first, Scheerer’s Expert Report on chemical and technical details of the alleged gas chambers of Auschwitz, the verdict states at page 23:

“This work, the basis of his publishing activities, is essentially written in a scholarly style. It addresses a chemical detail (the problem of hydrocyanic acid) and does not make any general political conclusions.”

In general, the verdict says about Scheerer’s three main works (“Expert Report”, “Lectures on Contemporary History”, “Foundations for Contemporary History”):

“They are characterized by a scholarly attitude with reference to his expertise as a scientifically trained chemist. Tone and form are generally held in a way, as if they were interested only in the matter. Additionally, intensive discussions of details, tables and graphs as well as voluminous references to literature are meant to give the impression of an unbiased and open-minded scholarship. This is primarily true for the three large publications of the accused” (p. 23 of verdict)

About “Foundations for Contemporary History” – now published in English under “Dissecting the Holocaust” – the verdict says, it includes “*a maximum appearance of objectivity*” (p. 26). Of course, the Court always had to add words like “apparently” “appearance” or “allegedly” in this context, as an open acknowledgement that Scheerer’s works are scholarly would have made it almost impossible for them to sentence him. However, what the judges ignored is the fact that the scholarly value of the work is defined not by its content, but by its form and style, in other word: by its appearance (so the decision of the German Federal Constitutional Court, Verdict January, 1994, ref. 1 BvR 434/87, pp. 16f.). That Scheerer’s works meet the standards of scholarly works, was indeed confirmed by two German mainstream historians in expertises they wrote in support of my works (Prof. Dr. Ernst Nolte, see separate Affidavit, Dr. Joachim Hoffmann, see appendix 2 in “Dissecting the Holocaust”).

Considering the contempt and hate this verdict shows against Germar Scheerer, such words of open endorsement cannot be underestimated. Since the court had to admit indirectly that Scheerer’s main works are formally scientific and scholarly, the accused could not possibly have committed any crime by publishing them, since the German constitution guarantees the freedom of science unrestrictedly in Art. 5.3.

d) The Crucial Supplements

However, according to the court, the crime was mainly committed by
“polemic comments in a preface and an epilogue” (p. 8).

A closer look into this preface and epilogue is worthwhile.

First the preface, about which the court writes (p. 9):

“By referring to the main part of this work, the preface to this work, written under the name of Otto-Ernst Remer, claims, the accounts about the Holocaust were a lie to blackmail the German people. It is additionally claimed that this were an ‘unbelievable satanic historical distortion’, to which politicians and media have contributed for decades to the detriment of the German people.”

For a punishment with a prison term, the old German law requires that one blames “Jews” for having invented or exaggerated certain events of their persecution by the Third Reich for the sake of financial or political advantage. **In the indicted preface, German politicians and the media are blamed. Jews are not even mentioned!** That politicians and media lie again and again, is a trivial statement. It seems unbelievable that a German court can take this as a reason to send people to prison. The original of the preface is printed on page 109a of the verdict. It shows that the court did not accurately present what is written there. The only statement that comes close to what would be punishable is:

“By means of an unbelievably satanic twisting of history our people will be held defenseless and ‘subject to extortion’, as the Circle of German Veteran’s Organizations wrote in its journal Soldat im Volk no. 7/8 1992”

“Soldat im Volk” is an official German Army Magazine. The court did nothing to establish whether or not this is an accurate quote, so it had to assume that it is.

Now to the epilogue, about which the court writes:

“In the epilogue, written under the name E. Haller, and taken from the issue November 1992 of the magazine ‘Remer Depesche’, disguised in the form of a report on the trial against Remer for incitement of the masses, which was held in October 1992 at the district Court in Schweinfurt, the conditions of the Auschwitz concentration camp are trivialized, among other things. It is denied that Auschwitz was an extermination camp and claimed that accounts about the Holocaust were legends to justify the ‘slaughter and robbing’ of the German people by the Allies after World War II, and for the purpose of giving the Jews an identity.” (p. 9)

The court has done nothing to established whether or not this report about a trial against a third person (Generalmajor Otto Ernst Remer), written by a person unknown to the court, is accurate or not. So it had to assume that it is accurate. This means that Germar Scheerer was

1. punished for a third person’s accurate report about a trial, because it includes “criminal” statements made by attorneys and the accused during that trial.

2. The court grossly misrepresents what actually was written in the epilogue as reprinted on pp. 110-114 of the verdict. It is not *“claimed that accounts about the Holocaust were legends to justify the ‘slaughter and robbing’ of the German people”*. It reads:

“If [the accused General Remer] can prove his case, the allies will lose their justification for having butchered and looted the German people. The Jews will lose, as Prof. Wolffsohn says, ‘the only remaining identity-forming point’.”

The court did nothing to establish whether or not the allies today use the Holocaust as a justification for their mass murder of five million Germans towards the end and after WWII, and the court did nothing to establish whether or not the German-Jewish Professor Wolffsohn indeed said that the Holocaust is *“the only remaining identity-forming point”* of Jews, so it had to

assume that both is correct. On the other hand, the word “*legend*” was, according to this report, used during the trial by one defense lawyer in a different context. So the court did tamper with the evidence to tailor a sentence together **which, however, still does not expressly claim that Jews invented and exaggerated stories on the Holocaust to gain political and financial advantages!**

In order to prove such a claim, the court had to forge the evidence a bit more, page 115 of the verdict:

“Although preface and epilogue do not expressly accuse the Jews of having invented the accounts on the Holocaust particularly to gain political and material advantages,”

– read: Although the crime of which Germar Scheerer was accused was not committed...

“in the eyes of this court the purpose of the Remer-Version of the “Expert Report” is nevertheless to suggest this”

– read: the judges can read the mind and intention of the accused –

“and hence to stir up hostile emotions against the Jews. Provided that the claims of the ‘Expert Report’ are correct,”

– the court did nothing to find out whether or not Scheerer’s Expert Report is correct, so it had to assume that it indeed is correct –

“this arises already from the fact that the reader, among others due to the tendentious statements and attitude, must and had to come to the conclusion that the [...] Jews must have consciously forged the accounts on the Holocaust.”

– read: even if the Expert Report is correct, the publisher has to make sure that his readers don’t think wrongly, or he will be punished for that, and the judges know the effect of this publication on the reader without even having any evidence for it.

On p. 235, the judges wrote:

“With calculated insinuations and innuendos, especially the epilogue of the Remer-Version of the ‘Expert Report’ wants to give the impression as if the Holocaust is used by Jews to exploit Germany. This is especially true for the reproduction of the alleged letter of a Jew from May 2, 1991.”

The letter referred to can be found on page 113 of the verdict. It is totally harmless. As a matter of fact, the court did nothing to establish whether or not the quoted letter is genuine, so it had to assume that it is, and reproducing a genuine document can never be a crime.

f) Summary

a) Germar Scheerer’s works are “*scholarly*”

b) Even preface and epilogue to his Report, added by a third party without any knowledge of the accused, “*do not expressly accuse the Jews of having invented the accounts*”. The court’s own words!!!

c) The court simply invented the “crime” by reading between the lines, by “reading” Scheerer’s mind, and by assuming the effect his work might have on the reader.

g) The Sentence

Germar Scheerer was sentenced under section Art. 130, 131, 185 and 189 of the German Criminal Code. The verdict explains this as follows:

Art. 130: "Incitement of the Masses" (pp. 233f.)

This crime was allegedly committed because the indicted publication "*expresses the calculated claim that reports about the systematic murders against Jews during the time of National-Socialism [...] were pure inventions for the sake of gagging and exploiting Germany.*" The court then claims this would "*allege*" that the Jews are to be blamed for this – **though said publication expressly does not blame Jews, but German media and politicians** – and that this "*false claim*" – **which wasn't made in the first place** – "*slanders the Jewish population*", "*exposes it to contempt*," and is allegedly "*intended to stir up hostile emotions [...] against the Jews*," to "*inflame to hatred against*" them, to deny them "*the right to live as equal personalities*", which, in turn, violates their "*human dignity*". **So, should anybody criticize politicians and media in Germany, he must expect to find himself in prison for having denied the Jews their right to live!**

Art. 189: Denigration of the memory of the death (p. 234)

By having denied the "*systematic murder against Jews*" – not murder as such, and not their terrible fate in persecution –, said publication allegedly "*denigrates the memory of those Jews who were murdered in the concentration camps.*"

Art. 185: Libel (pp. 235f.)

Like in case of Art. 189, the verdict says: "*Denying the systematic murder against the Jews and trivializing the conditions, under which the Jews lived and died in the concentration camp Auschwitz [...] additionally violates the dignity of the Jews alive today.*"

Art. 131: Inflammation to racial hatred (p. 236)

According to the court, the indicted publication gives the reader only the "*impression[sic!] as if[sic!] the Holocaust is used by Jews to exploit Germany*" – so the court means: the indicted work actually does **not** say it! However: "*In connection with the claim that the Holocaust was an invention of the Jews*" – **which said publication does not claim, but was just invented by the court when explaining its sentence for breach of Art. 130** – "*this inflames to racial hatred against the Jews*".

Hence, the court came to its verdict by massively distorting the evidence.

The fact that Germar Scheerer tried to prove with hundreds of documents and tens of witnesses that he had not authored Preface and Epilogue and did not know about it nor agreed to its inclusion in his work, is interpreted by the court as follows (p. 237):

"Disadvantageous for the accused had to be considered his high criminal energy, with which he committed the offense. The accused acted on the base of a sophisticated and particularly ingenious and concealed strategy, which was chosen with great intention, included many deceptions and manipulations, and was thus especially difficult to see through"

The court here claims without prove that almost all evidence presented by Scheerer was nothing but a huge attempt of him to conceal his guilt and to deceive the court. The court more or less dismissed all documents and letters the accused presented for his defense as either irrelevant

or vicious fakes, and the eyewitnesses presented either as liars or naïve persons who did not notice that they were lied to by the accused for many years about his real political opinions.

Furthermore, Scheerer's insistence that his "scholarly" (the court's word!) works should be protected by the human right of freedom of speech and freedom of research, was more grounds for the court to describe him as an evil person (p. 238):

"This way, he carried out his massive attacks on the social peace under the mask of middle-class values and with reference to their fundamental achievements like for example freedom of speech and science."

As one of the most important circumstantial evidence for Scheerer's guilt, the court interpreted the fact that he was close to certain people deemed to be right-wingers (see the list of names in the verdict's table of contents), and hence was more than likely inclined to commit the crime. **This is an extreme case of guilt by association.** The court also declared him guilty for being close to non-extremist people and circles:

"His intention was particularly, to cause disturbance even in parts of the population which have no contact with racist or nationalist views." (p. 238)

So which way ever Germar Scheerer had turned, he would have been punished.

The court then concludes (p. 238):

"Considering all the points in favor and to the detriment of the accused, in the eyes of the Court a sentence of a prison term of

one year and two months

appeared appropriate for the crime and the guilt."

Even though this was Scheerer's first conviction, this sentence could, according to the court, not be suspended, (p. 239):

"if only because no positive social prognosis can be made for the accused (§56 para. 1. Penal Code), who is to be categorized as a criminal committing his crimes with moral conviction. During and despite of the current trial, the accused did published more 'revisionist' works or prepared them, which once again proves his views. These, too, use the same strategy of apparent objectivity to deny the Holocaust. For example, in fall 1994 the book 'Grundlagen zur Zeitgeschichte' [= Dissecting the Holocaust, August 2000] appeared, and the book against Pressac was prepared. The Court has therefore no doubt that, in regard of the laws mentioned, the accused is not willing to be a law abiding citizen." (emphasis added)

Here the court openly admits that it sentenced Scheerer to a prison term because of his scholarly convictions which allegedly render him a incorrigible criminal. No more proof is needed to show that Scheerer is politically persecuted in Germany. Furthermore, the court uses publications, which it had called "scholarly" at the beginning of the verdict and which at that time had not yet finally been declared illegal by any court decision, to justify a prison term without probation.

With this finding, the court turned the historical dissident (Revisionist) Germar Scheerer into a "thought criminal" allegedly holding believes that, according to the court's wrong and distorted views, are close to national-socialist thoughts (see the verdict's table of content, p. 156). Ever since, the terms Revisionist and Nazi have become confused in media publications about Germar Scheerer.

3. Norman G. Finkelstein

In that context it must be stressed that American University Professor Norman G. Finkelstein recently published a book entitled "The Holocaust Industry" (see evidence submitted), in which he describes in detail how Jewish individuals and pressure groups invent, distort and exaggerate stories on the Holocaust in order to gain political and financial advantages, if not to say: they blackmail not only Germany, but also Austria, Switzerland, many eastern European countries and other nations in order to extort money and material goods from them. This book is certainly highly controversial, but if a American Professor of Jewish faith is allowed to make such statements and accusations, it can never be justified that I am sentenced to a prison term for much less far reaching statements which are not even mine.

I declare under penalty of perjury under the laws of the State of Alabama that the forgoing is true and correct. Executed this 28th day of November 2000 in , Toney, Alabama 35773

Germar Scheerer, November 28 , 2000