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Expert Testimony

Case Germar Scheerer

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I. Theory and Practice

The former Federal Minister of Interior Affairs of the Federal Republic of Germany, **Gerhart Rudolf Baum**, uttered the following wise words at the opening of the Frankfurt Book Fair in 1979: »Criticism is the life element of the political culture of a free democracy. Freedom of opinion and information guarantees this criticism. It is an essential and prominent freedom and civil right. The book is an essential ingredient of this political culture. It has always been the carrier of ideas and the conveyer of intellectual developments [...] We should not only tolerate criticism. A democratic attitude demands that its necessity be affirmed [...] It could and should not be the duty of the state or any authority in society to decide what may be printed and what not. We much rather have to guarantee the freedom to even print and read that which is completely in error, as long as this does not infringe on others' rights in an injurious manner. We cannot on the one hand make an appeal to the recognition of the 'emancipated citizen', but on the other hand want to tutor him where his reading is concerned.«¹ There is hardly anything that needs to be added to this salutary insight. Except that this theoretical issue does not reflect the practice of the Federal Republic of Germany.

According to an opinion poll by the polling institute EMNID in 1979, the same year Minister Baum made his comment, four out of five editors viewed their journalistic freedom as threatened. Among the leading managerial employees of broadcasting companies (directors and heads of departments) more than half regarded freedom of speech as endangered.²

In the *Appell zur Freiheit der Presse* (Appeal on Freedom of Press) of 1994 by the DEUTSCHER JOURNALISTEN-VERBAND (German Journalist Association), which factually presents the union of journalists in Germany, it is announced that »legal authorities and politicians endanger the freedom of press in the Federal Republic: Recently, infringements on journalists and editorial offices of press and broadcasting accumulated, the secret of editors (*Redaktionsgeheimnis*) was coarsely violated, the

right of journalists to refuse to give evidence was ignored. Parallel to these events, politicians threaten to restrict the freedom of press (even further)«. ³ This assessment was backed up by a statement of the *Internationale Presseinstitut* (International Press Institute) in summer 2000. According to its manager (*Direktor*) **Johann Fritz**, the Federal Republic of Germany is among those countries where freedom of speech is not recognized: »Media are politically and economically put the screws on, journalists are threatened personally and laws are contradicting freedom of press.« ⁴

In March 1996 the expert witness received a letter from the current Federal Minister of Foreign Affairs, Joschka Fischer, then-Member of Parliament and Speaker of the fraction of his party, in which he admits »indeed, in the Federal Republic far-reaching restrictions of freedom of speech exist as well.« ⁵

Also in March of 1996 the DEUTSCHE FORSCHUNGSGEMEINSCHAFT (German Research Association) announced that freedom of research, which is guaranteed in the *Grundgesetz* (Constitution), was in danger. In a memorandum the association demanded to improve the general set-up for researching. Science would increasingly be threatened by laws and norms, the acting of administration, common legal strains and even physical acts of violence towards researchers and their facilities. ⁶

Furthermore, according to **Dr. Konrad Löw**, professor in politics at the University of Bayreuth, political correctness in Germany seems to »recommend«, not to touch political taboo topics. Otherwise the suspicion occurred that he who dares to break down taboos stood politically at the right-wing side. »From there it is not far to right-wing extremism, and, according to public opinion polls, in Germany nothing is more detested than exactly this political-ideological position.« ⁷

Dr. Rolf Kosiek, chairman of the GESELLSCHAFT FÜR FREIE PUBLIZISTIK (Society for Free Journalism), wrote in a circular released on 6 April 1999 that it had for some time become a matter of concern that judicial action against publishers and authors were increasingly being taken on the basis of the strengthening of the Special Law for the Inhibition of the Freedom of Speech and the Press in the Field of Contemporary History, which had come into effect in December 1994. Kosiek also criticized the »disproportionately high fines or jail sentences« with which the vocational classes concerned are threatened. This kind of judicial persecution represents a new attempt, against the spirit of the constitution, »at abolishing freedom of speech

and the press, with the aim to silence right-wing publications and economically ruin them«.

In much the same vein the bimonthly notification paper for writers and publishers EUROKURIER already two years earlier had focused attention on the judicial prosecution of unwanted publishers. The increased political pressure on dissident publishing houses and measures against books from the right-wing were, according to this news magazine on current affairs surrounding books and publishers, evidently intended to destroy independent publishing houses striving towards freedom in political and ideological matters.

Summa summarum, there is a large gap between the theoretically guaranteed intellectual liberties and their practiced use in reality. According to Chief Musical Manager (*Generalmusikdirektor*) **Prof. Rolf Reuter**, intellectual living in contemporary Germany is characterized by a reign of ideological and mental terror (*Gesinnungsterror*).⁸

The Holocaust as a Moral Foundation of the Federal Republic of Germany

For the Federal German authorities, no matter whether in politics and jurisdiction, at universities or in the mainstream media the Holocaust is considered to be an, if not *the*, essential part of the moral foundation of the Federal Republic of Germany. The awareness of the Holocaust has reached daily routine here. The reason for this circumstance is rooted in the political self-image of contemporary Germany. Here, it must be emphasized that the democratic constitution of the Federal Republic of Germany is determined by two elementary basic principles. These principles are:

1. admission of sole guilt for the Second World War and
2. admission of guilt for murdering millions of racially persecuted persons (primarily Jews) during the Third Reich.

When the Federal Republic of Germany had been in existence for just ten years, the well known political scientist **Prof. Theodor Eschenburg** formulated the basic premise on which the West German state was built as follows: »The acknowledgment of

the sole and undisputed guilt of Hitler is indeed a fundamental principle of the Federal Republic.«⁹

The influential historian **Sebastian Haffner** also shared this view: He went so far as to state that whoever disturbs the present status quo (regarding the apportionment of war guilt), it even threatens the foundations of peace in Europe.¹⁰ Furthermore, he who questions or denies Auschwitz (orthodoxy), destroyed the self-image of German society.¹¹

In 1994 this view was represented by former District Court president **Rudolf Wassermann** as well: »Whoever denies the truth of the National Socialist extermination camps, abandons the foundations on which the Federal Republic of Germany is constructed.«¹²

As the expert witness shall demonstrate, this foundation on which the Federal Republic of Germany is constructed, is vitally significant for practical realization of the theoretical freedoms of expression, speech and scientific research. It makes them impossible.

Can Historical Truth be prescribed by Law?

In January 2000 the acting director of the Hannah Arendt Institute in Dresden, **Prof. Dr. Uwe Backes**, dared to utter a statement which, basically, should be considered a matter of course, namely that »more than 50 years afterwards it should be possible for the generations since born to also ask unconventional questions in a sober and objective way during the scientific discourse. Young scientists have to be allowed to tackle uncomfortable topics«.¹³ Nothing wrong with this opinion, one would think. However, contemporary German reality is something else.

As it has been indicated by law, precisely in §5 *Grundgesetz* (Constitution), publications may not be put on the index list if they serve the interests of art, science, research or education. Without presenting any relevant proof, the *BPjS* assumes that especially those authors intent on presenting an incorrect (sic!) view of the causes of the Second World War, or trying to condone, excuse or deny National Socialist crimes, appeal to the clauses referring to science and research. However, according to the *BPjS*

a medium only serves science, research and education if it penetrates to the essential, employs careful observation and reports facts accurately. The study should therefore be devoted to serious matters.¹⁴ The question remaining to be answered is that of who - and on the basis of which qualifications - consider themselves competent to dispute the seriousness of a scientist's approach to his/her research, and consequently to decide whether dishonorable motives are involved or whether his/her findings are wrong?

In the last decade of the previous century political influence in the administration of justice started to openly manifest itself in the Federal Republic of Germany. When the American citizen **Fred Leuchter** addressed a meeting in Germany about the theme of the destruction of Jewry during the time of the Third Reich in November 1991¹⁵, the educationist **Günter Deckert** simultaneously translated parts of the later so-called Leuchter Report. On the basis of this translation the District Court of Mannheim sentenced Deckert to one year imprisonment and a fine of DM 10.000 for »*Volksverhetzung*« (»incitement of the masses«) during his first trial. Both the defense and the prosecution appealed against the court's findings. Thereupon the Federal High Court found on 15 March 1994 that the case had to be heard again, as the offence of »incitement of the people« had not been sufficiently substantiated by the judges in Mannheim. On 22 June 1994 the court in Mannheim again handed down a suspended sentence of one year imprisonment. At the same time the judges conceded the accused's firmness of character and clear political motives.¹⁶ Deckert was a man of »high intelligence« and »a responsible personality with strength of character and strong principles«.¹⁷ Despite this, Deckert was subsequently remanded to several years in custody for not sufficiently *distancing* himself from the contents of his translation. This begs the question of since when and where, except in the Federal Republic of Germany, does a translator, doing a simultaneous translation, *have* to distance himself from a text not compiled by himself and written in a foreign language?¹⁸

For many representatives of the Federal Republic of Germany the eventual sentence was not harsh enough. The government spokesperson **Schäfer**, for example, commented that »ominous signals« emanated from the court in Mannheim's findings, which he regretted. Federal Chancellor **Dr. Helmut Kohl** found the findings »completely incomprehensible«.¹⁹ The former party chairman (*Bundesgeschäftsführer*) of the Social Democratic Party (SPD), **Günter Verheugen**, described the findings as

the »most unbelievable juridical scandal« of the past decade.²⁰ The German P.E.N. considered laying charges of »incitement of the people« against the judges, but eventually satisfied their outrage by appealing to the then Federal President **Roman Herzog** to intervene. The ZENTRALRAT DER JUDEN IN DEUTSCHLAND (Central Council of Jews in Germany) went as far as to claim that the judges' findings constituted »a right-wing and anti-Semite line of thought (*Gedankengut*) that had so far been used by neo-Nazis only« and were to be viewed as an »excuse (*Freibrief*) for neo-Nazis«.²¹

What ensued is not just a clear indication of how much freedom of speech in the Federal Republic of Germany is practically protected, but also to what stage jurisdiction is independent there. For having pronounced positively on Deckert's character the judges **Dr. Wolfgang Müller** and **Dr. Rainer Orlet** were suddenly suspended by the president of the court; a comfortable way to prepare for their premature dismissal. In what can be described as a typical climax for the Federal Republic of Germany, the suspension did indeed lead to the premature retirement of judge Orlet.

The Federal High Court as court of appeal revised the lower court's findings on 22 June 1994. Deckert's sentence was at the same time increased to two years imprisonment, without suspension. The sentence was also carried out. Only very few in the media experienced a final brief attack of bad conscience. On page 2 of both the WELT and the FRANKFURTER ALLGEMEINE ZEITUNG of 30 August 1994 it was stated that »A man like Deckert would not have been punished in the Netherlands, Great Britain or Denmark. In no [other] country in Europe would he have been brought before a court«.

During April 1994 the Federal Constitutional Court confirmed that those questioning the »*Auschwitzlüge*« (»Auschwitz lie«), and therefore the killing of millions of Jews by means of poison gas during the time of the Third Reich, would henceforth no longer be protected by the constitutional guarantees regarding freedom of expression. The second largest human rights organization after AMNESTY INTERNATIONAL, namely HUMAN RIGHTS WATCH, commented as follows on the court's ruling: »The court's ruling appeared to unduly restrict the protected right to free speech and expression«.²²

As a direct result of the court's decision, the *Bundestag* on 20 May 1994 passed an «Auschwitz Lie Act». In § 130 paragraph 3 of this law it is explicitly stated that »Whoever publicly or in a meeting condones, denies or minimizes an act described in § 220a paragraph 1 ['Genocide'] performed under the reign of National Socialism in a way apt to disturb the public peace, is liable to be sentenced to five years imprisonment or a fine«. This law, being totally irreconcilable with the concept of a constitutional state, provoked serious criticism. The liberal publisher **Horst Meier**, who in the past had often publicly intervened in the interests of the freedom of expression of political dissidents, condemned the »Auschwitz Lie Act« in sharp terms. In the leftist daily paper *TAGESZEITUNG* he described »the linkage of the politics of history and a monopoly of force« as a »witness to the impoverishment of democracy«. In an extensive presentation of his views, Meier emphasized that aggravating the paragraphs dealing with »incitement of the people« had »potentially put the political freedom of all at risk and has corrupted the faith in democracy«. ²³

During a live interview on the 3-SAT television program *Bei Ruge* on 10 March 1996, the Federal Minister of Justice, **Edzard Schmidt-Jortzig**, characteristically conceded that »[o]ur view of freedom of opinion does, in fact, differ from that in the USA, that you know and have already referred to before. We shall - and I find this to a certain extent depressing - in the near future be subjected to a formal accusation by the USA on the basis of the Auschwitz lie, um, no, not an accusation, a formal bad reputation incurred *via* the United Nations, because we restrict freedom of expression in this way and by these means«.

Even the leftist-liberal daily paper *SÜDDEUTSCHE ZEITUNG*, untainted by any pro historically revisionist ambitions, took note of the new turn of events. On 8 October 1998 it reported on good justification that the Federal Constitutional Court had established that »not only valuable, but also false, even objectionable opinions are protected«. »It would actually be absurd for the state to determine which opinions enjoyed freedom of expression. However, this is exactly what happens in the new paragraph 130 III of the criminal code. The law-maker determines historical facts and threatens with prosecution not only those denying these, but also any attempt at re-interpretation of such facts, namely to present them as less harmful. [...] But whoever

resorts to criminal law, travels along a dangerous road. He [or she] threatens intellectual freedom.«

Prof. Dr. Gottfried Dietze, expert on human rights at the John Hopkins University, expressed the opinion that paragraph 130 of the criminal code goes against the »tried and trusted judicial protection of freedom of expression and thereby disregards the framework of what is generally acknowledged.« He then proceeds to ask »whether it also falls outside the framework of the constitution and has to be declared unconstitutional. The establishment of the constitution was a praiseworthy decision against the National Socialist authoritarian state. Measures at that time taken to prevent a relapse into dictatorship are understandable, even if these restricted fundamental rights in this regard. Whether, in view of the fact that the danger of such a relapse does no longer exist, provisions like those contained in paragraph 130 of the StGB (criminal code) are justified half a century later is doubtful and I want to negate this«.²⁴

The political scientist **Prof. Dr Hans-Gerd Jaschke** found the political justice meted out against the right-wing as »politically loyal justice, which especially revolves around the application of judicial sanctions against individually incriminating opinions, but in the final instance is concerned with the regulation of societal communication by the state [...] Political justice against the right-wing [...] is therefore especially aimed at the level of publicly communicated opinions and sentiments. The criminal law becomes operational against the Right much earlier than against the Left [...] That opinion may not be made liable to punishment, that also those opinions going against historical truth are legitimate at an individual level, that the general nature of the law prohibits the criminalization of specific opinions, and that the state prosecutor cannot be a sanitation officer to protect society from infection by ideology, are basic principles of the liberal constitutional state. All these revered basic principles of the constitutional state are seldom applied where the right-wing is concerned.«²⁵ Even **Dr. Wolfgang Schäuble**, once German Federal Minister of Interior Affairs, had to admit in the FRANKFURTER ALLGEMEINEN ZEITUNG on 24 April 1996 that »from a juridical point of view, it really is nonsense to outlaw expressions of opinion«.

It is understandable if the German Federal Government tries everything to preventively forestall a new anti-Semitism. But the hysteria, with which this law and all regulations connected to it are put into practice, »exceeds active denial of anti-

Semitism. The findings of philosophy prove that this amounts to wanting the impossible. These measures will result in the opposite effect of what is officially intended«, since what the responsible politicians currently do, actually amounts »to a lasting stir up of racial hatred. A politic, however, which wants to suppress racism and, in case it cannot be totally avoided, wants to assign it an unimportant minor role in the political arena, has to reject extreme counter measures. The application of measure which are out of proportion result dialectically in the opposite of what is wanted. [...] Modesty in dealing with questions of the preservation of democratic principles in an open discussion, which is not restricted by a politically motivated legal system, would certainly be a good prerequisite for a peaceful future. If they want to avoid new catastrophes, those politically responsible in the German parliaments and authorities have to find back to such a modesty on the base of an unrestricted freedom of speech. Especially in this point they have to enforce the civil rights in their own country, which they have acknowledged on paper. By so doing, freedom of speech in the Federal Republic of Germany has to gain the same importance as in other democratic countries. Conflicting interests and differences of opinion should be fought out with words and not with weapons. The free word may make weapons superfluous. But it has this chance only if it is permitted.«²⁶

Those special laws, which are increasingly introduced and applied against authors, journalists, publishers and scholars for having expressed their opinions, have nothing to do anymore with a permissible application of restrictions of freedom of speech. These laws, and particularly §130 of the German Penal Code, are encroachments of the state into the discussions of certain questions of contemporary history and have to be rejected. This »paragraph of truth« means nothing less than a restriction of intellectual dispute by the authorities and consequently, it hinders the free forming of a political opinion, which is disgraceful for a really liberal states, since it turns it *ad absurdum*.

The »truth paragraph« (paragraph 130 III of the criminal code) means nothing less than the short-circuiting of intellectual debate by the state and thereby prevents the development of free political expression, which is unworthy of an actually freedom-loving state, as this is repeated *ad absurdum*. The increasing measure in which special laws are sanctioned and applied against the public uttering of opinion to enhance the

prosecution of authors, editors, publishers and scientists are clear indications of the one-sided curtailment of the freedom of the press, opinion and scientific enquiry in the Federal Republic of Germany and consequently of the curtailment of intellectual freedom in that state.

II. Destruction of Books and Prosecution of Intellectuals

Regarding the prosecution of writers (as well as editors, journalists, publishers, scholars and even book traders) and the prohibition and destruction of books (as well as magazines and other forms of publication) in the Federal Republic of Germany there are two manners to be distinguished. Firstly the placing of books on the index, secondly the banning of them, which is usually being followed by their factual destruction. The indexing is done by the *Bundesprüfstelle für jugendgefährdende Schriften (BPjS)* [Federal Office for the Investigation of Publications Endangering the Youth].

»It has to be emphasized and made quite clear that books and publications placed on the index by the *BPjS* are media which can no longer be advertised. These items can also no longer be publicly sold. Even the mere mention of the title of an indexed item is prohibited. The opportunities to sell such an item are in this way extremely limited. Indexed publications can practically only be acquired under the table - and thereby in practical terms also become inaccessible to adults. In factual terms indexing means censorship. Already in 1967 the *Bundesverwaltungsgericht* (Federal Administrative Court) conceded that: 'The indexing of a publication dangerous to the youth almost [...] approaches its banning. It implies a serious infringement of the rights of the publisher and distributor. In addition to this it constitutes a sharp infringement of the right to information of adults.'²⁷ As soon as publication is placed on the index. Consequently, the respective author frequently is even exposed to criminalization and defamation. The author's reputation is shaken and finally destroyed. Particularly if the respective book is banned.

First Example of Banning a Book: the Case of Dr. Wilhelm Stäglich

In 1979 the *Bundesprüfstelle für jugendgefährdende Schriften (BPjS)* (Federal Examining Bureau for Youth Endangering Literature), which is placed under the command of the Federal Ministry for Youth, Family and Health, received a motion to index the book *Der Auschwitz-Mythos* (The Auschwitz Myth) by **Dr. Wilhelm Stäglich**, a judge on the Hamburg Finance Court. The reason stated was that this publication questioned »the systematic extermination of Jews at Auschwitz« and therefore »conflicted with the understanding between nations [*Völkerverständigung*].«²⁸ Additionally, and in an unscientific manner, the scientific nature of the book was also disputed. This allegation was reason enough for the *BPjS* to index the book on the grounds that it social-ethically disoriented children and juveniles.

However, the case did not stop with indexing the book. Rather, it resulted in a court trial, since *The Auschwitz Myth* allegedly met criteria for the crime of »inciting the people« according to Section 130 of the Criminal Code. In 1982 the work by Dr. Stäglich was finally confiscated. Appeal was denied by the Federal Supreme Court. The author's and publisher's complaints of violation of their constitutional rights were not accepted by the Constitutional Court for reason of lack of grounds.

Even so, persecution of the book and author did not stop. On 24 March 1983 the University of Göttingen revoked Dr. Stäglich's PhD degree on grounds that he had misused the degree conferred in 1951. Fittingly, the court based its decision on the *Reichsgesetz über die Führung akademischer Grade vom 7. Juni 1939* (*Reichsgesetzblatt I*, p. 985) (Reich Law for Conferring Academic Degrees of 7 June 1939 - Legal Code of the Reich, I, p. 985) as well as the *Durchführungsverordnung vom 21. Juli 1939* (*Reichsgesetzblatt I*, p. 1326) (Enabling Decree of 21 July 1939 - Legal Code of the Reich, I, p. 1326). This legislation of the Third Reich provided for revocation of an academic degree in case the bearer conducted himself in an »unworthy« manner. In the course of several years, various courts upheld censoring of the book and revocation of the degree. Regarding the conviction and other measures taken against Dr. Stäglich, the legal expert **Dr. Eckhard Jesse** asked »whether such a procedure has really been necessary. Third parties might well be of the opinion that there is substance to the Stäglich theses.«²⁹

With common sense and comprehensive logic, a perceptive observer in one of the largest German daily paper expressed as follows: »No person who wants to be taken serious doubts that Jews were persecuted during the Third Reich. But anyone in a constitutional state who deals with this subject must be free to investigate what is plausible, what is implausible, and what is technically impossible. When laws are passed forbidding historical investigation into this complex; when experts are not allowed to testify under threat of prosecution, then one is forced to the conclusion that many of these serious accusations against Germany would not withstand scrutiny.«³⁰

In addition, Section 1 Paragraph 2 of the Law Governing Youth Endangering Literature provides that literature can not be indexed if it has to do with art, science, research or education. Again, also the *BPjS* stipulates that »[e]ssentially, anything that serves science, research and education can not be indexed.« The problem is that the *BPjS* interprets this to mean that authors who invoke the science and research paragraphs are primarily those who inaccurately (sic!) depict the causes of the Second World War, or glorify atrocities of the National Socialists, or depict them as innocuous, or deny them.

Taking its cue from the Constitutional Court, the *BPjS* maintains that science, research and pedagogy are valid only when essentials are grasped, careful observations made, facts can be exactly reproduced, that is to say, when the study has a serious purpose.³¹ Though, the question remains unanswered: Who and on what grounds is competent to dispute the seriousness of Dr. Stäglich's researches? Correspondingly, who is in a position to impute ignoble motives or fallacies on Dr. Stäglich's endeavors, from motives other than political ones?

As a direct consequence of the decision, Parliament on 20 May 1994 passed the *Auschwitz-Lügen-Gesetz* (Auschwitz Lie Legislation) which plainly states in Section 130 Paragraph 3: »Whoever shall deny or depicts as innocuous, an event which occurred during the rule of National Socialism, as Section 220a Paragraph 1 [genocide], in a manner intended to disturb the public peace, publicly or in a gathering, shall be punished with incarceration for a period of up to five years or with fines.«

Second Example of Banning a Book: the Case of Udo Walendy

On 28 August 1978, the Youth Welfare office of the German city Hamm asked the *Bundesprüfstelle für jugendgefährdende Schriften*, (*BPjS*) (Federal Examining Bureau for Youth Endangering Literature) for the indexing, i.e., censoring, of the book *Wahrheit für Deutschland. Die Schuldfrage des Zweiten Weltkrieges* (Truth for Germany. The Guilt Question of the Second World War) by **Udo Walendy**, which first appeared in 1964 and was subsequently published in several new editions. As a reason for this, it was claimed that the book »contradicted historical facts«. Evidence in support of this claim were not introduced, but it was claimed that *Wahrheit für Deutschland* would »confuse young people ethically and hence jeopardizes their development«. As a reaction to this application, the *BPjS* ordered the Munich *Institut für Zeitgeschichte* (Institute for Contemporary History), which is financed by German federal and state budgets, to assess the veracity of the book in an expertise. **Dr. Hermann Graml**, employee of said institute, denied the book any veracity. He claimed that *Wahrheit für Deutschland* has to be categorized »as dangerous«. Remarkably, Graml did not deliver any evidence for his severe accusations. The *BPjS*, however, was not bothered by this and censored the »dangerous« book in 1979.

In 1980, during an ensuing civil court case at the Cologne Administrative Court, another expert report by the historian **Dr. Georg Franz-Willing** introduced which, however, came to an opposite conclusion than that of the *Institut für Zeitgeschichte*. Franz-Willing confirmed and even emphasized that the book was of a scholarly character. Consequently, in 1984, the Upper Administrative Court of Münster overruled the decision of the *BPjS* to censor the book. As a reason, the Court maintained that a large portion of the committee in charge to assess the Graml expert report had either not read the book in question or was incompetent to judge the matter in question. The verdict (Ref. 20 A 1143/81) stated that the decision of the *BPjS* to censor the book had suffered »under the deficit of information of the ruling persons« and therefore was in breach »of the acknowledged principles governing the scope of judgment permissible to the Federal Examining Bureau for Youth Endangering Literature in a way which is accessible to the ruling of this court.«

Despite of this clear judgment, the German Federal Government appealed

against this verdict on 20 March 1984, claiming that this book »is not intended to serve scholarly purposes«. Hence, on 3 March 1987, the German Federal Administrative Court decided to censor *Wahrheit für Deutschland* again.³² However, this was not the end of this political thriller at all. The author of said book, an academically accredited political scientist, did not accept the ruling of this court. Walendy brought the case in front of the German Federal Constitutional Court which, on 11 January 1994, decided in favor of the applicant: The book was very well protected by article 5, paragraph 1 sentence one of the German Basic law (Freedom of Speech). In its verdict, the court stated, i.a.: »Young people can be raised to responsible citizens only, if their powers of discernment are strengthened in the dispute of various opinions. This is especially true for the discussion of the most recent German history. Teaching historical events and critically discussing dissenting opinions can be much more effective in protecting the youth from becoming susceptible to a distorted depiction of history than any censorship, which could even assign an undeserved attraction to these opinions.«³³

With this, the censoring of *Wahrheit für Deutschland* was ended. The *BPjS*, however, did not want to accept this decision of the highest German court and put this book back on its list of censored books on 3 November 1994, this time with the claim, the book would intend »to whitewash Hitler of any guilt for the outbreak of World War II« and therefore has to be considered »dangerous for the youth«. In the following court case in front of Germany's highest Court, however, this censoring was lifted once more.

The »Walendy case«, however, was not finished with this. In 1996, this publisher and historian with no criminal record was sentenced by the District Court of Bielefeld to 15 months imprisonment due to »incitement of the masses« and to »stubbornness«³⁴ and to an additional 14 months imprisonment by the District Court of Herford for several issues of his revisionist periodical *HISTORISCHE TATSACHEN* (Historical Facts). The reason the Court gave for its verdict is strange, mildly put: Walendy was sentenced for phrases he did *not* write, meaning that, according to the court, he did not pay enough attention to, and did not deal intensively enough with, views which disagree with his own revisionist views.³⁵ Walendy's subsequent complaint at the Federal Constitutional Court was dismissed.³⁶ The authorities obviously did not care about a scholarly debate about Walendy's hypotheses, but, as the

development of the Walendy case shows, about destroying an irksome dissident economically by ruining his existence.

In early 1996, Walendy's business and private residences were, once again, searched by the police. Data carriers were copied, books, magazines, binders and security copies of data carriers confiscated. On 28 February 1996, in a letter to his customers, Walendy announced the surrender forcedly imposed on him: »In this situation, which has escalated so extraordinarily for me and my family, and in which the measures against me have gone totally out of proportion, it might no longer be possible – due to the interference of the authorities – to continue the work I had anticipated and which many of you, as I know from many discussions, hoped me to do. Science requires freedom of research. Also in consideration of my responsibility for you, I can no longer hold the meeting of my readership as it was originally planned for the spring of this year.«

In fall 1997, Udo Walendy, who had just turned 70 years old and developed health problems with his heart, had to start serving his prison term of 29 months. To top it all, Walendy was notified in the middle of 1999 by an official announcement that proceedings to revoke his business license had been started. The reason given was that the general pattern of his behavior allegedly could not warrant for him conducting his business properly, i.e., in accordance with the law, in a way that matters of public concerns would not be interfered with. Walendy subsequently lost his license to do business with his publishing house and book retailer. In early 2001, he was released from prison and is now without any income. As can be clearly seen from the example of Udo Walendy, the goal of the political persecution of unwelcome scholars is the destruction of their economical basis.

Third Example of Banning a Book: the Case of Trutz Hardo

Any critique in the Federal Republic of Germany on Israel, Jewish politicians or the Jewish people as such is always a risky walk on the razor's edge. Undoubtedly, because of the official German politics towards Jews during the Third Reich any government of the Federal Republic of Germany has been and will be distinctly

sensitive towards the relationship with Israel and Jews. Although this attitude may be understandable at first glance, it prevents one from dealing with that topic freely and on a objective base.

To be persecuted in contemporary Germany it is by no means necessary to have an anti-Semitic attitude. It is already sufficient to express an opinion that does not concur with the official opinion in a broader sense. To prove these circumstances there is hardly any better example than presenting the prosecution and sentence of the esoteric writer **Trutz Hardo** alias Tom Hockemeyer.

During the past decade Hardo, who is a believer and a specialist in the doctrine of reincarnation and an expert in regress therapy (*Rückführungstherapie*), has published some half of a dozen books and a couple of tapes and CDs as well on this topic.³⁷ Hardo believes in the doctrine of Karma, which is widely spread in India. Central point of view is the idea of rebirth of human beings. During the respective life man deserves what his deeds have been in his previous life(s). Bad luck and sickness, for instance, were rooted in bad deeds he has committed in former lives. According to the doctrine of Karma destiny, not own freedom of decision, determines everybody's life on earth. This goes for every man, for every people.

In 1996 Trutz Hardo wrote a novel called *Jedem das Seine* (To each his own). There he describes *fictionally* the inference of the Karma doctrine reflected on the persecution of Jews and the murder of Jews during the Third Reich. What he actually did was to relate their gruesome fate with their deeds in former lives, in the Karma sense of that matter of course. Shortly after the release of the publication, Hardo was accused of *Volksverhetzung* (incitement of the masses). He was reported to the prosecutor by some leftist pressure groups. In court the accused achieved to convince the judge of not being anti-Semitic. (Hardo does not doubt the gassing of Jews in the Third Reich. On the contrary, he estimates that even 11 millions of Jews had been gassed.) Among his closest friends are several rabbis.³⁸ During the 6-Days-War in 1967 he volunteered to fight the Arabs at the side of Israel.

Nevertheless, on 4 May 1998 Hardo was sentenced by the District Court Neuwied to 100 daily rates at 40,00 DM each, which was to be changed to 90 daily rates at 60,00 DM each by the district court Koblenz on 21 May 2001. Additionally his book

Jedem das Seine was indexed and banned in the Federal Republic of Germany, while it is still available in other German-speaking countries, like Austria, for instance.

The leftist-liberal civil rights movement HUMANISTISCHE UNION (Humanist Union) protested against the conviction. In a letter to the court in Koblenz **Till Müller-Heidelberg**, Federal Chairman of the Humanist Union, wrote that in a constitutional state »it has to be possible to write esoteric books even if they might be weird for the average citizen. This has got nothing to do with incitement of the masses or with insulting sections of the population. Freedom of art and freedom of speech do not only apply for the mainstream, but also for the left and right too and also for esoteric views even if they are hardly to understand.«³⁹ This justified critique, however, did not succeed in changing the judges' mind.

Interesting enough, shortly after Hardo's conviction, his belief was corroborated from a side one would not easily take for granted: The support came from Rabbi **Ovadia Joseph** (Ovadia Yussef), chairman of the orthodox Shas party, which is the third largest political party in the Israeli Parliament, the Knesset. During a sermon at Sabbath on 5 August 2000 he described the six million Jewish victims as the »rebirth of sinners sent back on earth to pay for their sins«⁴⁰.

Since his conviction the once well-accepted esoteric expert Trutz Hardo is now treated as a pariah by his former colleagues. The dissident's reputation is taken from him. According to the decision of the *Landgericht* Berlin (District Court of Berlin) of 19 December 2000 Hardo has to accept to be called an »anti-Semitic esoteric« by the media, since this allegation could not be seen as an act of defamation, but rather as an expression of opinion. For any damage that might occur from this allegation, Hardo had to take full responsibility by himself. The consequences of this were foreseeable: Hardo, since then, is uninvited one congress or function after the other with the result his economic existence is already being threatened.⁴¹

The Case of Prof. Dr. Werner Pfeifenberger

Not everybody is strong enough to withstand the pressure imposed in the course of it. In early May of 2000, **Dr. Werner Pfeifenberger**, Professor for political sciences

at the University of Münster, committed suicide after years of persecution. How could it come to such extremes?

In 1994, Pfeifenberger published an essay with the title *Internationalismus gegen Nationalismus – eine unendliche Todfeindschaft? Geschichtlicher Werdegang und heutige Gestalt* (Internationalism versus Nationalism – an infinite deadly hostility? Historical Development and Current Shape) as a contribution to an anthology entitled *Freiheit und Verantwortung. Jahrbuch für politische Erneuerung 1995* (Freedom and Responsibility. Yearbook for Political Renewal 1995), a publication of the FREIHEITLICHES BILDUNGSWERK POLITISCHE AKADEMIE DER FREIHEITLICHEN PARTEI ÖSTERREICHS (Liberal-Conservative Educational Institution. Political Academy of the Liberal-Conservative Party of Austria), to which many representatives of the *crème de la crème* of German and Austrian intellectuals contributed, many of them renowned university professors, generals, writers and legal experts⁴², i.e., **Dr. Günter Rohrmoser** (Professor in Theology), **Dr. Otto Kimminich** (Professor in Jurisprudence), **Dr. Franz Uhle-Wettler** (General of the *Bundeswehr*), Heinrich Jordis von Lohausen (General of the Austrian *Bundesheer*), **Marion Gräfin Dönhoff** (Editor of the weekly paper DIE ZEIT) and **Dr. Klaus Hornung** (Professor in Political Science).

Privately, Pfeifenberger took the liberty to publish in politically conservative periodicals. He also had accepted a call from the university Stellenbosch (South Africa), while South Africa was still under a white government. These activities seemed to be politically incorrect enough, so that some influential representatives of left pressure groups felt obliged to start an »anti-Fascist« barrage, headed by the leftist Viennese DOKUMENTATIONSZENTRUM DES ÖSTERREICHISCHEN WIDERSTANDES (Documentation Center of the Austrian Resistance) and the Ministry of Science of Land of North-Rhine/Westphalia under the minister **Anke Brunn** (Social Democratic Party). Pfeifenberger was accused of having minimized National-Socialism and spread anti-Semitic theses.

Not just leftist pressure groups and media kept on attacking Prof. Pfeifenberger. Massive interference also came from the side of German authorities who had seemed to have joined the campaign against the Austrian academic rashly and without having scrutinized the accusations before. In a letter of **Prof. Dr. Hochmuth** of the Ministry of

Science and Research of the state of North-Rhine/Westphalia to Prof. Dr. Werner Pfeifenberger of 11 June 1996 it is said that »As for the rest I do not intend to discuss with you passages of your article ‘Internationalism versus Nationalism – an infinite deadly hostility’ [...] Valuations made by scientists who critically argued with the tendency and the spirit of the article have been given to me. They came to a result concurring with my assessment. Accordingly, the article allows the interpretation that you tend to deny the German guilt in unleashing World War Two and to reduce the Holocaust as overreaction to the Jewish ‘infiltration’ (*Überfremdung*), to justify the struggle against the Jewish ‘high finance’ and make Hitler’s racial politics to be a positive reaction to Jewish ‘persecution complex’ (*Verfolgungswahn*).«⁴³

Defaming publications, violent attempts to disrupt the lectures of Prof. Pfeifenberger, insults and insinuations – just the entire range of »anti-Fascist« power of »arguments« was launched to silence the irksome professor and to remove him from his position. And what is characteristic for the state of affairs of the German intellectual freedom did happen indeed: In 1996, Dr. Pfeifenberger was removed from his position as a university professor and fired without further notification and without salary. A series of strenuous and expensive court cases followed. Pfeifenberger won his case in front of the labor court. In a settlement, he could reach to be re-employed in his old position. All withheld salaries had to be paid out and all legal costs had to be paid by the German authorities. Thus, the damage seemed to have been restricted to a minimum. It remains open, however, how a scientist is supposed to conduct free research in the humanities after his reputation had been destroyed.

The »opinion lobby«, however, was not satisfied with this result. In early 2000, the public prosecution of Vienna started the last battle by bringing forward its most powerful weapon: It accused the Austrian citizen Prof. Pfeifenberger, who had just reluctantly been rehabilitated, for allegedly having engaged in National-Socialist activities, an accusation which, in the Republic of Austria, is comparable to the article 130 of the German Penal Code. Now, Prof. Pfeifenberger was forced to take stoke of his anticipated future. What had he to expect, what were his perspectives? The former Austrian Member of Parliament (*Nationalrat*) **Dr. Otto Scrinzi**, a close friend of Prof. Pfeifenberger, summarized Pfeifenberger’s thoughts: A new criminal trial conducted by a legal system he did no longer trust; »experts« who were biased; again a dismissal from

his position at the university and again being slandered as a »Nazi-Professor« in all German language media. After having been served with the subpoena to appear at the jury court on 29 June 2000, and in view of this realistic assessment, Prof. Werner Pfeifenberger preferred to commit suicide instead of being harassed and persecuted for the rest of his life. In their obituary his friends wrote: »Hatred drove him into death. An excellent scholar became a victim of thought and discussion prohibitions.«⁴⁴

III. Revisionism

The Historikerstreit

During June 1986 a fight erupted among German historians and other social scientists regarding the underlying methods employed in dealing with the recent past in contemporary German history (*Historikerstreit*).

The historian **Dr. Ernst Nolte**, professor at the Free University of Berlin, published an essay in the influential daily paper FRANKFURTER ALLGEMEINE ZEITUNG under the title of *Vergangenheit, die nicht vergehen will* (A past that refuses to go away). In this he aired his views on a more precise writing of history in future, based on a renunciation of the distortions and falsehoods which in many cases date from the period of re-education following upon the Second World War. Nolte thus presented a view in this essay attacking the until then almost untouched taboo of post-war approaches to history in the Federal Republic of Germany. Nolte was of the opinion that recent German history had been turned into a horror picture, especially marked by a one-sided allocation of guilt and the ignoring of historical contexts.

Almost simultaneously a book by **Dr. Andreas Hillgruber** was published under the title *Zweierlei Untergang. Die Zerschlagung des Deutschen Reiches und das Ende des europäischen Judentums* (Double decline: The Destruction of the German Reich and the End of European Jewry). Like his colleague Nolte, this professor of history from Cologne condemned the one-sided writing of history in the Federal Republic of

Germany. The latter presented a condensed version of events and neglected an all-encompassing critical examination of occurrences - contrary to what should be expected from a study of the social sciences. Hillgruber especially touched on the taboo regarding research into the motives and guilt of the Allies as far as the outbreak of the Second World War is concerned and went on to destroy the accepted picture of the peaceful opponents of Germany acting in complete disinterest in this matter.

Falling in almost the same league, **Dr. Michael Stürmer's** book *Dissonanzen des Fortschritts* (Dissonances of Progress) likewise appeared during 1986. This historian from Erlangen and political advisor of then-Federal Chancellor **Dr. Helmut Kohl** regarding German politics stepped into the breach for a strengthening of German historical awareness. What the historians Nolte, Hillgruber and Stürmer demanded and through their utterances put into practice, was none other than the beginnings of a broader revisionist view of history in the Federal Republic of Germany.

The neo-Marxist philosopher **Jürgen Habermas** considered it his duty to launch a counter-attack against the three »heretics«. This last surviving founding member of the socialist »Frankfurt School«, which he helped establish during the sixties in conjunction with the Marxist sociologists **Max Horkheimer** and **Theodor W. Adorno**, opened fire with an article which appeared in the weekly paper DIE ZEIT on 11 July 1986 under the heading *Eine Art Schadensabwicklung - Die apologetischen Tendenzen in der deutschen Zeitgeschichtsschreibung* (A manner of diminishing the damage - the apologetic tendency in the German writing of contemporary history). He clearly understood the latter to be a declaration of war (sic!).

The non-historian Habermas, who calls himself a »product of the re-education« [practiced in the aftermath of the Second World War], could not refute any of the historical insights published by Nolte and Hillgruber. Habermas suspected »in the first place a system dangerous to the leftist climate prevailing in West Germany until now behind the new noises made by the historians«. ⁴⁵

This »revisionist danger« in German historiography had to be combated by all possible means. As the two publicists **Michael Behrens** and **Robert von Rimscha** put it: The Marxist revolutionaries of 1968 were »taking up position to defend their interpretation of history. They did not want to accept that interpretation, revision and re-interpretation are normal developments in the science of historiography«. ⁴⁶ Habermas

concluded his tirade with a typical confession: »Whoever wants to call on the Germans to return to a conventional form of their national identity, destroys the only reliable basis for our ties to the West«. This makes it quite clear that political interests were in this fray far more important than the scientific dimension. The main bones of contention among those involved in this dispute were of an existential nature and revolved around the uniqueness, in the sense of a singularity of events, connected to the Third Reich. Especially this alleged uniqueness and the associated theses of »*Alleinkriegsschuld*« (»sole war guilt«) and »*Endlösung*« (»final solution«) is, as the political scientist **Prof. Dr. Bernhard Willms** from Bochum once stated, »that huge guilt stick with which the Germans have been beaten on the ears for the past 40 years«.⁴⁷

Dr. Günter Zehm, professor of philosophy, recognized this intention long ago and stated in the daily paper DIE WELT of 24 November 1986 that »Habermas and the Marxists not only defend the post-war dogma of the so-called collective guilt, but would also like to transfer this collective guilt onto the shoulders of the following generations. The whole ‘discussion’ revolves basically around this point. As the existing ‘guilty generation’ disappears from the political arena and gradually dies out, it is now attempted to contaminate the grandchildren and great grandchildren with the germ of guilt [...] In the first place this dogma is employed to keep the Germans eternally small and ugly in order to ensure that they remain physically and psychologically open to blackmail. Secondly, the effect of causing neurosis is counted on. A chronic sense of guilt causes neurosis, and neurosis often ends in self-destructive anger. By way of this detour of German self-hatred it is still hoped to arrive at the great catharsis during which they will burn down the traditional relationships in life and from which ‘true socialism’ will finally be able to come into being«. The result of this quarrel between scientists and Marxist ideologists was not just that Prof. Nolte lost out on a number of commissions and appointments. From now onwards, in contemporary Germany backers of historical revisionism were more than ever before seen at least as suspicious, if not subversive.

The Concept of Revisionism

Indeed, undesirable books are not burnt publicly anymore. Nowadays, authorities make use of a different, a more elegant method to get rid of literature they regard as »dangerous« or »unwanted«. The sociologist **Ulla Otto** has already during the sixties focused attention on the fact that the concept of ridiculing or even defaming of dissident literature or »undesirable publications« is often closely associated with the simple accusation of being »of a pseudo-scientific nature«. Such kind of blackened literature »should preferably be eliminated«. ⁴⁸ Whereas alchemy, astrology, parapsychology, spiritism and the study of Unidentified Flying Objects were, for example, in previous times accused of »being of a pseudo-scientific nature«, this label is at present mainly attached to »revisionist« opinions and literature. Publications contaminated with this label, and therefore considered as being of a questionable nature, are banned from German scientific libraries - in contrast to books of an anarchist, Marxist or Communist nature. Beside many others intellectuals, also **Gerhard Scheerer** is libeled of working unscientifically. The *Verfassungsschutz* (Federal German Internal Secret Service or literally: »Protector of the Constitution«) of the state of Baden-Württemberg, for instance, depreciate his books and articles of being »pseudoscientific«, without giving any evidence to verify this accusation. ⁴⁹ Additionally, the *Verfassungsschutz*, as a German federal authority, uncritically adopt the way of expressing of »left-wing« or so-called anti-Fascist pressure groups ⁵⁰ by calling Scheerer (and other revisionists) just to be »holocaust deniers«, »right-wingers« or »right-wing propagandists«. ⁵¹

With the accusation of pseudo-science uncomfortable publishers are easily excluded from the public debate in advance. This exclusion follows in most cases upon the indexing or prohibition of the medium employed and the stigmatizing of the author concerned. In this way not only the freedom of the press is infringed, but especially the freedom of scientific enquiry, research and education is impaired.

The term »revision« is derived from the Latin word *revidere*, meaning »looking at anew« or »looking back« in the sense of »to examine«. »To look anew at« or »to examine« matters is the foremost and most natural task of all scientists. It is the duty of historians, for instance, to always and repeatedly re-examine and, if need be, revise

written history in the light of new insights, discoveries and research results. Objectively seen, the term 'revisionism' is an expression free of value. As the German-born Australian philosopher **Dr. Fredrick Töben** rightfully explains: »Every thinking human being is a revisionist. Revisionism is nothing but a method, a heuristic principle, with which to construct one's world view. Opinions are constantly revised through a free flow of information. Only encrusted minds cannot absorb new information, preventing moral responsibility from coming to the fore.«⁵²

However, the factual political police of the Federal Republic of Germany, the *Verfassungsschutz*, cares little about scientifically based definitions. The term assumes an entirely different meaning in their eyes: »[The] aim of 'revisionism', which is one of the most important fields of agitation of right-wing extremism, is the rehabilitation of National Socialism in order to make the latter acceptable again to society«.⁵³ Another office of the *Verfassungsschutz* even indicates the following as revisionism: »The politically motivated attempt to play down or deny the German crimes committed under National Socialist rule«.⁵⁴ The completely value-free academic term of revisionism is therefore without further ado smeared by secret agents as »detestable expression of right-wing extremism«.⁵⁵ Can correcting errors in historiography really be the sign of an inferior political attitude?

Revisionism, by no means, is a political movement that even intends to overthrow democratic values or states, like the offices of the *Verfassungsschutz* allege. Almost daily new insights are won not only in the social sciences, but especially in the natural sciences and in the field of technology. For its illustrative value an example from paleontology will serve to make this clear. Many of our contemporaries are convinced that Tyrannosaurus rex was the largest carnivorous dinosaur ever to have existed on earth. This was held true until further scientific discoveries were made. In September 1995 Argentinean paleontologists discovered in north-western Patagonia the fossilized remains of an until then unknown species of carnivorous dinosaur (Gigantosaurus carolinii) even larger and older than Tyrannosaurus rex. However, anybody believing at that stage to have discovered »the Truth« and believing him/herself to be in a position to announce that the Gigantosaurus had been the largest carnivorous dinosaur to have ever existed on earth were already proved wrong the very next year. During May 1996 scientists discovered in Morocco the remains of the 20

million years older and even larger Carcharodontosaurus saharicus. This of course implied some unavoidable *revisionist* consequences as far as scientific knowledge was concerned. This example is nothing else than plainly a case of unadulterated revisionism.

It is only logical that what applies to paleontologists, archeologists, geneticists, nuclear physicists or any other researcher in this regard, naturally also applies to arts scholars like historians, for instance. Nothing in science is final or conclusive, otherwise mankind would still believe in the medieval doctrine the earth was a disk. At the begin of the research, the historian has doubts regarding or examines matters as they stand and considers the existing state of knowledge, before embarking on a further search for new facts or insights which may *possibly* lead to new conclusions.

To work in a revisionist manner is therefore nothing dishonorable. Rather the opposite is true. Despite this unshakeable circumstance, in the Federal Republic of Germany the originally value-free term of »revisionist« is today mainly applied to those researchers critically studying the history of the Third Reich or the Second World War. Conveniently smearing the historical revisionists as »right-wing extremists« has nothing to do with either a factual evaluation of their work or the necessary criticism expressed in a debate within scientific and research circles. It is exclusively politically motivated and revolves around the defamation of those considered to be *political* opponents.

Prosecution of Historical Revisionists

As having been mentioned already, section 1 paragraph 2 of the Law Governing Youth Endangering Literature provides that literature can not be indexed if it can be connected with art, science, research or education. **Rudolf Stefen**, former head of the Federal Office for the Investigation of Publications Endangering the Youth (*BPjS*), on 23 June 1979 conceded to the German daily NEUE WESTFÄLISCHE NACHRICHTEN that the law-maker most certainly made an exemption regarding that guarantee in the case of »NS [National Socialist] material«, without defining the latter more precisely. It is a fact that the indexing practiced in the Federal Republic of Germany at present is almost

exclusively aimed at literature negatively labeled as being of an »extremist right-wing« nature. Primarily these are historically revisionist publications.

The wave of indexing and banning of dissident publications of political or historical nature building up since the seventies, was in many cases initially aimed against American scientists and publishers. **Dr. Eckhard Jesse**, professor of political science, confirms that the late seventies can be considered as a »turning point« as far as the manner in which the *BPjS* operated is concerned. Since then »decidedly sharper action against right-wing extremist literature can be established«. ⁵⁶ Some well-known examples of the ensuing measures of persecution are presented below.

A book by the American scientist **Prof. Arthur Butz**, which had been published in German language under the title *Der Jahrhundert-Betrug* (The Hoax of the Twentieth Century) in 1977, was indexed during 1979. As justification it was stated that the book was »conducive to the establishment of an antagonistic attitude towards Jews and absolves the National Socialist system from the accusation of a systematic destruction of the Jews [...] the work by Butz [...] does not [...] serve science, as one does not detect efforts to arrive at truthfulness«. ⁵⁷ This is a justification of unscientific nature, as it is a very subjective matter to judge whether one (who is »one«?!) can *detect* an effort to arrive at the truth.

Circumstances surrounding instructions to remove important passages from the book *Geschichte der Deutschen* (History of the Germans) by the historian **Prof. Dr Hellmut Diwald** from Erlangen caught attention during the eighties. A widely published historical falsification connected to German concentration camps and the so-called final solution was rectified by the author on pages 163 to 165 of this book. This did not meet with approval from the official or public opinion. Although Diwald personally had retracted none of his written words - and later even broke off the relationship to his publisher, the latter had the following editions of the work edited by third parties and removed the passages which contradicted accepted dogma. Diwald confronted these Stalinist-like acts of censorship in the book *Mut zur Geschichte* (Courage in Historical Matters) which appeared in 1983. He quite rightly accused a considerable number of his colleagues of one-sidedness and betrayal of the scientific ethos.

The book *Auge um Auge*, a German translation of the factual treatise by the American journalist **John Sack** which originally appeared under the title *An Eye for an Eye*, was scheduled for publication by Piper Publishers during 1995. The publishers had already advertised the book in the press when it was suddenly withdrawn. According to the head of the firm, **Viktor Niemann**, this was done to prevent provoking »any misunderstandings« during the fiftieth commemoration of the liberation of Auschwitz. The 6.000 copies of the first edition were destroyed without further ado.

This questionable behavior was justifiably criticized, e.g. in a letter to the editor by **Christian Riester** which appeared in the FRANKFURTER ALLGEMEINE ZEITUNG of 21 February 1995. This reader was of the opinion that »The argument of the *Piper-Verlag* for not distributing the book by John Sack is already an astonishing construction. Discussions are thus to be managed, and that in the right direction. Does one proceed from the premises that the citizen has in the meantime been so distracted by the daily flood of reports on the subject of dealing with the past that he is no longer in a position to recognize and evaluate historical facts? I think one should describe the actions of the *Piper-Verlag* for what it is: Censorship«.

The former scientific director at the Institute for Research into Military History in Freiburg (now located at Potsdam), **Dr. Joachim Hoffmann**, recorded his insights in a document titled *Stalins Vernichtungskrieg 1941-1945* (Stalin's War of Destruction 1941 - 1945) during 1995. In this work the scientist took little cognizance of persisting taboos, dogmas and prohibited ideas, but all the more tried to analyze *all* the actions of *all* those concerned in the outbreak of the »Great Patriotic War«, as Soviet propagandists liked to call the war between Germany and the Soviet Union. In this groundbreaking work Hoffmann provided evidence that, contrary to the views expressed in prevailing contemporary historiography, this war actually did start as a preventative blow by the Germans. According to his research, the German campaign came just in time to thwart a planned Soviet invasion of Germany. Hoffmann's superiors, **Wilhelm Deist** and **Manfred Messerschmidt**, demanded that the Soviet contributions to the invasion be deleted. They expected Hoffmann to delete all references to the shared responsibility of the Soviet Union and Germany for the destruction of Poland in 1939, as well as the deletion of all references to Soviet methods of waging a war of destruction. In other words, historical facts had to be hidden from

the public and history falsified. In reaction to this, Hoffmann, who refused to censor his own findings, wrote in his foreword that »[c]ontrary to the letter and spirit of the constitutionally guaranteed freedom of scientific research, it is today unfortunately to be recommended that many passages of historiographic text be submitted for examination to determine a possible ‘contravention of the law’ - which is a most degrading state of affairs«. Soon after the release of his book, Dr. Hoffmann retired. In March 1996 Dr. Hoffmann mentioned in a letter to the witness expert that there is no freedom of speech in the Federal Republic of Germany as far as the research of Nazi Germany is concerned. Disillusioned he admitted that discussions would end up in dull terror of one-sided opinions (»*stumpfsinniger Meinungsterror*«). That is why he completely bowed out of public life and went into inner emigration⁵⁸ – a term that usually is only used by or on victims of political persecution during the Third Reich.

On 15 December 1997 the *Kriminalpolizei* (Criminal Police) of Tübingen, acting on a judicial order issued by the *Amtsgericht* (Court of) Tübingen (Az. 4 Gs 1085 /97), seized the last available copies of the book *Hellmut Diwald - sein Vermächtnis für Deutschland, sein Mut zur Geschichte* (Hellmut Diwald - his legacy to Germany, his courage in historical matters) and prohibited its further distribution. It should be noted that this book, spanning 540 pages, contains 40 contributions by 33 distinguished representatives of the disciplines of history, political science, sociology, economics, journalism, the churches, the judiciary and the German parliament. To justify the seizure and subsequent banning of the whole book it was stated that in *one* sentence written in *Latin* of the contribution *Die Kampagne gegen Hellmut Diwald von 1978 /79 – Richtigstellungen* (The Campaign against Hellmut Diwald of 1978/79 - some corrections) by **Prof. Dr. Robert Hepp** of the University of Osnabrück the holocaust was denied, which thereby subscribed to the definition of the criminal act of »incitement of the masses« (*Volksverhetzung*).

The sentence concerned reads as follows: »Ego quidem illud iudaeorum gentis excidium, ratione institutum et in ‘castris extinctionis’ gaso pernicioso methodice peractum, veram fabulam esse nego«. ⁵⁹ The formulation of the sentence in question was translated by the state court of Tübingen to read as follows: »I, in any case, deny that the planned intention and in ‘destruction camps’ by means of deadly gas methodically executed destruction of the Jewish people is a true story«. Such a statement would in

terms of Federal German law indeed have legal consequences. However, it is significant to note that not only philologists focused attention on the fact that the relevant sentence could also be translated in a completely different way, namely to read as follows: »As far as I am concerned, I would contest that the planned intention and in ‘destruction camps’ with poison gas executed destruction of the Jewish people represents a genuine fairytale«. However, such a statement would actually mean that Hepp in no way wanted to question the holocaust, but - to the contrary - wanted through the Latin formulation academically to express that he held the events to be true and not as a fairytale.

Despite this contention, the judges of the state court of Tübingen concluded that the footnote clearly (!) subscribed to the definition of the criminal act of incitement of the people, as well as of offending and dishonoring the memory of the dead. The book (!) was therefore to be destroyed. The office of the State Prosecutor of Oldenburg was in the meanwhile unable to recognize the alleged obvious state of affairs. They withdrew the charges against the cited author (State Prosecutor Oldenburg, Ref. 1613-6-102 Js 6370/96). Irrevocable damage to freedom of information and to freedom of scientific research resulting from the above proceedings was already done, however. Although the charges against Prof. Hepp were withdrawn the book itself remained banned and was to be destructed by burning in an incineration plant.⁶⁰

IV. The Importance of the Germar Scheerer Case

In a detailed letter printed in the readers’ columns of the FRANKFURTER ALLGEMEINE ZEITUNG on 8 September 1994, respected historian **Prof. Dr. Ernst Nolte** found the courage to say that he, as someone not learned in the natural sciences, was unable to disprove the arguments of some revisionists as far as the technical impossibility of the application of *Zyklon B* for the purposes of mass extermination is concerned. This highly rated historian furthermore conceded that he himself had previously come into possession of »undeniably authentic« documents and have treated these as such, but that the documents concerned eventually under close scrutiny proved to be fakes. Nolte concluded with the scientifically and ethically sound declaration that

questions concerning authenticity and probability had to be treated as objects of scientific enquiry and discussion. On these grounds he pleaded for a scientific approach to the arguments of the »Auschwitz revisionists«. However, this approach has until now been completely neglected. Rather the contrary has been the rule: Researchers active in this field are in due course treated as criminals and judicially prosecuted and even persecuted. This goes for Gernar Scheerer and his work in particular.

An anthology of topics related to contemporary history published by **Ernst Gauss** (a pseudonym used by **Gernar Rudolf Scheerer**) under the title *Grundlagen zur Zeitgeschichte* (Basic Issues in Contemporary History), which was published by previously defamed Grabert Publishers in Tübingen⁶¹, was seized together with the print-blocks during 1995. In a letter written by Scheerer, he *inter alia* reported on the house search carried out at his home as follows: »On 30. September 1993 the State Prosecutor of Stuttgart [...] entered my home with about 10 officials from the State Criminal Investigation Office to confiscate all material in any way linked to the preparation and distribution of my report on the chemical evidence relating to the gas chambers at Auschwitz. In addition to my entire archive of sources and all correspondence, I was robbed of my electronic data processor and all data material. On 18 August 1994 the State Prosecutor again entered my home [...] What I in any case found extremely hurtful was the fact that they also took the material I needed for my defence in the upcoming court case«. The *Grundlagen zur Zeitgeschichte* was seized and banned.

The author, a qualified chemist, was subsequently dismissed without notice by the MAX PLANCK INSTITUTE. In addition, Gernar Scheerer was sentenced to 14 months imprisonment for »incitement of the masses« by the Stuttgart District Court on 23 June 1995. This sentence was confirmed by higher authority during the spring of 1996, which made Scheerer decide to leave the country and settle in another country not known for the persecution of political views characterizing the Federal Republic of Germany. The leftist intellectual and publisher **Klaus Wagenbach** called this kind of political proceedings »censorship trials«. The editor (*Lektor*) of Grabert Publishers, **Dr. Rolf Kosiak**, took the initiative to make these political proceedings more public. He suggested and encouraged **Prof. Dr. Helmut Schröcke** to start up the appeals to protect freedom of speech (*Appelle der 100/500/1000*)⁶², which appeared in several Germans

daily papers. At first hundred, then five-hundred and at last one thousand, mainly intellectuals, signed for the protection and respectively for the re-establishment of freedom of research and freedom of speech in the Federal Republic of Germany.⁶³

The case of **Germar Scheerer** has to be seen and judged in a wider context. The interior political situation during the past decade in the Federal Republic of Germany is extremely tensed and characterized by a continually increasing hysteria on expressions of opinion by so-called »right-wingers«. This hysteria is clearly stirred up by violent incidents against both legal and illegal aliens flowing into Germany. Although many actions of violence committed by so-called right-wingers were planned and instigated by agents of the Federal German Internal Secret Service⁶⁴ in order to discredit any »right-wing« political movement or could not be proved to a right-wing connection at all⁶⁵, names of cities where such incidents took place, like Hoyerswerda, Mölln and Solingen, are synonyms for right-wing violence. In correlation to these incidents the intellectual climate in contemporary Germany worsened. No distinction is made between »right-wing« violent criminals and intellectual dissident writers or historical revisionists. The tendency to censor books and political thoughts increased remarkably. The legal prosecution of dissenters or revisionist intellectuals like **Dr. Wilhelm Stäglich**, **Udo Walendy**, **Günter Deckert**, **Prof. Dr. Robert Hepp**, **Prof. Werner Pfeifenberger** and **Trutz Hardo** clearly indicate an on-going preparedness for even more severe punishments of thought crimes.

Furthermore, one needs to be conscious of the common emotion among contemporary Germans after 55 years of re-education. Recently, the British daily THE INDEPENDENT put a closer eye on the former nation of thinkers and came to remarkable conclusions. It was discovered that most Germans felt uncomfortable with their national identity. »Most Germans cannot sing their anthem, or at least not the third verse, and do not like waving the flag. That kind of feeling is for morons, or worse still, neo-Nazis.« Even Germany's head of state had admitted »that he lacked national pride.«⁶⁶ Imagine the outcry in the United States of America, if any President had uttered such words of lacking national pride. President **Johannes Rau**'s confession, however, did not make a stir at all.

Exactly within this political climate Germar Scheerer's book *Das Rudolf Gutachten* (The Rudolf Testimony) was published (in 1993), in which the author

doubted the existence of gas-chambers to exterminate people there. His doubt was not just a frivolous or provocative statement, but an political opinion which he, according to the submitted documents, tried to substantiate scientifically. As far as the expert witness knows, the judgment on Germar Scheerer pointed out that he was sentenced due to his political and historical views (see p. 239). In the expert's point of view one does not necessarily have to agree with the findings made by Scheerer, since they are presented in an academic manner, but at least one should (be allowed to) grapple with them.

To what degree Germar Scheerer is regarded as »dangerous« by the Federal German authorities can be followed up in the official reports of the various offices of the German Internal Secret Service (*Verfassungsschutz*). There, since a couple of years, Scheerer is regarded to be *the* »head« of (historical) revisionism in Germany. Sometimes he is even viewed as one of the »heads« at the international scene of (historical) revisionism. In this regard he is mentioned in one breath with intellectuals like the British historian **David Irving**, the French **Prof. Robert Faurisson**, the Swiss translator and historian **Jürgen Graf** and the Australian Director of the Adelaide Institute **Dr. Fredrick Töben**.⁶⁷

The Holocaust is considered politically and legally to be part of the moral foundation of the Federal Republic of Germany. Any dissenting opinion towards this subject is considered to be an attack on the very base of the contemporary German state. In particular this means that any historical revisionist ideas related to the persecution of Jews and their killing during the Third Reich are considered by contemporary German authorities to be an attempt of the extreme right against democracy. Revisionism, however, is not to be linked with extremist political agitation, but is rather to be seen as a perfectly natural attitude every scholar and scientist must have, otherwise, as mentioned earlier, research is reduced to absurdity. Even every thinking human being has to be an revisionist on her own, because otherwise no mental progress could be achieved at all.

Scheerer's fear of prosecution is justified and well-founded in the fact that his political opinions – in his regard rather his historical views – collide with criminal law in the Federal Republic of Germany. His respective thought crimes are of criminal relevance in the Federal Republic of Germany, not in the United States of America.

Scheerer's prosecution is based on his political opinion and possible due to the special circumstances in the Federal Republic of Germany only.

Scheerer's possesses a belief that the Federal German prosecutor seeks to overcome by all possible means of punishment. Both, his on-going engagement in historical revisionist subjects, his leading position in the Belgian historical revisionist association VRIJ HISTORISCH ONDERZOEK (Free Historical Research), which is regarded by the German authorities of being of essential importance (*»zentrale Bedeutung«*) among international revisionism⁶⁸, his work as publisher of THESES & DISSERTATIONS PRESS and his tasks as co-webmaster at the largest website of historical revisionism www.codoh.com, which, by the way, is hosted in the United States of America, leave no doubt that Gemar Scheerer will keep up his political belief and his professional dedication in future. There is no doubt that the prosecutor is aware that Scheerer will not change his belief, due to his position he obtains in international historical revisionism.

If extradited, Scheerer undoubtedly has to go to prison for the period he has already been sentenced to. He furthermore may expect further persecutions and trials, which would result in even more penalties. Under the given circumstances Gemar Scheerer would not have the slightest chance to make a living in his country of origin.

Continual dismantling of intellectual freedom in the Federal Republic of Germany increasingly causes national and international protest

Especially since the nineties of the previous century, thousands of imprisonments (*»preventative arrests«*), ten thousands of in the meantime severely increased fines and prison sentences (both suspended and otherwise) and an uncountable number of bannings of meetings have been visited upon mainly conservative, nationally inclined or revisionist active Germans. At the same time almost no such measures have been taken against the representatives of other political opinions like, for example, those of a communist or anarchist nature. Nowadays more political prisoners are incarcerated in the democratic Federal Republic of Germany than were previously imprisoned in what was known as the communist German Democratic

Republic. According to DIE WELT of 7 April 1997, 5.800 people in that year alone had been criminally prosecuted in connection with the uttering of unallowable opinions - especially as far as contemporary history is concerned. Today, this figure has almost tripled.⁶⁹ These individuals, most of them are intellectuals, were not convicted as the result of having committed terrorism or any other condemnable act, but simply because they were guilty of presenting contrary opinions to the public opinion or harboring »thought crimes«.

The increasing curtailment of freedom of the press and of opinion in the Federal Republic of Germany has meanwhile led to noteworthy protests within and outside Germany. Since the middle of the nineties protest against the prevailing state of affairs has increasingly been building up among scientists, publishers, authors and book traders. An *Appell der 100* (Appeal by the 100) had, for example, appeared in the FRANKFURTER ALLGEMEINE ZEITUNG of 17 May 1996, declaring that the

»freedom of opinion [rather: freedom of speech] is in danger! We, the undersigned, have to our alarm lately been necessitated to take notice that special laws and criminal proceedings are to an increasing extent being applied against publishers, editors and authors - also against scientists - as a result of their qualified utterances relating to certain questions concerning contemporary history.

Especially the juridical practice of applying the concept of 'public knowledge' over the past few years in order to reject without investigation all new evidence presented by the defense in support of such utterances borders on the bending of justice, transgresses against human rights and is unworthy of a democratic constitutional state.

Scientific research and public discussion of these, especially for Germany, important questions are by these means unacceptably restricted, delaying or completely preventing the necessary process of determining the truth.

Without wanting to take sides with regard to the controversial questions under consideration we, as citizens of the state fully aware of our responsibilities, with great concern focus attention on the dangerous conditions pertaining to the constitutionally guaranteed expression of opinion, as well as of scientific enquiry and education, and turn to all responsible people and the public inside and outside the country to make an effort to ensure that such infringements of both human rights and the free democratic basic order are prevented in future«.

Similar appeals to the public conscience followed, like the *Appell der 500* (Appeal by the 500) in the STUTTGARTER ZEITUNG and the STUTTGARTER NACHRICHTEN of 19 July 1996 »which warns against the restriction of the freedom of opinion in our country and in which increasing action by the Police and Judiciary against editors, authors and scientists ‘as a result of their qualified utterances pertaining to specific questions concerning contemporary history’ is criticized«. Even another appeal, the *Appell der 1000*, appeared in the WESTFALEN-BLATT on 13 and 18 September 1996 respectively. These appeals signed by scientists, publishers, editors and other intellectuals were characteristically listed in the relevant *Verfassungsschutzberichte* (Annual Reports of the German Internal Secret Service) as the adoption of opinions threatening the constitution.

In South Africa, the politically independent organization FRIENDS OF FREEDOM OF SPEECH on 28 May 1997 demonstrated in front of the German embassy in Pretoria and handed over a protest note. The protest note *inter alia* referred to the following: »This note of protest refers to the excessive violations of freedom of speech in Germany, where hundreds of books, newspapers and magazines are forbidden just for expressing opinions which do not suit the authorities. Dozens of authors, booksellers, journalists, publishers, editors, scientists and even ordinary individuals of any age are imprisoned or sentenced to pay severe fines. We regard this state of affairs as unacceptable. We strongly condemn the prohibition of opinions. The political and intellectual climate in Germany has become unbearable. We are deeply infuriated by the increasing restrictions on the once constitutionally guaranteed right to freedom of opinion. We challenge the diplomatic representatives of Germany in South Africa to demand the abolishment of especially the politically motivated laws aimed at curtailing the freedom of expression. In particular, we call upon the immediate release of all political prisoners«. ⁷⁰

Furthermore, an *Appell für die Pressefreiheit* (Appeal for the freedom of the press) initiated by the retired Federal Attorney General, **Alexander von Stahl**, appeared in two of the leading German daily newspapers, the FRANKFURTER ALLGEMEINE ZEITUNG and the SÜDDEUTSCHE ZEITUNG, on 1 February 2001. This appeal also was signed by dozens of scientists, publishers, parliamentary representatives, authors and editors. In it the signatories protested against the fact that the postal bank (like many

other banks) closed the business accounts of unpopular (that is politically opposed) authors and publishers, thereby threatening the very survival of the latter.

Conclusions

With their opinions and findings the historical revisionists shake at the moral foundation on which the Federal Republic is built upon. If they succeed, large parts of history will have to be rewritten. Probably in resulting tremendous political changes. Germany might attain a more objective position in history and a more sovereign place in world politics and the community of nations. It is most obvious, for instance, that the still existing enemy state clause of the United Nations would have to be scrapped and a new political era would arise. Therefore the activities of historical revisionists, among them the work of **Germar Scheerer**, are to be seen in a pure political glance.

Thus, the rising of a broader historically revisionist consciousness in contemporary Germany is regarded by its mighty opponents as *the* danger as such. The old foundation of contemporary Germany would completely to be abolished and substituted by a totally new one. This political process or occurrence, therefore, is to be avoided in the view of the anti-Revisionists. That's why the Marxist philosopher **Jürgen Habermas** urgently warned that the Germans may never be allowed to return to a conventional form of their national identity (see the chapter of this testimony on the *Historikerstreit*). Just to emphasize what already has been established: »This makes it quite clear that political interests were in this fray far more important than the scientific dimension. The main bones of contention among those involved in this dispute were of an existential nature and revolved around the uniqueness, in the sense of a singularity of events, connected to the Third Reich.«⁷¹ Especially this alleged uniqueness and its associated theses of »*Alleinkriegsschuld*« (»sole war guilt«) and »*Endlösung*« (»final solution«) is the moral foundation on which the Federal Germany is built upon. A victory of the historical revisionists most likely would endanger the continuity of this dogma. That is the real reason why historical revisionists are both persecuted and prosecuted in contemporary Germany.

However, without the fundamental basic right to freedom of expression - which includes freedom of speech, freedom of information, freedom of scientific research and freedom of the press as crucial elements - no freedom of decision or free will can exist for any person. »Freedom of opinion is therefore the highest good of the citizens in a free society; and the degree to which freedom of opinion is curtailed indicates the degree of subjugation«⁷². It is obvious that only opinions which are contrary to those held by the people in authority need to be protected by the right to freedom of opinion. »The one who talks apologetically of state authority needs no protection. He is not threatened. Only the opponent is threatened.«⁷³ Therefore, the practiced freedom of speech in the Federal Republic of Germany must be seen as restricted to a large extent: authors of dissident or of historically revisionist publications or individuals who mention dissident or historically revisionist ideas and opinions are defamed as criminals and, hence, prosecuted in the Federal Republic of Germany. Political dissenters are denied their freedom to think and to speak. Under a philosophical point of view, therefore, their humanity is taken away from them.

Dr. Michael Neibach, Federal Treasurer of the second largest German writers' association, the FREIE DEUTSCHER AUTORENVERBAND (Free German Association of Authors), even speaks of terror as far as the reality of practiced freedom of speech in the Federal Republic of Germany is concerned (»*Meinungsterror*«). According to him, free discussion of real national problems, for instance, is put under taboo to such a degree one can even speak of government crime (»*Regierungskriminalität*«). Regarding the manipulation of public opinion as well as the courage to stand by opinions not suiting the public opinion, he states: »No dissenter has been killed yet, but at least they are tailed, observed, registered, kept under surveillance, degraded by bugging operations and discriminated by computer search (»*Rasterfahndung*«). They [the dissenters] would remain ineffective, because all access and doors to power were party politically occupied and bolted for 'outsiders' .⁷⁴

As the cases of **Dr. Wilhelm Stäglich**, **Udo Walendy**, **Günter Deckert**, **Prof. Dr. Robert Hepp**, **Prof. Peifenberger**, **Trutz Hardo** (Hockemeyer) and **Germar Scheerer** clearly indicate, dissenters, dissidents and historical revisionists are persecuted, prosecuted and sentenced to immense penalties in the Federal Republic of Germany. These intellectuals, who did not rape, steal or murder, can not be seen as

criminals in the common sense. They »committed crimes« by answering for their »thought crimes« and defending their beliefs or political opinions. They have been punished with large fines and long terms of imprisonment, entirely because of these kind of »crimes«. ⁷⁵ Hand in hand with their harsh sentences their economic existence is taken away from them. They are usually no longer allowed to publish or to admit their thoughts at functions. They are either shunned or defamed by the mainstream media in resulting their reputation suffers irreparable harm.

After a careful consideration of the stated facts, the expert witness can only come to the conclusion that there is no doubt that the fate of **Germar Scheerer** would be as such, if he was extradited to the Federal Republic of Germany.

Dr. Claus Nordbruch

Expert witness
Pretoria, 31 August 2001

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Documents attached to the Testimony

1. Press release by DEUTSCHER JOURNALISTEN-VERBAND of 14 March 1994
2. Letter of Joschka Fischer to Dr. Claus Nordbruch of 5 March 1996
3. Letter of Prof. Dr. Konrad Löw to Dr. Claus Nordbruch of 6 March 1996
4. Letter of Prof. Rolf Reuter to the INTERNATIONAL SOCIETY FOR HUMAN RIGHTS of 6 May 1998
5. Advertising leaflet of Trutz Hardo (Tom Hockemeyer)
6. Copy of the sentence of Trutz Hardo (Tom Hockemeyer) by the District Court Koblenz on 30 May 2000
7. Letter of Till Meyer-Heidelberg (HUMANIST UNION) to the District Court of Koblenz of 17 May 2000
8. Table of Contents (*Inhaltsverzeichnis*) of *Freiheit und Verantwortung*, the anthology to which Prof. Dr. Werner Pfeifenberger had contributed
9. Letter by the Ministry of Science and Research of the state of North-Rhine/Westphalia to Prof. Dr. Werner Pfeifenberger of 11 June 1996.
10. Letter of Dr. Joachim Hoffmann to Dr. Claus Nordbruch of 21 March 1996
11. Prof. Dr. Robert Hepp's avowal written in Latin
12. Letter of Dr. Michael Neibach (FREE GERMAN ASSOCIATION OF AUTHORS), to Dr. Claus Nordbruch of 15 April 1996

Footnotes

- ¹ See also the BÖRSENBLATT DES DEUTSCHEN BUCHHANDELS of 19 October 1979.
- ² See *Schuß ins Knie*. – in: DER SPIEGEL, issue 41/1979, p. 135.
- ³ Kölner Appell des DJV zur Freiheit der Presse. Press release by DEUTSCHER JOURNALISTEN-VERBAND of 14 March 1994. (Copy attached to the testimony).
- ⁴ Johann Fritz cited in *Pressefreiheit bedroht*. – in: NATION & EUROPA, issue 10/2000, p.12.
- ⁵ Joschka Fischer in a letter to Dr. Claus Nordbruch of 5 March 1996. (Letter is attached to the testimony).
- ⁶ See *Forschungsfreiheit gefährdet*. – in: FRANKFURTER ALLGEMEINE ZEITUNG of 27 March 1996.
- ⁷ Prof. Dr. Konrad Löw in a letter to Dr. Claus Nordbruch of 6 March 1996. (Letter is attached to the testimony).
- ⁸ Prof. Rolf Reuter in a letter to the INTERNATIONAL SOCIETY FOR HUMAN RIGHTS (*Internationale Gesellschaft für Menschenrechte*) on 6 May 1998. (Letter is attached to the testimony). It is remarkable that this influential organization did not take any action in favor of persecuted German dissidents or historical revisionists. As far as **Germar Scheerer** is concerned, the reason for remaining passive is, according to a letter of the Executive Chairman of the German section, **Karl Hafen**, of 30 October 1996 to Germar Scheerer »that the International Society for Human Rights would not have the power to stick out a law suit without coming to harm«.
- ⁹ Theodor Eschenburg: *Zur politischen Praxis in der Bundesrepublik*. Kritische Betrachtungen 1957-1961. – Munich, p. 164.
- ¹⁰ See ALLGEMEINE JÜDISCHE WOCHENZEITUNG of 3 February 1984, p. 6.
- ¹¹ See DIE WELT of 16 March 1994, quoted in DAS FREIE FORUM, issue 4/1994, p. 1.
- ¹² Rudolf Wassermann in DIE WELT of 28 April 1994, quoted in DAS FREIE FORUM, issue 4/1994, p. 1.

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- ¹³ Heidrun Hannusch: »*Neurotischer Umgang mit der NS-Geschichte*«. – in: DRESDNER NEUESTE NACHRICHTEN of 6 January 2000.
- ¹⁴ See also Bundesprüfstelle für jugendgefährdende Schriften (editor): *Die Bundesprüfstelle für jugendgefährdende Schriften informiert*. – Bonn 1995, p. 21.
- ¹⁵ The American expert on executions, Fred Leuchter, indicated the gassing of people during the Third Reich as scientifically disproved, as this would have been technically impossible. Some two years later Leuchter was arrested shortly before he was to appear on the television programme *Schreinemakers live* in Cologne on 28 October 1993. Two months later he was released on bail of DM 20,000 and left the Federal Republic of Germany without delay.
- ¹⁶ DIE WELT of 16 December 1994.
- ¹⁷ See MANNHEIMER MORGEN of 22 August 1994, p.1 and TIME of 22 August 1994, p. 29.
- ¹⁸ For more detailed information consult: Gunther Anntohn & Henri Roques: *Der Fall Günter Deckert*. – Weinheim.
- ¹⁹ MANNHEIMER MORGEN of 5 December 1994.
- ²⁰ SÜDDEUTSCHE ZEITUNG of 7 December 1994, p. 3.
- ²¹ MANNHEIMER MORGEN of 5 December 1994, STUTTGARTER NACHRICHTEN of 7 December 1994, p. 2.
- ²² Human Rights Watch (editors): *Human Rights Watch World Report 1995*. Events of 1994. - New York, p. 209.
- ²³ Quotation from the weekly paper JUNGE FREIHEIT of 16 December 1994.
- ²⁴ Gottfried Dietze: *Ein Schritt zurück in polizeistaatliche Intoleranz*. - in: VIERTELJAHRESHEFTE FÜR FREIE GESCHICHTSFORSCHUNG, issue 3/1998, p. 221.
- ²⁵ Quoted from Klaus Groth: *Die Diktatur der Guten*. Political Correctness. – Munich 1996, p. 53.
- ²⁶ Frederick E. Petermann: *Historische Wahrheit per Gesetz*. – in: JUNGE FREIHEIT of 5 June 1998.
- ²⁷ Claus Nordbruch: *Sind Gedanken noch frei? Zensur in Deutschland*. (2nd updated and revised ed.). – Munich 2001, p. 60.
- ²⁸ Eckhard Jesse: *Streitbare Demokratie und »Vergangenheitsbewältigung«*. – in:

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- Bundesamt für Verfassungsschutz (editors): *Verfassungsschutz in der Demokratie*. Beiträge aus Wissenschaft und Praxis. – Cologne 1990, p. 289.
- ²⁹ Ibid., p. 289.
- ³⁰ Herbert Kempa in DIE WELT of 4 November 1994, p. 7.
- ³¹ See Bundesprüfstelle für jugendgefährdende Schriften (editor): *Die Bundesprüfstelle für jugendgefährdende Schriften informiert*. – Bonn 1995, p. 21.
- ³² See Entscheidung des Bundesverwaltungsgerichts (Decision of the Federal Administrative Court) BVerwG 1 B 49.84.
- ³³ Quoted in Claus Nordbruch: *Sind Gedanken noch frei? Zensur in Deutschland*, op. cit., p. 134.
- ³⁴ See HISTORISCHE TATSACHEN No. 69, p. 1.
- ³⁵ WESTFALEN-BLATT of 8/9 May 1997. Also see HISTORISCHE TATSACHEN No. 77, p. 25.
- ³⁶ HISTORISCHE TATSACHEN No. 74, p. 1.
- ³⁷ See Trutz Hardo's advertising leaflet, which is attached to the testimony.
- ³⁸ See sentence of the District Court Koblenz on 30 May 2000. (Copy is attached to the testimony).
- ³⁹ Till Müller-Heidelberg in a letter to the District Court of Koblenz of 17 May 2000. (Letter is attached to the testimony).
- ⁴⁰ See HA'AREZ of 7 August 2000, SÜDDEUTSCHE ZEITUNG of 7 August 2000 as well as RHEINZEITUNG of 8 August 2000.
- ⁴¹ For instance, his invitation to deliver a speech at the international esoteric PSI-Days in Basel last year has been withdrawn due to the efforts of anti-racist organisations, representatives of various Jewish associations, the CHRISTLICH-JÜDISCHE ARBEITSGEMEINSCHAFT (Christian-Jewish Study Group) and other pressure groups.
- ⁴² See the Table of Contents (*Inhaltsverzeichnis*) of the respective book. (Copy attached to the testimony).
- ⁴³ Letter by the Ministry of Science and Research of the state of North-Rhine/Westphalia to Prof. Dr. Werner Pfeifenberger of 11 June 1996. (Letter attached to the testimony).

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- ⁴⁴ Otto Scrinzi: *Menschenjagd bis in den Tod*. – in: AULA, Heft 6/2000.
- ⁴⁵ Rolf Kosiek: *Historikerstreit und Geschichtsrevision* (2nd updated ed.). - Tübingen: Grabert 1988, p. 71.
- ⁴⁶ Michael Behrens & Robert von Rimscha: »Politische Korrektheit« in Deutschland. *Eine Gefahr für die Demokratie*. (2nd updated and revised ed.). – Bonn 1995, p. 24.
- ⁴⁷ Quoted in Claus Nordbruch: *Sind Gedanken noch frei? Zensur in Deutschland*., op. cit., p. 109.
- ⁴⁸ Ulla Otto: *Die literarische Zensur als Problem der Soziologie der Politik*. - Stuttgart 1968, p. 102.
- ⁴⁹ See Report of the *Verfassungsschutz* for the state of Baden-Württemberg 2000, p. 78.
- ⁵⁰ See, for instance, Brigitte Bailer-Galanda; Wolfgang Benz, & Wolfgang Neugebauer (editors): *Die Auschwitzleugner*. »Revisionistische« Geschichtslüge und geschichtliche Wahrheit. Antifa Edition. - Berlin 1996, pp. (*inter alia*) 28-29, 120-124.
- ⁵¹ See, for instance, Report of the *Verfassungsschutz* for the state of Bavaria 1999, pp. 70; Bundesamt für Verfassungsschutz (editor): *Rechtsextremistische Bestrebungen im Internet*. - Cologne 2000, p. 36; Report of the *Verfassungsschutz* for the state of Hamburg 1994, pp. 59 and Bayerisches Staatsministerium des Innern (editor): *Revisionismus*. (Leaflet No. 4 of the serial »Schützt unsere Demokratie«.
- ⁵² Fredrick Töben: *To the Mannheim Jail: Justice and Truth in Contemporary Germany*. – in: THE JOURNAL OF HISTORICAL REVIEW, issue May/June 2001, p. 36.
- ⁵³ Report of the *Verfassungsschutz* for the state of Baden-Württemberg 1996, p. 113.
- ⁵⁴ Report of the *Verfassungsschutz* for the state of Brandenburg 1997, p. 137.
- ⁵⁵ Also see Jürgen Schwab: *Die Meinungsdictatur*. Wie »demokratische« Zensoren die Freiheit beschneiden. - Coburg 1997, p. 283.
- ⁵⁶ Eckhard Jesse: *Streitbare Demokratie und »Vergangenheitsbewältigung«*., op. cit., p. 275.
- ⁵⁷ *Ibid.*, p. 280.
- ⁵⁸ Letter of Dr. Joachim Hoffmann to Dr. Claus Nordbruch of 21 March 1996. (Letter is attached to the testimony).

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- ⁵⁹ Rolf-Josef Eibicht (editor): *Hellmut Diwald. Sein Vermächtnis für Deutschland. Sein Mut zur Geschichte.* – Tübingen 1994, p. 147. (Copy of Prof. Dr. Robert Hepp's avowal written in Latin is attached to the testimony).
- ⁶⁰ See the Austrian weekly paper *ZUR ZEIT* of 27 February 1998 and the leftist Bavarian daily paper *ABENDZEITUNG* of 7 March 1998, for instance.
- ⁶¹ Grabert Publishers appear regularly in the Reports of the *Verfassungsschutz*, described as »one of the biggest right-wing publishers in Germany«. (See, i.e., Report of the *Verfassungsschutz* for the state of Baden-Württemberg 2000, p. 75.
- ⁶² Declaration in writing of 2 May 2001 by Dr. Rolf Kosiek.
- ⁶³ See also pp. 36 in this testimony.
- ⁶⁴ For more information on that topic consult Claus Nordbruch: *Der Verfassungsschutz. Organisation, Spitzel, Skandale.* – Tübingen 1999, pp. 103-135, 256-268.
- ⁶⁵ For instance, various assassination attempts on several synagogues, the Düsseldorf assassination in summer 2000, where 10 immigrants, mostly Jews, had been hurt by a exploding hand grenade or the circumstances of the death of a little boy called Joseph in Sebnitz during autumn 2000. All these acts of violence have been linked by the media to German »right-wing« offenders without good reason. Due to the results of police investigation the offenders came either from the milieu of Eastern European syndicates or they were young Arab radicals or they could not be traced at all. In spite of their massive campaign against »right-wingers«, the media neither regretted for their mistakes nor put them right to the extent they first had put them wrong. The consequences of such wrong-doing for the political climate are tremendous. For instance, as a form of protest against the alleged »right-wing« violence Federal Chancellor **Gerhard Schröder** exclaimed the »uprising of decent citizens« in autumn 2000. Furthermore, the Government as well as both the *Bundestag* (Federal Parliament) and the *Bundesrat* (Federal Upper House) put in an application for banning the *Nationaldemokratische Partei Deutschlands* (National Democratic Party of Germany) at the end of the year 2000 and the begin of 2001 respectively.
- ⁶⁶ THE INDEPENDENT of 21 March 2001, p. 5.

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- ⁶⁷ See, for instance, the Report of the *Verfassungsschutz* for the state of North-Rhine/Westphalia 2000, pp. 118. Regarding the prosecution and arrest of Dr. Töben in Germany consult his book *Where Truth is no defence, I want to break free.* – Norwood 2001, pp. 40-62.
- ⁶⁸ Bundesamt für Verfassungsschutz (editor): *Rechtsextremistische Bestrebungen im Internet.* , op. cit., p. 37.
- ⁶⁹ See Anton Mägerle: *Censorship in Germany? Never! Unless...* - <http://www.vho.org/censor/D.html#GB>
- ⁷⁰ Also published in the South African daily THE PRETORIA NEWS of 26 May 1997, p. 2.
- ⁷¹ See page 24 of the testimony.
- ⁷² Karl-Hermann Flach: *Keine Freiheit ohne Pressefreiheit.* – in: Ottheinrich Hestermann (compiler): *Presse und Pressewesen.* [Edited and bibliographically improved version] – Stuttgart 1993, p. 11.
- ⁷³ Gode Hartmann: *Meinungsfreiheit - ein Grundrecht der Affirmation?* - in: Joachim Perels (editor): *Grundrechte als Fundament der Demokratie.* - Frankfurt/M 1979, p. 111.
- ⁷⁴ Dr. Michael Neibach in a letter to Dr. Claus Nordbruch of 15 April 1996. (Letter is attached to the testimony).
- ⁷⁵ There are many more of them with similar fates, for instance, the esoteric bestseller author **Jan van Helsing** alias Jan Udo Holey or the, even in contemporary Germany, once well respected British historian **David Irving**. For more details consult: Claus Nordbruch: *Sind Gedanken noch frei? Zensur in Deutschland.* [2nd updated and revised ed.] - Munich 2001.