Analysis of the Verdict by Mannheim District Court of March 15, 2007

By Germar Rudolf[*]

I. General Considerations

The notions of the general at large is often very naïve as to how a verdict and in particular the measure of punishment is arrived at during a penal trial. Law and justice, so the widespread view, ought to be decisive, but even in "normal," apolitical cases reality is considerably more complex.

Frequently the so-called procedural economy plays an essential role, that is to say the inclination of overburdened prosecutors and judges to get rid of a case as fast as possible. This results in them being often willing to make a "deal" with the defendant in complicated cases, whereby the prosecution drops parts of the indictment and/or the court promises a more lenient punishment, if the defendant is confessing and foregoes an effective defense. On the on hand, this way quite a few rogues get away "too cheaply," just like, on the other hand, quite a few partly or completely innocent defendants insisting on their defense, hence facing a situation of all or nothing, are threatened with a higher punishment than confessing rogues. It is therefore at times advantageous even for innocent defendants, in particular in case of an ambivalent evidentiary situation, to wrongly plead guilty and to receive a more lenient punishment rather than to get a full "broadside," viz. to forego the discount for confessing, rueful sinners.

This practice of plea bargaining, which is foiling, even mocking law and justice, has even been reprimanded by the Federal Supreme Court, as far as I know. But because it happens behind the scene and since all parties involved in a trial conspire with one another, hardly anybody is ever complaining about this custom, so that possible decisions of higher courts have no effect whatsoever on the widespread nature of plea bargaining.

Another frequently overlooked factor decisively influencing verdict and punishment is the human factor. Even if two absolutely identical deeds committed by perpetrators with the same personality and biographical background are dealt with by a court, the verdicts and measures of punishment can still be widely disparate, for instance because the case of the one defendant is dealt with by a kindhearted judge by pure chance, who has just happily fallen in love, whereas the other case ends up in front of a merciless judge who is just going through a phase of dramatic bad mood, for example because his wife has run away, somebody has totaled his car or because he has lost his money and papers by a case of pickpocketing. In such a case the one defendant may get away on probation, whereas the other might have to serve five years.

Hence law and justice are only two of the important factors leading to a penal verdict. And in political cases, as the one dealt with here, they do not even play a dominant role, because if law and justice mattered, such trials should not take place to begin with.

II. Prelude

I made these remarks in advance, because a quite similar constellation existed at the time when my trial unfolded at the Mannheim District Court. Already a year prior to my trial, that is in November

[*] Written in May 2007; revised in August 2007 and then once more after my release in late 2009/early 2010.

2005, the trial against another revisionist – Ernst Zündel – had commence at the same court, yet in front of different judges. Yet due to a totally different defense strategy, this trial dragged on for an extremely long time and only came to an end more than one year later, almost simultaneously with my own trial. Although there are substantial differences between Ernst Zündel's deeds and also his personality on the one hand and mine on the other, this would normally not have a major impact during political cases. Hence, if it had been merely about (il)legality and (in)justice, one had to expect a similar punishment in both cases. But it all turned out quite differently.

If one is present in a certain prison for one and a half year, one inevitably learns about the reputation of certain judges, in particular those of the infamous and feared judges Merciless. At the Mannheim District Court foremost one name in connected with this: Dr. Meinerzhagen of the 6th Superior Penal Chamber, who has the reputation of having a predilection for aiming at the highest possible punishment. Fate had it that Ernst Zündel's case ended up on his desk, whereas mine ended up at the 2nd Superior Penal Chamber, whose presiding judge Schwab probably has to be classified within the group of fair judges.

Ernst Zündel moreover opted for an extreme case of confrontational defense by permitting his lawyers to do anything which had to relentlessly provoke on end the already merciless judge. Not only all those motions were filed which aimed at the introduction of evidence on historical issues but which are prohibited in a federal German court rooms, but in addition to this they denied the legitimacy of the trial as such, even of the court, of the federal German judiciary and the existence of the Federal Republic of Germany as a whole, and to top it off, all this garnished at times with hefty rhetorics. It was therefore inexorable that Ernst Zündel would received the whole "broadside," since the bargain he had been offered – a ridiculous discount of six month in exchange for the "voluntary" surrender of Ernst Zündel's wife to the federal German authorities – was absolutely inacceptable.

I must admit that I, too, was initially tempted to conduct a confrontational defense of Ernst Zündel's style, more for reasons of defiance and anger than for rational motives. But the Zündel trial's echo in the media and with the judges cured me swiftly and thoroughly of that temptation. Yet at the time when my trial started I still had those three defense lawyer who had also defended, or were defending, Ernst Zündel and which therefore had gained an accordingly bad reputation among the judges at the Mannheim District Court. That could be a disadvantage, but it could also be turned into an advantage.

Another lesson I was taught in numerous conversations with co-inmates is that it is sometimes better to agree to a deal rather than to defiantly risk everything, which is to say, to claim innocence and gamble for an acquittal. But for bargaining one needs a lawyer who is held in high regard by the court, and there was none amongst my three lawyers. Hence good advice was hard to come by.

The situation was exacerbated four months before the trial started by the fact that the wife of lawyer Ludwig Bock, who had been assigned to my case by the court, had developed brain cancer, so that this lawyer was an almost complete drop-out right up to the middle of my trial. Hence a new, prestigious lawyer had to be found.

III. The Deal

In this situation a supporter of mine had the crazy idea two months prior to the beginning of the trial to ask the famous German defense lawyer Rolf Bossi whether he would take on this case. Against all expectations he agreed indeed, although he could become active only after I was already almost done with my address during the trail, because the correspondence with the law firm Bossi had dragged on over four months due to the extremely long-lasting censorship of my judge (at times it took a letter almost two months to get to me!). In this situation the advantage for me was, though, that Bossi couldn't

interfere anymore with my address, and for Bossi that he did not have to expose himself too much publicly. Bossi's law firm had indeed indicated that they would not get involved in the trial itself anymore but would take care only of the appeal for a revision of the impending verdict and of the complaint to the Constitutional High Court.

When I explained to a younger colleague of Bossi's law firm during his visit in prison end of January 2007 that I had basically no effective defense at all and that I was urgently looking for someone to explore with the Chamber whether there is leeway for a deal, he agreed to intercede on my behalf in that sense behind the scenes when the right moment had arrived. It would have arrived at a moment, when the Chamber had become aware that it had the choice between either an acceptable deal or a long drawn out confrontational defense as in the parallel case against Ernst Zündel. I should therefore see to it during a few trial days that my lawyer starts such a confrontational strategy, whereupon the Bossi law firm would offer behind the scenes the instant cessation of any further defense activity, provided that an accordingly low punishment is offered. Under no circumstances was I prepared to make any other concession, hence no renunciation, no treason against comrades, no intervention for the removal of websites or the cessation of revisionists undertakings and so on.[1]

After two days of filing motions to introduce evidence by my lawyer Sylvia Stolz and by me on February 12 and 13, 2007, lawyer Pauls from the Bossi law firm approached the 2nd Superior Penal Chamber and the prosecution and surprisingly met no resistance at all. The only condition stipulated by judges and prosecution to give me a "mere" 2½ years instead of the originally planned five years of imprisonment was that I fire those defense lawyers who had apparently caused fear and terror at the entire Mannheim District Court, and that I ceased all defense activity. 2½ years was less than what I had hoped for in my wildest dreams and what even the most optimistic augurs had predicted, and the condition to fire lawyers who did not do me any good anyway could be met easily and light-heartedly. The only thing I regretted was the fact that I could no longer introduce the expert report by the historian Dr. Rose, which had been prepared specifically for this trial, as well as that by Prof. Dr. Ernst Nolte – including my critique of it.

Even if Zündel's radical confrontational defense strategy was no good for anything else, at least it enabled me to use his lawyers as a deterrent in order to negotiate a much lower punishment for myself.

Thank you, Ernst!

IV. The Pleas

The pleas held of March 5, 2007, where therefore only a formal matter without any factual relevance. It was all the more surprising, then, that Public Prosecutor Andreas Grossmann, apart from his pseudo-judicial platitudes of anti-revisionist exorcism, had to admit after all that I am probably really neither a National Socialist nor an anti-Semite. Hearing this from the mouth of a government Nazi hunter is probably the maximum of what can be expected. When it was about justifying the relatively "mild" punishment of 2½ years of imprisonment for the revisionist top devil as demanded by the prosecution, the prosecutor's elaborations sounded more like a defense lawyer's plea, so that my defense lawyer got into an awkward situation while pleading without wanting to simply repeat the prosecutor's words. What Herr Pauls stated without preparation had been discussed with me only partly in rough outlines, which is why I reject any responsibility for it.

[1] For the events leading to this deal see also the public declarations by the defense lawyers Maximilian Pauls and Ludwig Bock in Appendix 8, from p. 11 on.

V. The Oral Verdict

In contrast to the written verdict, the reasons for the verdict given orally quoted a little less from my book but in turn tried to be more specific about the reasons, which is why I will now address them in detail.

At the beginning of the pronouncement of the verdict on Feb. 15, 2007, the presiding judge stated succinctly that he cannot see why article 130 Penal Code should be unconstitutional. He apparently considered it unnecessary to address the arguments I had proffered. Next Judge Schwab focused on the definition of science as given by the German Federal Constitutional High Court in 1994, which I had criticized. He accused me of having omitted a passage which explained that science may not be defined in an arbitrary way as to fit one's own purposes.

This passage of the verdict by the Constitutional High Court which I had omitted merely underscores my critique that major parts of it are hot air. That science and the nature of science – just like every term – may not be defined arbitrarily is obvious to such a degree that there is no need to justify the omission of such trivialities.

Although Judge Schwab did not accuse me explicitly of having custom-tailored my own convenient definition of the nature of science, his subsequent statements amounted to exactly this. Considering my thorough and comprehensive elaborations on the definition of science and its nature during my address to the court, which did precisely *not* originate from me but mainly from the best-known and most recognized expert on the theory of science, Karl R. Popper, it ought to be permitted to ask whether the presiding judge has listened during my presentation in the first place. I have also thoroughly lectured on the inadmissibility of arbitrary definitions of terms during my presentation. But that, too, must have slipped the judge's attention.

After that Judge Schwab expressed his linking for the definition by the Constitutional High Court that science is "everything which by form and content has to be considered a serious attempt to determine the truth." What followed was a prime example of what I had reprimanded as the possibility to arbitrarily interpret the imprecise term "serious" in my presentation. How does Judge Schwab determine whether someone is serious about searching the truth? Very easy: He who makes jokes, ironic, cynical or sarcastic remarks is not serious and can therefore not claim to have a serious intention to determine the truth.

As the first example for my alleged lack of seriousness the judge quoted a passage from pp. 28f. of my book *Lectures* (Verdict p. 35):[2]

> *"R: I hope that you are developing a feel for the underlying design of the Anglo-Saxon and Zionist war and atrocity propaganda – 1900, 1916, 1920, 1926, 1936, 1942, 1991…*
>
> *In 1991, as we all know, these things were again nothing but inventions, as were the later assertions before America's second war against Iraq in 2003, to the effect that Iraq had weapons of mass destruction or would have them soon, even though this time the gas chambers and/or Zyklon B as 'weapons of mass destruction' were not mentioned. But, as Israel's well-known newspaper Ha'aretz proudly proclaimed:*
>
> *'The war in Iraq was conceived by 25 neoconservative intellectuals, most of them Jewish, who are pushing President Bush to change the course of history.'*
>
> *R: We all know, after all, that the Jews in Israel merit a preventive protection against any kind of annihilation with weapons of mass destruction, regardless of whether this threat is real or imagined…*

[2] See the Verdict, online: www.germarrudolf.com/persecute/docs/MannheimVerdict2007.pdf; Engl: . www.germarrudolf.com/persecute/docs/MannheimVerdict2007_E.pdf.

L: Now that sounds a bit too cynical. Don't you think that Jews merit protection from annihilation?

R: The cynicism refers only to cases where such a threat was pure invention. Any ethnic or religious group is entitled to protection from the threat of annihilation, Jews are no exception."

As the second example the presiding judge mentioned the following passage on p. 74 of my book (Verdict p. 40):

"L: If the prisoners succeeded in delaying the completion of a facility for a period of three years, doesn't this prove that Dachau was a holiday camp, where the prisoners could dawdle around at will, without punishment?

R: Careful! You are making yourself criminally liable with such speculations!"

Judge Schwab then referred to my address, during which I had admitted that this hypothetical interjection of a listeners was obviously ironic in nature, which allegedly proves the unseriousness of my intentions. As a third example the judge quoted a passage on pp. 224f. of the book (Verdict p. 48):

"L: I have another question regarding trench incinerations. If the area around the Birkenau camp is as swampy as you said, is it even possible to dig a trench several meters deep, without hitting ground water?

R: That is the main argument against incineration trenches. Two expert studies, made independently of each other, did in fact demonstrate that the ground water level in and around Birkenau was just a foot or two below ground level between 1941 and 1944. Any deep trenches would have quickly filled with water.

L: And so how does one burn corpses under water?

R: Maybe with SS black magic.

L: That's not funny! Not only are you denying mass murder, you are making jokes as well.

R: Well, do you have a better explanation?

This sarcastic sentence allegedly proves my unseriousness as well. According to Judge Schwab, these three examples are not the only locations in which rhetorical techniques occur in my book and which served the chamber as evidence for my unseriousness.

Let us assume in favor of the Chamber that it is indeed a lack of scientific attitude if one uses rhetorical techniques like irony, cynicism and sarcasm or even in the form of simple jokes, hence that humor is a criminal offence in Germany. Who has laughed there!?!☹

All the other criteria of the nature of science which I have discussed in my presentation have simply been ignored by the Chamber. In the collective of the various criteria, the question of whether a work contains rhetorical style elements worthy of criticism can at best play a secondary role of, say, 10%. And even if my book had completely failed these 10%, I would not have failed completely with my book, because in the end my book contains only some rebuked passages on 550 pages. So let's say I had met the point of freedom from illegitimate rhetorical only by 50%. Then my book would still be 95% scientific. (Since no criticism was made regarding the other criteria, I am rightfully entitled to 100% for each of them – in dubio pro reo.)

If Judge Schwab bases his decision on the verdict of the Constitutional High Court, he should have kept reading it. Because it says there also that a scientific nature is only then no longer given, if a work "systematically" fails to meet the required criteria. But for my book this is precisely not the case, neither regarding the criticized rhetorical techniques nor most certainly for other, much more important criteria. After all, this is not a joke book.

However, already the claim is absolutely unfounded that certain rhetorical techniques prove the unseriousness of the author's concern. One can even argue the other way around: the more polemical and sarcastic someone argues, the more seriously he probably means it. That some readers might not take

polemics seriously is a different matter altogether. One must not confound the author's concern with the effect on the reader.

At the end of it, it depends on why a certain rhetorical technique is being used. If it is used for didactic reasons in order to elucidate an argumentative or scientific point of view, it is definitely legitimate. One definitely argues in an illegitimately unscientific way only then when using rhetorical techniques in order to attack not arguments but rather individuals, as I have expounded in my presentation.

But in each of my book's passages adduced by the Chamber the respective rhetorical techniques was used precisely *not* in order to attack individuals but rather to expose scientific of logical facts in an at times drastic way. Whether these rhetorical insertions were sensitive and hence convincing is a totally different questions which has nothing to do with the assessment of the scientific nature but only with the persuasiveness of the linguistic style as a function of the kind of reading audience.

To let the questions of scientific nature only depend on whether and to what extent one chooses which rhetorical techniques in order to expound one's views is purely arbitrary, indeed it is a dictatorship of linguistic style and thus has to be rejected categorically.

In order to refute Judge Schwab's allegation also practically that jokes, irony, sarcasm and other rhetorical techniques are per se incompatible with science I may quote several examples.

There is first of all the column "Anti Gravity" by Steve Mirsky appearing in every issue of the worldwide largest semi-popular scientific magazine *Scientific American*, which does nothing else but poking fun at more or less scientific topics with irony and sarcasm.[3]

Since rhetorical techniques like irony or sarcasm are used virtually only when it is about human relationships, they are accordingly rare in the exact sciences and in technology. Hence the probably worldwide largest scientific journal *Science* only rarely comes up with exhilarating expressions, but they do exist after all, as results from a cursory glance at the 2007 issues. In February 2007, for example, a letter to the editor appeared mocking the abbreviation "et al." (et alii = and colleagues).[4] And a review article on the exploration of the evolutionary origins of sexual germ cells, advanced by the developmental biologist Cassandra Extavour (University of Cambridge), ended with a quote from geneticist Adam Wilkins, editor of the journal *Bioessays*:[5]

> "[…] *Extavour's investigations* […] *will draw others to probe the evolution of germ cells and reproductive systems. The topic, Wilkins laughs, 'will become, I can't resist saying, sexier to study.'"*

The editorial of the *Science* edition of August 3, 2007, even consisted of a satire authored by a cat and typed by a cockroach (!) – or so the chief editor claimed.[6] With lots of humor and sarcasm and with reference to an article on the genetic pedigree of house cats,[7] an imaginary cat made fun of the false allegation spread the by the mass media that cats have become domesticated animals depending on humans, just like dogs.

Irony, cynicism, sarcasm and black humor are encountered frequently, though, when turning to scholarly works of the social sciences. They are the more frequent the more controversial the topic is and the more distant the contesting views are from one another.

As my first key witness for this I may once more bring in Prof. Dr. Norman Finkelstein, from whose book on the misuse of anti-Semitism I now want to quote four passages.

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[3] For this see the collection of the respective column in Steve Mirsky's book, *Anti Gravity*, The Lyons Press, Mai 2007.
[4] Richard McDonald, "Who is et al.?," *Science* 315, Feb. 16, 2007, p. 940.
[5] John Travis, "A Close Look at Urbisexuality," *Science*, 316, April 20, 2007, pp. 390f.
[6] Donald Kennedy, "Domestic? Forget it," *Science*, 317, Aug. 3, 2007, p. 571.
[7] Carlos A. Driscoll, Marilyn Menotti-Raymond, Alfred L. Roca et al., "The Near Eastern Origin of Cat Domestication," *Science*, 317, July 27, 2007, pp. 519-523.

Finkelstein castigates the paranoid obsession of the writer Phyllis Chesler, who makes a mountain out of every molehill in her book *The New Anti-Semitism*[8] and who senses an anti-Semite around every corner. On p. 39 Finkelstein concludes:

> "[…] *one begins to wonder whether Chesler's magnum opus, Women and Madness, was autobiographical."*

This polemical-sarcastic attack is hard at the verge of being an attack against the person.

Because the prominent U.S.-Jew Wieseltier considered the histrionics about the alleged new anti-Semitism as exaggerated and doubted that a second final solution was immediately impending, he was attacked by other Jewish socialites as "an anti-Semitism minimizer." Finkelstein commented about his on p. 40:

> *"But one truly begins to worry about* [the editor of *Commentary* Gabriel] *Schoenfeld's mental poise when he questions the bona fides of Leon Wieseltier, the fanatically 'pro'-Islraeli literary editor of the fanatically 'pro'-Israel New Republic."*

In view of this "Stop the Nazi!" clamor of many Jewish lobbyist Finkelstein expounded on p. 58:

> *"It merits notice that these selfsame guardians of Holocaust memory normally blanch at any comparison with Nazis. 'Do not compare' we're always told – except if comparison is being made with Israel's ideological enemies or those critical of its policy, which currently means most of the world."*

Finkelstein gets into top shape when, at the suggestion of the U.N. General Secretary, he ponders about the invention of possible escalations of punishment for "deniers of the uniqueness" of the Holocaust: imprisonment, death penalty, ??? But read for yourself on page 63:

> "[U.N. Secretary-General Kofi] *Annan called on 'everyone to actively and uncompromisingly refute those who sought to deny the fact of the Holocaust or its uniqueness.' But what should be done to those denying its uniqueness – imprisonment? the death penalty? an hour's confinement with Wiesel?"*

Whoever laughs about this has demonstrated that he belongs in prison for aiding the incitement of the masses!

But I am not done yet. At the end of these polemical-humorous interludes I may be permitted to let a person have the word who really needs to know what science actually is: The then Charles Simonyi Professor for the public understanding of Science at Oxford University, the developmental biologist Prof. Dr. Richard Dawkins.[9]

Since Christian fundamentalists in the U.S. have been increasingly successful for decades to restrict freedom of speech in general and the freedom of research and teaching in particular when it comes to the theory of evolution, Dawkins increasingly saw himself forced into a role where he thought he had to defend against religious fanatics these fundamental human rights, which form the foundation of modern societies. (Note the parallels to revisionism, which tries in a similar way to defend human rights against Holocaust-religious fanatics.)

In 2006 Dawkins published his book *The God Delusion*.[10] The book teems with irony and sarcasm, so that I would have to cite long stretches of it, if I wanted to mention all those passages in which these or other rhetorical techniques are used. Not everyone might be able to laugh about Dawkins' humor, but the less religiously narrow-minded one is, the more pleasant and enlightening one will find this read. (Another parallel!)

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[8] Jossey-Bass, San Francisco 2003.

[9] Dawkins is retired since October 2008, see *Science*, 322, Nov. 7, 2008, p. 833.

[10] Houghton Mifflin, Boston/New York 2006; dt.: *Der Gotteswahn*, Ullstein, Berlin 2008.

I will restrict myself to three passages in Dawkins' book. First there is his persiflage about absurd religious dogmas by comparing them with the religious cult worshipping the "Flying Spaghetti Monster" as a god (p. 53). Shortly thereafter Dawkins quotes a definition of the word "to pray" by a certain Ambrose Bierce (p. 60):

> *"to ask that the laws of the universe be annulled in behalf of a single petitioner, confessedly unworthy."*

Prof. Dawkins reaches the pinnacle of sarcasm when discussing various alleged proofs for the existence of God by Thomas Aquinas. His fourth "proof" for the existence of God Dawkins quotes as follows on pp. 78f.:

> *"The Argument from Degree. We notice that things in the world differ. There are degrees of, say, goodness or perfection. But we judge these degrees only by comparison with a maximum. Humans can be both good and bad, so the maximum goodness cannot rest in us. Therefore there must be some other maximum to set the standard for perfection, and we call that maximum God."*

Dawkins comments this thesis of Aquinas as follows:

> *"That's an argument? You might as well say, people vary in smelliness but we can make the comparison only by reference to a perfect maximum of conceivable smelliness. Therefore there must exist a pre-eminently peerless tinker, and we call him God. Or substitute any dimension of comparison you like, and derive an equivalent fatuous conclusion."*

Judge Schwab's claim that humor or polemics and science are mutually exclusive is therefore evidently wrong. Hence it is actually the court which has custom-tailored a definition of science for its own convenience permitting it to arrive at a certain, predetermined result, something which judge Schwab had falsely accused me of doing between the lines and which, according to his own statements, the German Federal Constitutional High Court had rejected as inadmissible.

Last but not least(?) judge Schwab criticized in his verbal reasoning the following passage of my book on p. 435 (Verdict p. 53):

> *"R: The following collection of Holocaust absurdities is being constantly expanded as part of our contest to seek out and catalog such absurdities. You can join in the contest and win a prize if you find additional absurdities in official documents, literature, or media reports. The results of this contest appear regularly in the periodicals* Vierteljahreshefte für freie Geschichtsforschung *and* The Revisionist*. Some of these assertions have now been rejected by established historians, while others continue to be spread as before. All these assertions consist of similar absurdities and perversions, so everyone has to adopt his own criteria and reasons for what to believe and what to reject. I will offer no more commentary on this. Simply enjoy what we have been forced to unquestioningly accept as 'common knowledge' since the end of the war:"*

Judge Schwab complained that nothing in this text passage would indicate that there is any kind of quality control for the statements to be sent in, so that any sender could claim whatever he wanted. Hence this would not be a serious attempt at determining the truth. But what Judge Schwab obviously missed is the fact that this reference to a contest held elsewhere could and wanted to be exactly only this: a reference. A serious attempt at determining the truth would have meant for Judge Schwab that he follows this reference and verifies at the given source whether – and if so, then which – measures of quality control are implemented there preventing or filtering out arbitrary submissions. Such measure exists there indeed.

Hence this point of Judge Schwab's argumentation proves merely that his verdict cannot be considered a serious attempt at determining the truth, that it is therefore merely a pseudo-judicial verdict.

In order to prevent that anyone within the prosecution had the funny idea due to pressure from higher up to file an appeal against this plea bargain, which would have led to a new trial and thus with high probability to a painfully higher prison term, we waived our right to an appeal in agreement and togeth-

er with Public Prosecutor Grossmann right after the pronouncement of the verdict, whereby the verdict became effective immediately.

VI. The Written Verdict

> *"The defendant Germar Rudolf is sentenced to a cumulative sentence of two years and six months incarceration for two counts of Inciting the Masses Disparagement of the Memory of the Dead.*
>
> *The seizure of business turnover from sales of illegal items in the amount of 21,600 Euros is ordered.*
>
> *The book by Germar Rudolf, 'Lectures on the Holocaust: Controversial Issues Cross Examined' is hereby seized and destroyed.*
>
> *The defendant shall pay the cost of the trial."* (Verdict p. 2)

Following the diction of the oral verdict, the written verdict claims that my book has to be denied to be of scientific nature "because it is interspersed with numerous polemical, partly also cynical passages and remarks" and because in it I had "exposed to ridicule the suffering of the victims of the Holocaust" (Verdict p. 23, similar p. 65).

The latter claim is obvious nonsense. I have not exposed the suffering of the victims to ridicule, but at times merely absurd, evidently or demonstrably untrue allegations of third persons about alleged historical events, which moreover expose themselves to ridicule due to their content. No addition of mine is needed there.

Pages 23–63 of the verdict contain 27 at times very long quotes from my book which are appended to each other without any comment – as if they spoke for themselves. Maybe they do this indeed, although in the eyes of the unbiased reader potentially not in the way the judges intended. Polemics, though, have to be sought with the magnifying glass now and then.

The Chamber's claim that my book is "characterized by the will to propagate the theories of Holocaust revisionism rather than to search the truth" proves an astounding incapacity for logical thinking (Verdict p. 23) Where is here a conflict or even a contradiction? I have the will to spread (= propagare) those theses which I consider true and which are generally subsumed under the term "Holocaust revisionism." If the Chamber thinks that revisionism and truth are by definition irreconcilable, then it is the Chamber which is having a dogmatic, unscientific concept of truth, not me.

Later on the verdict claims in a similar manner that my book contains

> "*obviously inconclusive argumentations* […], *of which the intelligent defendant must be aware and which therefore suggest the conclusion that his chief concern was merely to propagate revisionist theories* […]*"* (Verdict p. 65)

I may state in advance that the court cannot possibly know what I was aware of and what not when writing the book. Furthermore I have never claimed, in contrast to German judges, to know the truth in historical matters with absolute certainty and to be infallible. Hence, should I have made mistakes in spite of my intelligence – a question which to answer rests on inter-scientific discourse, but not on a penal court – what follows from this regarding the scientific nature of my book? He who makes mistakes is unscientific? Since all scientists make mistakes, scientists do not really exist?

The "obviously inconclusive argumentations" claimed by the court are not at all obvious, by the way. The question whether or not six million Jews were really threatened by a Holocaust in the years 1917–1927 is too complex to be presented as "obvious." If the Chamber did not consider my brief elaborations about this convincing, then it would have behooved them well as alleged serious seekers of the truth to verify by means of the sources given by me whether or not my conclusions are supported by them.

The Chamber's allegation on the same page finally that I had not scrutinized the possible exaggeration of the number of Holocaust survivors given by Jewish lobby groups is downright false, as results even from the quote in the verdict itself, taken from my book on p. 44:

> *"But I do not wish to give any definite figure for the survivors, because the statistical basis for any computation is too small and would yield results with too wide a margin of error for any meaningful conclusions to be drawn from them."* (Verdict p. 38)

Even in this case it would have behooved the serious truth seekers of this Penal Chamber well to verify whether or not and to what extent my statements are supported by the sources cited. Of course such a task would be beyond the competence and the possible efforts of a penal court. It was therefore inevitable that this court transgressed its authority and competence by meddling with the content of scientific points at issue, and it thus had to come to a pseudo-judicial verdict.

On this Sir Karl Popper:[11]

> *"I mean the fashion of not taking arguments seriously, and at their face value, at least tentatively, but of seeing in them nothing but a way in which deeper irrational motives and tendencies express themselves. It is* […] *the attitude of looking at once for the unconscious motives and determinants in the social habitat of the thinker, instead of first examining the validity of the argument itself.* […] *But if no attempt is made to take serious arguments seriously, then I belief that we are justified in making the charge of irrationalism;"*

And paraphrasing Wolfgang Pauli:[12]

> *"This verdict isn't even wrong!"*

[11] Karl Popper, *The Open Society and its Enemies*, Rotledge & Paul, London 1962, vol. 2, pp. 251f.

[12] Rudolf E. Peierls in his homage to "Wolfgang Ernst Pauli, 1900-1958," *Biographical memoirs of fellows of the Royal Society*, Vol. 5, Royal Society 1960, pp. 175-192: "… a friend showed him the paper of a young physicist which he suspected was not of great value but on which he wanted Pauli's views. Pauli remarked sadly 'That's not right. It's not even wrong.'"

Appendix 8: Declarations by Defense Lawyers

Bossi & Ziegert

Rechtsanwälte

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VERTEIDIGERPOST
Herrn
Germar **Rudolf**
JVA Heidelberg
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17/07
Akten-Nr. bitte stets angeben

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27.04.2007
MP/uf/rudolf

Sehr geehrter Herr Rudolf,

gerne komme ich Ihrem Wunsch nach und erläutere Ihnen nachfolgend noch einmal das Zustandekommen der damaligen Absprache mit Gericht und Staatsanwaltschaft hinsichtlich der erfolgten einvernehmlichen Beendigung Ihres Strafverfahrens:

Zunächst ist festzuhalten, dass die Hauptursache für die Gesprächsbereitschaft des Gerichts und der Staatsanwaltschaft in dem vorausgegangenen Strafverfahren gegen Ernst Zündel vor einer anderen Strafkammer des Landgerichts Mannheim zu sehen ist. Wie allgemein bekannt, fand insbesondere durch die Rechtsanwältin, Frau Sylvia Stolz, in dem vorgenannten Zündel-Verfahren eine reine Konfliktverteidigung statt mit dem Ergebnis, dass das Strafverfahren aufgrund einer Vielzahl von Beweis- und Befangenheitsanträgen in eine extreme Länge gezogen wurde.

Die hieraus resultierende berechtigte Sorge des Gerichts und der Staatsanwaltschaft, dass auch in Ihrem Strafverfahren eine solche Prozessverschleppung

durch Ihre damalige Verteidigerin, Frau Rechtsanwältin Sylvia Stolz, stattfinden könnte, war zum einen die Grundvoraussetzung für die Gesprächsbereitschaft des Gerichts und zum anderen unser entscheidender Trumpf für das Erreichen eines für Sie erträglichen Strafmaßes. Nachdem von meiner Seite erste Annäherungsgespräche mit der Beisitzenden Richterin von der 2. Strafkammer und dem Staatsanwalt stattgefunden hatten, und ich diesen Gesprächen entnehmen konnte, dass das Gericht tatsächlich die eben beschriebene Sorge der Prozessverschleppung hatte, unterbreitete ich dem Gericht folgenden Vorschlag: **Der Angeklagte Germar Rudolf wird ab sofort keinerlei Anträge, insbesondere keine Beweisanträge, mehr stellen, wird sich insbesondere zur Sache nicht mehr äußern und seiner bisherigen Rechtsanwältin, Frau Sylvia Stolz, das Mandat mit sofortiger Wirkung entziehen. Damit kann die Beweisaufnahme geschlossen werden und in Kürze ein Urteil ergehen. Im Gegenzug hierfür fordere ich eine Freiheitsstrafe in Höhe von 2 Jahren.**

Nachdem das Gericht und der Staatsanwalt eine Strafvorstellung in Höhe von 4 ½ bis 5 Jahren im Falle einer Verurteilung und bei streitiger Verhandlung hatten, einigten wir uns schließlich auf die dann erkannten 2 ½ Jahre Freiheitsstrafe. Aufgrund Ihrer einschlägigen Vorstrafe und der nach Ansicht des Gerichts klaren Beweislage waren die abgesprochenen 2 ½ Jahre Freiheitsstrafe das absolut Mindeste, was Gericht und Staatsanwaltschaft, wenn auch „mit Bauchschmerzen", mir zusagen konnten. Die Verständigung über eine noch geringere Strafe scheiterte insbesondere daran, dass Ihr Strafverfahren ein so genannter Berichtsfall war, d.h., dass die Staatsanwaltschaft verpflichtet war, über den Ausgang Ihres Verfahrens an die Generalstaatsanwaltschaft zu berichten.

Ich betone nochmals, dass außer den oben genannten Bedingungen (Kündigung der Mandate der Rechtsanwälte Stolze u. Rieger durch Herrn Rudolf, keine weiteren Anträge jeglicher Art und Rücknahme etwaiger bestehender Anträge) **keine weiteren Zusagen durch uns getätigt werden mussten bzw. getätigt wurden**. Insbesondere war nie die Rede davon, dass Herr Rudolf sich, in welcher Form auch immer, von seinem bisherigen Gedankengut lossagen musste. Herr Rudolf musste selbstverständlich auch keine Zusage über eine etwaige Aufklärungs- bzw. Ermittlungshilfe hinsichtlich seiner im Geiste nahe stehenden Personen abgeben.

Im Übrigen weise ich darauf hin, dass beide zuvor genannten Punkte auch deshalb völlig abwegig sind, weil zum einen das deutsche Strafrecht kein Gesinnungs-, sondern ein Schuldstrafrecht ist und somit die innere Haltung und die Gedanken des Angeklagten nicht zur Diskussion stehen, und zum anderen eine Verpflichtung eines Angeklagten, Aufklärungshilfe zu leisten, unabhängig von der rechtsstaatlichen Problematik in diesem Zusammenhang auch gar nicht mit rechtlichen Mitteln durchsetzbar gewesen wäre, weil das Urteil gleich rechtskräftig wurde.

Schließlich möchte ich noch anmerken, dass diese einvernehmliche Lösung Ihres Strafverfahrens vor allem auch deshalb möglich war, weil Ihr Verfahren relativ am Anfang stand und unserer einzigen Zusage (keine Prozessverschleppung) somit besondere Bedeutung zukam.

Insgesamt betrachtet hatten wir eben die richtige Schwachstelle des Verfahrens erkannt und zum genau rechtzeitigen Zeitpunkt gehandelt.

Sehr geehrter Herr Rudolf, ich hoffe, ich habe Ihnen die Umstände und die Bestandteile der damals getroffenen Vereinbarung nochmals verständlich schildern können. Bei Rückfragen stehe ich Ihnen selbstverständlich jederzeit zur Verfügung.

Mit freundlichen Grüßen

Maximilian Pauls
Rechtsanwalt

Bossi & Ziegert
Attorneys at Law

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Defense Attorney Mail
Mr.
Germar Rudolf…

Rolf Bossi
Prof. Dr. Ulrich Ziegert
Markus Schwarz
Maximilian Pauls…

April 27, 2007
MP/uf/Rudolf

Dear Mr. Rudolf,

It is my pleasure to comply with your wish and to subsequently explain once more how the plea bargain with the court and the prosecution came about regarding the recent closure in mutual agreement of your penal proceedings:

First it has to be affirmed that the main reason for the court's and the prosecution's preparedness for a dialog is to be seen in the preceding penal trial against Ernst Zündel in front of a different penal chamber of the Mannheim District Court. As is generally known, a pure confrontational defense took place during the aforementioned Zündel trial especially by the lady lawyer Sylvia Stolz. As a result of this the proceedings were dragged out to an extreme length due to a multitude of motions to introduce evidence and to challenge the judges on grounds of bias.

The justified worry of the court and the prosecution resulting from this that such a protraction of the trial by your then lawyer Mrs. Sylvia Stolz could happen in your trial as well, was on the one hand a basic prerequisite for the preparedness of the court for a dialog and on the other hand a decisive trump card to achieve a bearable sentence for you. After the first talks of rapprochement had been conducted by me with the associate lady judge of the 2nd Penal Chamber and the prosecutor and after I could glean from these talks that the court indeed had the worries described above about a protraction of the trial, I presented the following suggestion to the court: **The defendant Germar Rudolf will from now on file no more motions, in particular no motions to introduce evidence, will not make any statements in the matter anymore and will cancel the appointment of Mrs. Sylvia Stolz as his lawyer with immediate effect. Hence the taking of evidence can be closed and a verdict can be pronounced shortly. In turn I demand a prison term of two years.**

Since the court and the prosecution had in mind a prison term of 4½ to 5 years in case of a conviction and of a confrontational defense, we finally agreed upon the 2½ years eventually handed down. Due to your previous conviction of the same kind and the clear evidentiary situation in the court's opinion, 2½ years was the absolute minimum which the court and the prosecution could promise me, if only with a "belly ache." An agreement about an even lower sentence failed in particular because your penal trial was a so-called report case, which means that the prosecution was obligated to report the outcome of your trial to the attorney general's office.

I emphasize once more that apart from the conditions mentioned above (cancellation of the lawyer contract with Stolz and Rieger by Mr. Rudolf, no further motions of any kind and withdrawal of any pending motions) **no further promises had to be made and were made**. There was in particular never the talk about that Mr. Rudolf had to distance himself in what way ever from his heretofore held views. Needless to say that Mr. Rudolf also did not have to make a promise about any assistance for gathering information about or investigating against likeminded individuals.

In addition I point out that both above mentioned points are totally wrong also because the German penal law does not prosecute persuasions but rather guilt, which is why the internal attitude and the thoughts of a defendant are not up for discussion. Moreover a commitment of a defendant to help gath-

er information, apart from the legal problems in this context, could not have been legally enforced because the verdict became effective immediately.

Finally I would like to mention that this solution for your trial in mutual agreement has been foremost possible also because your trial was still in a relatively early phase and thus our promise (of not protracting the trial) had special relevance.

All things considered we simply had spotted the weak spot of the trial and have acted at the right time.

Dear Mr. Rudolf, I hope that I have once more been able to describe comprehensibly the circumstances and components of our accord agreed upon at that time. If you have any queries, I will of course be of service at any time.

Sincerely Yours

(signed) Maximilian Pauls, Attorney at Law

LUDWIG BOCK
RECHTSANWALT

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10.04.2007

Sehr geehrter Rudolf!

Vielen Dank für Ihr Schreiben vom 2. April.

Natürlich ist es nicht richtig, wenn behauptet wird, Ihre "milde" Strafe sei auf eine Bereitschaft zur Bekämpfung des Revisionismus zurückzuführen. Diese falsche Behauptung ist entweder dumm, oder - schlimmer - bösartig.

Zu dem Ergebnis kam es nicht durch Bedingungen, welche die Strafkammer gesetzt hatte, sondern dadurch, dass seitens der Verteidigung mit der Staatsanwaltschaft Kontakt aufgenommen worden war. Nachdem die Staatsanwaltschaft signalisiert hatte, mit einer Freiheitsstrafe von zwei Jahren und sechs Monaten sich zufriedenzugeben, fand, nachdem dies zuvor mit Ihnen besprochen worden war, eine gemeinsame Besprechung von Staatsanwaltschaft, Verteidigung und Gericht im Beratungszimmer statt. Hierbei war zu erkennen, dass das Gericht nicht über einen entsprechenden Antrag der Staatsanwaltschaft hinausgehen würde. Deshalb wurden auch sämtliche noch nicht beschiedene Beweisanträge von der Verteidigung und Ihnen zurückgenommen.

Nachdem dieses Ergebnis auch tatsächlich erreicht wurde, war es empfehlenswert, dieses Urteil auch gleich rechtskräftig werden zu lassen, da nicht auszuschließen war, dass die Staatsanwaltschaft von vorgesetzter Stelle Weisung bekäme, trotz antragsgemäßer Entscheidung des Gerichts Revision gegen das Urteil mit dem Ziel einer höheren Verurteilung einzulegen. Durch die eingetretene Rechtskraft nach Rechtsmittelverzicht durch uns und die Staatsanwaltschaft wurde dies unmöglich.

Durch die eingetretene Rechtskraft verwandelte sich Ihre Untersuchungshaft in Strafhaft. Dies wiederum führte zu den bekannten besseren Haftbedingungen.

Mit freundlichen Grüßen
Ludwig Bock
Rechtsanwalt

Ludwig Bock
Attorney at Law

Attorneys L. Bock, Liebfrauenstr. 10, 68259 Mannheim …

Defense Attorney Mail
Mr.
Germar Rudolf…

April 10, 2007

Dear Mr. Rudolf!

Thank you very much for your letter of April 2.

Of course it is not correct when it is claimed that your "lenient" punishment is to be ascribed to your preparedness to fight revisionism. This false claim is either stupid or – worse – malicious.

The result was achieved not due to conditions set by the penal chamber but because the defense had initiated contact with the prosecution.

After the prosecution had signaled to be satisfied with a prison term of two years and six months, a dialog between prosecution, defense team and the Court took place in a conference room, after this had been previously discussed with you. There it could be ascertained that the Court would not go beyond what the prosecution would ask for. That is also the reason why all motions to introduce evidence which had not yet been decided were withdrawn by the defense team and by you.

After this result had indeed been achieved, it was recommendable to let this verdict take effect at once, since it could not be ruled out that the prosecution would receive an order from a superior position to apply for a revision of the verdict with the aim to reach a higher prison term, and this in spite of the fact that the Court had ruled in accordance with the prosecution's request. By letting the verdict take effect and by foregoing any further legal remedy by us and by the prosecution, this has become impossible.

Due to the verdict taking legal effect, your investigative custody changed to penal custody. This in turn led to the known improved conditions of detention.

Sincerely yours

(signed) Ludwig Bock
Attorney at Law