

Lecture. Freiburg. 26 July 2011

## Hans-Heinrich Jescheck: The Formation of Character<sup>1</sup>

Prof. Dr. Dr. h. c. mult. Luis Arroyo Zapatero President  
*of the Société Internationale de Défense Sociale*



In January of this year, the directors of the institute asked me to prepare not only a report on Hans-Heinrich Jescheck's relationship with Spain for the congress in his honour, but also a *dinner speech* on the personal background of this great master.

I have had something to do with the fact that I had just met a group of Spanish lawyers who had completed part of their training in Germany at the beginning of the 20th century. I would like to dedicate today's lecture to the true founder of this institute, but also to the young academics – especially the foreign guests – and the current and future alumni who are preparing their doctoral theses in criminal law and criminology here. It is anything but easy to understand today's Germany and Europe, as the recently deceased

writer and historian *Tony Judt*, without recalling the terrible hardships of the post-war period, the founding period of Europe.

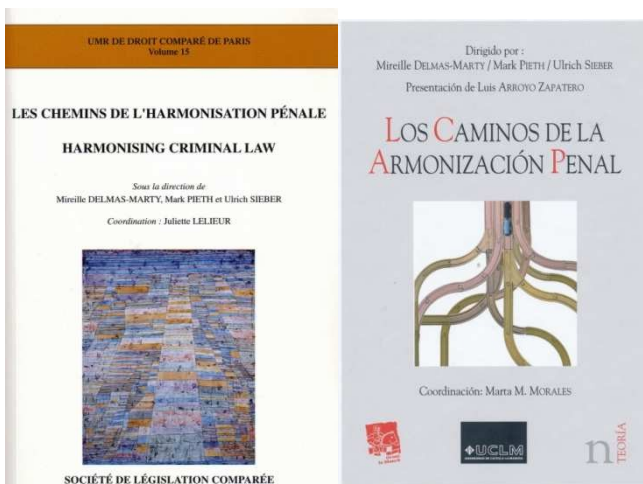
On the other hand, I firmly believe that the lessons of history and cultural differences must be the subject of comparative law more than ever, especially when today's goal is no longer to compare foreign law with interpretation of national law, but rather to achieve a comprehensive understanding of the nature of institutions, as in the context of the MPI's major project "Virtuel-les Institut". It is simply the task of comparative law to contribute to the international harmonisation of legal systems . The basis for this is the

hybridisation of systems invoked by *Mireille Delmas Marty Sieber*, not the imposition of one system over others,



supposedly inferior ones.

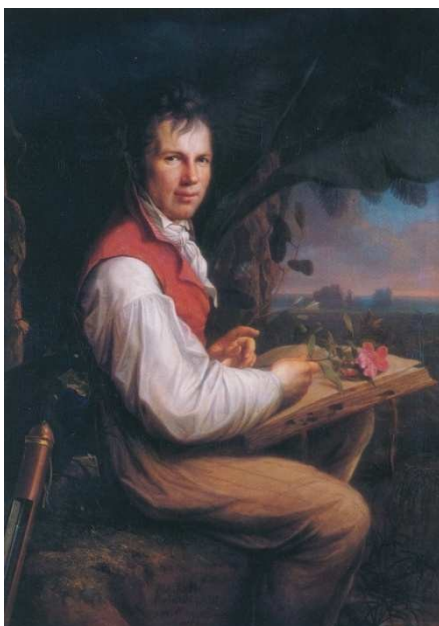
Globalisation is not only the free movement of goods and people, but also the establishment of a global community of relationships and values, as can be seen in the following photo





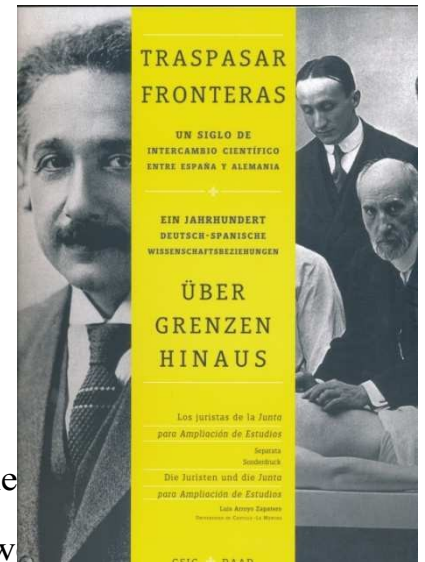
Professors He Binson, Arroyo Zapatero Komissariov (seated) and Professor Muñoz Conde (standing in the centre)

I would like to thank Axel Blumenberg, a doctoral student at my Spanish institute, for the German version of this lecture. I would also like to express my sincere gratitude to the student assistants Jan Philipp Köster, Daniel Hannemann and Jorge Oliveira e Carmo. Special thanks also go to Johanna Rinceanu, who does a great job as guest relations manager.



I would also like to express my sincere gratitude to the Alexander von Humboldt Foundation, which is currently enabling me to stay at the MPI through a generous scholarship.

My work last year served to prepare an exhibition on the personalities and work of Spanish scientists who pursued postgraduate studies in Germany in the first thirty years of the last century with the support of *the Junta de Ampliación de Estudios*. The JAE is the Spanish equivalent of the Kaiser Wilhelm Society.



To understand the significance of this mobilisation, you need to go back to the period between 1907 and 1936, there were only 140 lawyers who worked at foreign universities on scholarships. A good half of these 140 scholarship holders applied for a research stay at German universities.

The reasons for such a strong Germanic vocation among the young Spanish lawyers of the generation we know as "that of 1914"

or the "Silver Age" generation, are very well expressed in the texts of *Ramón Carande* and

*Antonio Ayala*. This generation is the older also



after its most famous representative as the generation of *Ortega y Gasset* (the most important Spanish philosopher).



*Carande* – author of three volumes on the bankers of

Charles V – reports in a delightful text on Wilhelmine Germany that most students of *the JAE* chose German universities

because they surpassed other European universities in

. This was particularly true of universities of Napoleonic character, which were notable above all for their bureaucracy and outdated centralism. Twenty years later, for the generation of *Francisco Ayala* – constitutional lawyer, sociologist and man of letters – the appeal was even

even greater: "The goal par excellence was Germany. Culturally,

Spain had become part of But in order to achieve this, close contact with the European map again. Germany was crucial

But close contact with

Germany was crucial."

"And besides," *Ayala* continues, who just passed away at the age of 103,

"Germany was the fertile ground for

many admirable works, so many philosophers and scientists

and authors of the books that we read, translated and published under the direction of *Orte*

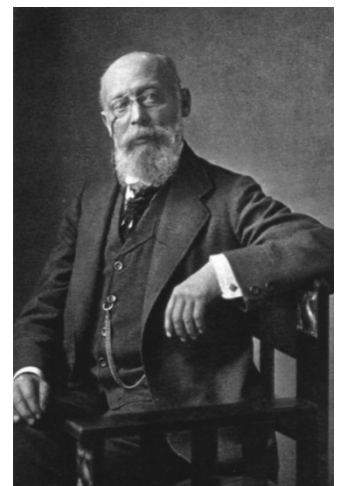
*ga y Gasset*. Germany was the intellectual centre that attracted everyone's attention."

This intimate relationship bore fruit in various areas of law, particularly in criminal law. The

criminal lawyers had studied with *von Liszt* in seminar.



*Francisco Ayala*





The best example is *Luis Jimenez de Asua*.



Regardless of methodological variations and political disputes, it can be said that Spanish criminal law science owes its Germanic-influenced modernisation to those who were *IAE scholarship* holders, especially *Luis Jiménez de Asúa* and *José Antón Oneca*. As you know, German is still the working language of the vast majority of Spanish criminal law scholars today.

But the story continued:



Among the students of *Jiménez de Asúa* and *Antón Oneca* was *Marino Barbero* – already a doctor in Bologna – who in 1959 became the first Spaniard to come to Freiburg to study at Professor *Jescheck's* institute.

The result of this story was that, when I finished my studies during the Franco dictatorship

, I was sent to Germany by my doctoral supervisor *Barbero Santos*.

In 1977, fresh from my doctoral studies as a DAAD scholarship holder at the Institute for Criminal Law at the University of Cologne, where I had enjoyed the personal and academic hospitality of Professor *Hans Joachim Hirsch*, I accompanied *Marino Barbero Santos* on his move from Valladolid to the University of Madrid. There, *Barbero* had organised the first general criminal law congress of Spanish democracy criminal law experts to attend.



In 1977, following the first general and free elections, the Spanish constitution and with it the social and democratic constitutional state were within reach. I met *Jescheck* for the first time on the grand staircase of the hotel where the first congress of the Spanish national group of the AIDP was being held. The congress took place in Madrid and in the bishopric town of Plasencia, *Barbero's* birthplace.



I introduced myself and told him my brief life story. He was discreetly surprised that *Barbero* had not sent his first student to the MPI. *Jescheck* had certainly never learned that my fate had to do with the change in house rules on the occasion of the institute's move to its new and excellent building.



*Aufnahme Foto-Stöber*

*Institut für ausländisches und internationales Strafrecht in Freiburg i. Br.*



Things were no longer the same there as they had been before, namely 24-hour free access, books carried back and forth and a separate key for each guest. All this could not continue in an institute the size of the new one.



The young Spanish guests at that time had complained to *Barbero* about the new access restrictions and found support from the Italians; after all, *Barbero* was a doctor of the University of Bologna. As the oldest guest at the institute, it was up to him to raise the complaint at the institute director's summer soirée and fight like *Don Quixote* against windmills. The complaint was unsuccessful, so I was sent to Cologne. There I was able to enjoy the teaching and the well-known hospitality of *Hans-Joachim Hirsch*. Over time, this young professor from Cologne was to become *Jescheck's* close personal confidant.



I can still vividly picture *Jescheck's* appearance on that imperial staircase: tall, elegant, self-assured and at the same time friendly and almost majestic the classic ideal of a German professor. All of *Jescheck* since the moment *Barbero* told us newly minted lawyers in Valladolid in 1973 about the flourishing landscapes and protagonists that could one day shape the world of our vocation. Three of the students present at that meeting later became full professors of criminal law<sup>2</sup>.



One of these magical places that *Barbero* had raved about – the Max Planck Institute

Freiburg – for the first time in the summer of 1982.

*Jescheck* had invited me to one of his popular travel lectures, which he gave in the institute's auditorium in front of the institute's members and the guests that summer.

Today, everyone travels: rich and poor, professors and students.

But a hundred years ago, hardly anyone travelled unless it was to emigrate, to wage war or if you were a musician.

The invention of educational travel with the aim of exploring geography and history

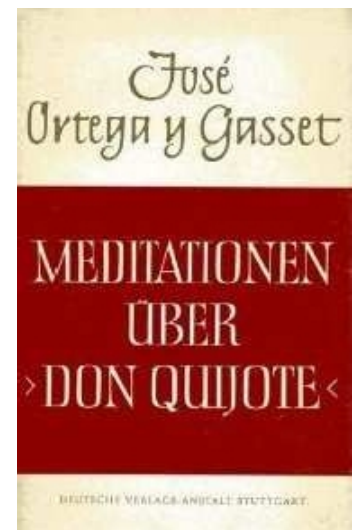
is a recent development. However, travel is

, like sport, to the image of the modern hero<sup>3</sup>.

This is how *Ortega y Gasset* put it in his reflections

on *Don Quixote*<sup>4</sup>. *Jescheck* took this path with the traditional

school-leaving trip from a grammar school in a small German town in 1930<sup>5</sup>.



My relationship with the institute thus begins with *Jescheck* in the guise of the "modern hero". Strictly speaking, however, only those who live up to the

claim of the modern hero who concludes his travels with a travelogue. In this case, it was a trip to Turkey and a lecture with numerous slides. *Jescheck* discovered Turkey from the borders of ancient Greece to its oriental foothills. He talked about the great monuments of history, the universities and law faculties. The director revelled so much in his travel memories that he did not mention with a single word that these were the years of military dictatorship. Suddenly, a young assistant in the back row shouted, "Torture, torture!" Although he did not stand up, we could all admire his mighty blond



curly mane. At that moment, no one could have imagined that this young man would one day become the director of the institute – albeit the criminology department.

At moments like these, I always asked personal qualities had shaped *Jescheck's* character throughout his life. Today, I would like to present the results of my reflections to you. In doing so, I have also dealt extensively with the cultural history of criminal law and criminal lawyers. This encompasses a wide range of concepts and principles, methods and institutions, and extends geographically from Warsaw to Madrid and Lisbon to

Santiago de Chile and Mexico. This is nothing less than the sphere of influence of *Franz von Liszt* and the continental legal system<sup>6</sup>.

Jescheck's outstanding scientific and human character was shaped firstly by a solid scientific education with A-levels and university studies, secondly by ten long years of military service and captivity as a prisoner of war, and thirdly, in the post-war period, by the personal and collective impetus for the material and spiritual reconstruction of Germany.



All of this can be clearly seen in his contribution to the volume *Strafrechtler in Selbstdarstellung (Criminal Law Scholars in Self-Portrayal)*, edited by Hilgendorf.

Hard work, tenacity, systematic thinking and the ability to see beyond the horizon are undoubtedly among the personal qualities that made it possible to make these three stages of his life phases<sup>7</sup> fruitful and forged Jescheck's character.





The foundations for his academic career were laid at the exclusive Humboldt Knight Academy in his birthplace of *Legnitz*, which was open to the city's students. The curriculum at that time included Latin, Greek, art, history and archaeology. *What times!*



On the aforementioned study trip to *Magna Grecia*, from Athens to Syracuse, on the Acropolis to be precise, he made the decision to become a professor. Illuminated by the splendour of the Erechtheion, *Jescheck* felt the hand of the great archaeologist *Wilhelm Dörpfeld* on his shoulder in this magical moment. This gesture was enough to ignite the fire of intellectual curiosity in *the young Jescheck*. Against this backdrop, the choice of topic for his school-leaving speech comes as no surprise: "The Spirit of Weimar and the Spirit of Potsdam" – no more and no less! <sup>8</sup>

Even his *time* at university was by no means

. To his surprise and delight, as a first-semester student he was invited by his professor of civil law, *Fritz Prinsgheim*, to a *soirée privée* and family reception



for doctoral students and staff.

invited which left a lasting impression

. After that came other teachers, *Erik Wolf* and *Eduard Kern*.

He heard *Martin Heidegger's* rector's speech

*Heidegger*, to which, by his own admission, he did not

attach the significance that it

later on<sup>9</sup>. But with him, there were

moments of greater personal closeness. At that time,

our young skier stayed overnight in the farmhouse

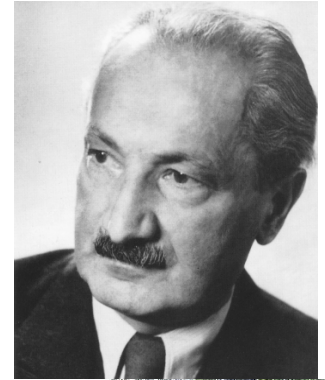
where the rector – also

an enthusiastic skier himself – stopped to stock up on the daily supply of milk

for his well-known hut in Todtnauberg<sup>10</sup>.

Nevertheless, it was not *Heidegger* who was to influence the young

*Jescheck*, but rather his teacher and *Heidegger's* successor as rector, *Eduard Kern*.



Today, we may ask ourselves what personal attitude towards

the regime a young man had who had taken up his studies six months

after the National Socialists seized power;

whether his personality – shaped by an education far removed from any form of extremism – was strong enough to resist the martial spirit of the times, or whether he allowed himself to be seduced by *Mephistopheles*, who promised order, race and material progress. To judge this, we know only one detail: the dean of the law faculty had scheduled a conference on legal education. However, the student leader forbade the students from attending. *Jescheck* defied him and took part in the conference. This gave him a reputation for political unreliability and made his life difficult to the point where his teacher and then rector advised him to spend the coming semester in Göttingen<sup>11</sup>.

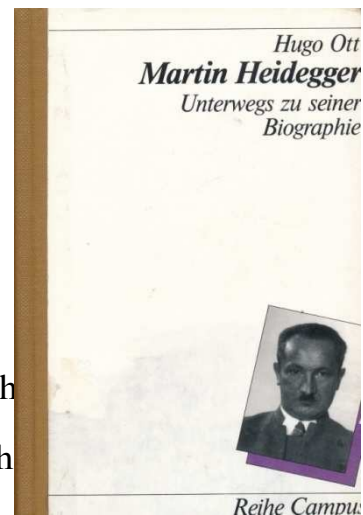
From the perspective of today's students, this anecdote may not seem particularly relevant. But anyone who has experienced dictatorship first-hand – even as a law student – knows that the debate about legal education is an extremely sensitive political issue. Publicly contradicting the student leader is an act of resistance and an affirmation of personal dignity in the face of dictatorial arbitrariness. This requires courage and conscience. *Jescheck* himself speaks of the disturbing impression that the events of this dark period had made on him, such as the sight of the brutal destruction of the Jewish student association *Neofriburgia*. Even greater must have been the horror of Kristallnacht in 1938, which "opened his eyes"<sup>12</sup>.

The University of Freiburg and its law faculty experienced these years very intensely. *Heidegger*, who was elected rector by the senate, promoted the university reform of the Baden government. At his own suggestion, the Führer principle was also followed at the university. In this way, he had his office confirmed on the basis of this principle. Meanwhile, *Heidegger* appointed *Erik Wolf* as dean of the law faculty, and Wolf became so infected by the spirit and manners of the era that his faculty colleagues demanded his resignation,

which, however, was incompatible with the Führer principle. These and other reasons ruined the political careers of Wolf and Heidegger. *Hugo Ott*, whose presence here I greatly appreciate, has studied and described Heidegger's intellectual process as rector very well. *Alexander*

*Hollerbach*, professor emeritus of our faculty, traced the the university and the faculty in h

*Freiburg*. *Bernd Grün* has written a good synthesis on *Kern's* rectorship. Unfortunately, *Kern's* memoirs have remained unpublished.







Another lasting legacy of *Kern's* rectorship worth mentioning is the acquisition of the university hut on the Schauinsland.

As a soldier, *Jescheck* fought in a 10-year war – the first two years as a conscript, the following six years as a front-line soldier and officer, followed by two years of captivity in an officers' camp in France. His military career progressed steadily from the rank of private to captain. It is striking that he used every exemption from frontline service and every injury-related leave of absence – he was seriously wounded three times – for study and personal education. It was an extraordinary combination of the war front and the desk. This enabled him to successfully prepare for the assessor's examination and to be accepted into the judicial service immediately after his return to civilian life. Other circumstances also contributed to positively influencing his later life.

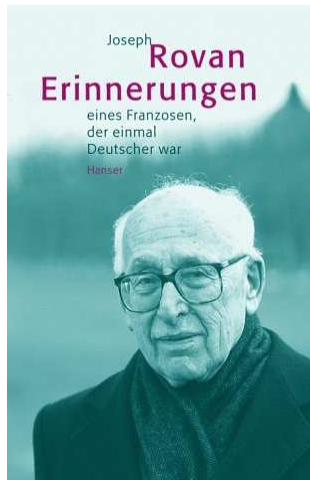


The first was the officer training course at the *École Militaire* in Paris, the second his participation in the organisation of university camps for prisoners of war. There he was appointed to

his first chair – a real field chair! – for criminal law. This experience can be found in his recently published *autobiography* and in his memoirs on this subject in the *Zeitschrift für juristische Zeitgeschichte* (Journal of Contemporary Legal History). This journal, edited by *Thomas Vornbaum*, is well known as the flagship publication for contemporary legal history and culture in German and European

criminal law scholarship<sup>13</sup>. I myself had the opportunity to hear this story from his own mouth when we met in September 2005 on the occasion of a seminar for the *Chemins de l'harmonisation* and visited him in his small office during office hours. Present at this meeting were the director, Prof. *Ulrich Sieber*, *Mireille Delmás-Marty*, *Mark Pieth* and myself. Of course, we had the opportunity to listen to his wonderful French, but this was intended primarily for the ears of the professor from the Collège de France.

Jescheck's character is very well portrayed in his experiences both in the officers' prison camp and in Saint Denis. As mentioned above, he himself recounted these experiences.



However, I have taken the opportunity these past few days to read the memoirs of *Joseph Rován*. *Joseph Rován* was commissioned by the Minister of War, *Edmond Michelet* (in General *De Gaulle's* first government), to investigate and improve the conditions under which German soldiers were housed. There were approximately one

million German soldiers, including 20,000 officers, who were "handed over" by the American forces to the French administration without any logistical provisions.

*Rován* had the special task of preventing the construction of "100 small roofed huts".

Both *Rován* and Minister *Michelet* were familiar with this experience, as they had been prisoners since September 1943

the Dachau concentration camp since September 1943, when they were captured as members of the French Resistance – namely as members of the Christian Democratic movement.



In addition, *Rován* was a Frenchman who had once been German, as can be read in the title of his memoirs. His family, of Jewish descent, fled to Paris in 1933.

fled to Paris in 1933. He completed his schooling education in Berlin and Vienna in order to



reunite with his relatives in Paris in 1934. Thanks to his perfect command of German and French, he was able to fulfil an important leadership role in the Dachau camp, comparable to that of the Spaniard *Jorge Semprun* in Buchenwald, who died a few days ago and was honoured in Germany, France and Spain.

For anyone interested in the "architects" of today's Europe, I highly recommend Semprun's biography "Von Treue und Verrat" (Of Loyalty and Betrayal) by *Francisca Augstein*.

With a mandate from the minister to combat the logistical and sanitary catastrophe, *Rovan* followed the example of the British and formed an official group for the reconstruction of Germany. *Rovan* preferred the term "*reorientation*" to the term "*resocialisation*" used by the Anglo-Americans.

He had selected a small group of young officers, and it is worth imagining this exciting scene and repeating his words to these men:

Quote from *Rovan*: "*Some of you told me in Mulsanne that you would like to help build a democratic Germany. I am now offering you the opportunity to begin this work by informing yourselves independently about the situation in the world, which National Socialist propaganda has kept from you. All the newspapers, magazines and*



*books you wish to read will be made available to you. Any public figure you wish to hear or question, I will invite here for a conversation with you. However, you will not be granted any further privileges: your meals will be the same as in Mulsanne, and you should not expect to be released early. 'I concluded my speech with, 'Think about it. I will come back to hear your answer.' It was positive."*

Of these seven German officers from Saint Denis, Jescheck was elected as spokesman.

*Jescheck even exerted his charm on Rovin! Rovin continues: "With his height of one metre ninety and his stocky build, he could have been considered the perfect prototype of a tall, blond Aryan. He was not only educated, but also sensitive, and we liked each other despite – or perhaps because of – our differences."*

The centre became a seminar for democracy and international relations. Among the speakers were men such as *Emanuel Mounier*, founder of *L'Esprit* (a magazine for intellectual Catholic progressives), where *Jescheck* published his first essay, and *Maurice Thorez*, chairman of the French Communist Party and vice-president of *De Gaulle's* government. By the time all these officers were released in 1947, the Saint Denis School had already "reoriented" 200 officers.

His patriotism was also evident in his participation, at the request of the Ministry of Justice, in the negotiations for the establishment of a European Defence Union (1952), in addition to his work on the Criminal Law Commission. This also represented an extraordinary opportunity for the reconstruction of Germany's legal and political relations with the Western powers. Five years after his imprisonment, *Jescheck* described this as a "breathtaking change of scene".

*Rovan* recounts the spectacular transition in *Jescheck's* fate: *"I'm back in Paris," he said. 'And what are you doing here?' I asked him. 'Quite simple,' he said, 'I'm a member of the German delegation involved in drafting a European military criminal code within the framework of the EDC. And believe me,' he continued, 'it's not so easy to enforce all the noble principles of freedom and democracy that we learned from you against the old reactionaries in the French military justice system.'"*

But our *Jescheck* is not only a fighter for his country after the war. He is also an internationalist. This is evident not only in his commitment to comparative law, but also in his need to understand this subject in its complex legal, historical and cultural contexts. In doing so, he has always advocated for encounters with other countries "on an equal footing".

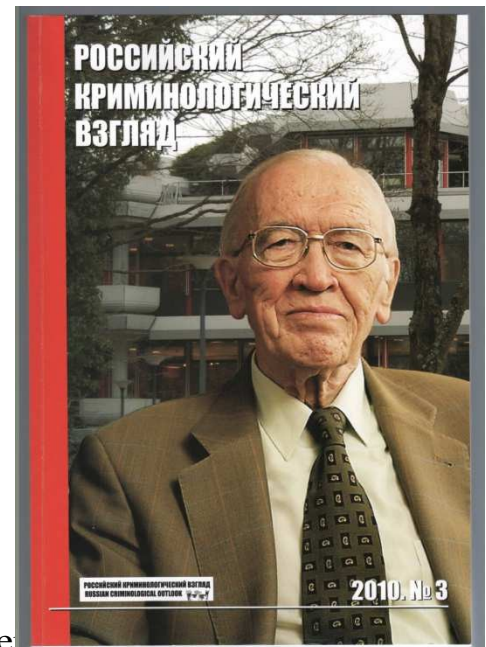


This is also evident in his active participation in international scientific organisations for criminal law, above all the AIDP, of which he was president. Today, this role is held by *José Luis de*

*la Cuesta*.<sup>15</sup> The same applies to the SIDS, whose "Conseil de Direction" he has been a member of since 1954. The Society for Social Defence has been helpful in this regard, particularly with regard to respect for fundamental rights. During my own presidency, he always supported me to the best of his ability, and you can imagine what means the words of the master for what was then a simple provincial rector.



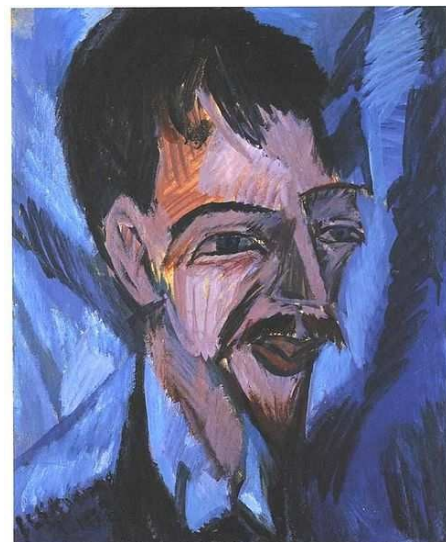
All this happened in the 1950s out of a deep desire to lead Germany back into the world and bring the world to Germany. In his sphere of influence – German criminal law and comparative law – he obviously succeeded completely.



What particularly surprises us foreigners is the effort which rebuilt a country from ruins. For most of those present here today, it is difficult to imagine<sup>17</sup> what life in

Germany, and especially here in Freiburg, was like – particularly after the terrible air raid of 27 November 1944. The city centre lay in ruins, with only the cathedral rising from the rubble. Hardly any university buildings remained standing, and there were even considerations of moving the university to Heidelberg. The provisional rector

, the physician *Sigurd Janssen*, who had been appointed only four days after the French occupation. The report of a very special German, who was in Freiburg at that time, is also illuminating in the context of the circumstances at the time.





days in the uniform of a French officer: *Alfred Döblin*, the author of "Berlin, Alexanderplatz"<sup>19</sup> .

"The whole of Freiburg, which had once flourished and shone, now consisted only of rubble, the smell of burning and chimney stumps. The city had been completely burned down, as in the Thirty Years' War," according to literary critic and witness *Horst Krüger*.

In order to properly assess the strength of this German generation, one must also be aware of the extent of destruction caused by the war. This catastrophe is unknown to the younger ones among us, especially the foreign guests at the institute.

Three images from Freiburg from this period can give a small idea of what it was like:





In this turbulent era, it is easy to find bad examples. But *Jescheck* found a far greater number of exemplary and upright personalities than these times might suggest at first glance. He admired the clarity and style of *Fritz Pringsheim*, the rhetorical talent of *Erik Wolf* and *Eduard Kern's* practical approach to criminal law. From the former – forced into exile – he also learned about the terrible consequences of racism. From the latter two, he was to learn what personal courage means, not in a military sense, but in relation to civil society: *Erik Wolf's* courage is evident in his renunciation of his fall from grace in 1933 and his active repentance in the form of his rapprochement with the resistance circles. *Eduard Kern* mustered the courage in 1943 to denounce the arbitrariness and illegal actions of the police in his well-known memorandum to the Reich Minister of Justice

<sup>20</sup>. The text is reproduced in his history of the judicial system.



*Jescheck's* courage is even more evident in his close and trusting relationship with a remarkable group of Freiburg professors, namely *Grossman-Doerth*, *Constantin von Dietz*, *Walter Eucken* and *Franz Böhm*, the founders of the Freiburg School of Ordoliberalism, who were also part of the resistance. They belonged

part of the Bonhoeffer Circle of the Confessing Church<sup>21</sup>. *Jescheck* maintained close contact with most of them during his various home leaves from the front.

However, in addition to his teachers, his tireless creativity and his courage, luck also played a decisive role in *Jescheck's* character development, as it does for all great men.

It takes a bit of luck to survive so many years of war, to become part of the camp university while in captivity, to get his first teaching job there, to impress the French camp management, and finally come to Bonn and help establish the first relations of the new Germany in Paris, participate in the great commission for criminal law reform, and in this way regain his lost senior seminar and finally participate in the revival of the old scientific societies. It is also luck to be able to habilitate with Kern in addition to his great work and commitment between Freiburg, Bonn and Tübingen, and at the same time take over *Schönke's* chair and institute. It is luck to have *Adolf Schönke* as a constant mentor at his side. The latter – a student of *Graf von Gleispach* and *Kohlrausch* in Berlin – knew the Berlin faculty exceptionally well



– as *Anna Maria Gräfin von Lösch*<sup>22</sup> brilliantly describes – the Criminal Law Institute of *von Liszt* and the Institutes for Foreign and Economic Law, International Law and Private International Law, which had been founded by the Kaiser Wilhelm Society in the early 1920s.



*Schönke* became a professor in Freiburg in 1938 and was commissioned by Berlin to establish an institute for foreign and international criminal law. Throughout the war, he travelled back and forth between Berlin and Freiburg. This resulted in an interesting connection with the OKW – for younger readers: *the High Command of the Wehrmacht* – under the leadership of Admiral *Canaris*. After 1945, *Schönke* worked tirelessly to rebuild international legal relations and revive scientific societies. This was a task in which he placed his firm trust in *Jescheck*. In view of his success, the elderly *Kohlrausch* bitterly remarked that from then on, *Schönke* should only be considered a pupil of James Goldschmidt

time on as a pupil of *James Goldschmidt*<sup>23</sup>. But what interests us here is the fact that he always supported *Jescheck*.

Last but not least, *Jescheck*'s particular good fortune is evident in the fact that, in the course of his long life, he has enjoyed the company of so many students, friends and admirers from all over the world. It is also fortunate



to have two successors at the institute he founded who honour him during his lifetime and beyond, and who, more than fifty years after his inaugural lecture, have renewed the institute's scientific research programme and adapted it to the challenges of the material and intellectual situation of our time.

Thank you very much for your attention!



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<sup>1</sup> Translation from Spanish by Axel-Dirk Blumenberg, research assistant at the Institute for European and International Criminal Law at the University of Castilla-La Mancha, Spain.

<sup>2</sup> See Berdugo, I., Arroyo, L., Terradillos, J., *Marino Barbero Santos, Professor and Magistrate*, in "Cahiers de Défense Sociale", 2001, p. 115 ff.

<sup>3</sup> See GARCIA-VELASCO, J.: La iniciación de un héroe moderno. In: de DIEGO, E. and GARCIA-VELASCO, J.: *Viajeros por el conocimiento*. Sociedad Estatal de Conmemoraciones Culturales. Madrid. Ed. Residencia de Estudiantes. 2010.

<sup>4</sup> *Meditations of Don Quixote* (1914), Alianza Editorial, Madrid 2001.

<sup>5</sup> Spain had to wait until 1933 for the first and last university excursion to explore the Mediterranean and *Magna Graecia*. With the outbreak of the Spanish Civil War, this tradition came to an abrupt end. The starting point for the trip at that time was the Faculty of Humanities in Madrid, and Manuel García Morente was responsible for organising it, cf. SAQUERO SUAREZ-SOMONTE, P. and MENDOZA TUÑÓN, J.: El crucero universitario por el Mediterráneo. In: LOPEZ-RIOS MORENO, S. and GONZALEZ CARCELES, J.A. (Coord.): *La facultad de Filosofía y Letras de Madrid en la Segunda República: Arquitectura y Universidad durante los años 30*. Sociedad Estatal de Conmemoraciones Culturales, Madrid. 2008.

<sup>6</sup> ARROYO ZAPATERO, L.: *The jurists of the Junta de Ampliación de Estudios/The jurists and the JAE*, in "Traspasar fronteras/Beyond Borders, A Century of Scientific Exchange between Spain and Germany/A Century of German-Spanish Scientific Relations". Madrid. CSIC-DAAD, 2010, p. 267 et seq.

<sup>7</sup> For biographical details, see SIEBER, Ulrich, "Hans-Heinrich Jescheck zum Gedächtnis" (In memory of Hans-Heinrich Jescheck). In: *Zeitschrift für die gesamte Strafrechtswissenschaft (Journal of Criminal Law)*, Berlin/New York, De Gruyter, vol. 121, no. 4, 2009, pp. 813-828; LEIBINGER, Rudolf, "Hans-Heinrich Jescheck zum 70. Geburtstag" (Hans-Heinrich Jescheck on his 70th birthday), in: VOGLER, Theo (ed.), *Festschrift für Hans-Heinrich Jescheck zum 70. Geburtstag (Commemorative publication for Hans-Heinrich Jescheck on his 70th birthday)*. Berlin: Duncker & Humblot, 1985, pp. 1-10; DREHER, Eduard, "Hans-Heinrich Jescheck in the Great Criminal Law Commission," in: *Festschrift für Hans-Heinrich Jescheck zum 70. Geburtstag*. VOGLER, Theo (ed.), Berlin: Duncker & Humblot, 1985, pp. 11-35. As well as JESCHECK, Hans-Heinrich, "Strafrechtliche Lehrjahre in Freiburg und Tübingen" (Criminal Law Apprenticeship Years in Freiburg and Tübingen) (Tübinger Universitätsreden, Tübingen, Volume 39, pp. 9 ff.), in: JESCHECK, Hans-Heinrich, *Beiträge zum Strafrecht. 1980–1998* (edited by Theo Vogler). Berlin: Duncker & Humblot, 1998, pp. 631 ff., cited as *Lehrjahre*; JESCHECK, Hans-Heinrich, *Selbstdarstellung*, in: HILGENDORF, Eric (ed.), *Die deutschsprachige Strafrechtswissenschaft in Selbstdarstellungen*. Berlin/New York: Walter De Gruyter, 2010, p. 169 ff.; On Prisoner of War Camps, JESCHECK, Hans-Heinrich, "Memories of the Centre d'études pour prisonniers de guerre allemands in St. Denis 1946/47" [First published in: *Bildung und Erziehung* (BuE 36), issue 1/March 1983, pp. 69-75], in *Jahrbuch der Juristischen Zeitgeschichte*, Baden-Baden, vol. 3, 2001/2002, pp. 60 ff.

<sup>8</sup> Self-portrayal, p. 170.

<sup>9</sup> *Lehrjahre*, p. 634.

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<sup>10</sup> Lehrjahre, p. 632. On the circumstances at the University of Freiburg and the rector at the time, see LÖWITH, Karl, *Mi vida en Alemania antes y después de 1933. Un testimonio* (1940) Trans. Ruth Zauner Madrid: Visor, 1992. German: *Mein Leben in Deutschland vor und nach 1933. Ein Bericht*. Reissued by Frank-Rutger Hausmann, with a foreword by Reinhart Kosellek, 2nd edition, 2007.

<sup>11</sup> Self-portrait, p. 171.

<sup>12</sup> Lehrjahre, p. 634.

<sup>13</sup> "Memories of the Centre d'études pour prisonniers de guerre allemands in St. Denis 1946/47" in *Jahrbuch der Juristischen Zeitgeschichte*, Baden-Baden, vol. 3, 2001/2002, p. 60 ff.

<sup>14</sup> Rovan, Joseph, *Memories of a Frenchman Who Was Once German*, Munich 2000.

<sup>15</sup> JESCHECK, Hans-Heinrich, "The Influence of the IKV and the AIDP on the International Development of Modern Criminal Policy" (Journal for the Entire Field of Criminal Law, No. 92/1980, p. 997 ff.), in: JESCHECK, Hans-Heinrich, *Contributions to Criminal Law. 1980 – 1998* (edited by Theo Vogler). Berlin: Duncker & Humblot, 1998, p. 495 ff.

<sup>16</sup> JESCHECK, Hans-Heinrich, "Comparative Legal Remarks on the Redesign of the Minimum Programme of Défense Sociale" Festschrift for Günter Blau. Berlin: 1985, p. 425 ff.], in: JESCHECK, Hans-Heinrich, *Contributions to Criminal Law. 1980 – 1998* (edited by Theo Vogler). Berlin: Duncker & Humblot, 1998, p. 511 ff.

<sup>17</sup> An overview can be found in MACDONOGH, Gilles, *Después del Reich, Crimen y castigo en la postguerra alemana*, (= After the Reich. From the Liberation of Vienna to the Berlin Airlift, Ed. J. Murray, 2007), translation by J. L. Gil Aristu, Galaxia Guttemberg, Barcelona 2010.

<sup>18</sup> "The whole of Freiburg, which had once flourished and shone, now consisted only of rubble, the smell of burning and chimney stumps. The city had been completely burned down, as in the Thirty Years' War," according to literary critic and witness Horst Krüger: *Freiburger Anfänge* In: Dietrich Kayer (ed.): *Ortsbeschreibung – Autoren sehen Freiburg* Rombach, Freiburg im Breisgau 1980, p. 39. A report by the rector about those days can be found in Starke, Klaus, *Die Geschichte des Pharmako-logischen Instituts der Universität Freiburg* (The History of the Pharmacological Institute of the University of Freiburg). 2nd edition, Springer Berlin Heidelberg 2007. Also in [de.wikipedia.org/wiki/Sigurd-Janssen](http://de.wikipedia.org/wiki/Sigurd-Janssen) (28 December 2010). See also Silke Seemann, *Die gescheiterte Selbstreinigung: Entnazifizierung und Neubeginn*, in Bernd MARTIN (ed.) *Von der badischen Universität zur Hochschule des 21. Jahrhunderts*, Karl Albert, Freiburg 2007, p. 536 ff.

<sup>19</sup> DÖBLIN, Alfred, *Schicksalsreise, Bericht, und Bekenntnisse*, Frankfurt am Main 1949, pp. 420-422: Letter to Ludwig Marcuse, from Baden Baden on 26 January 1946.

<sup>20</sup> S. Lehrjahre, p. 635

<sup>21</sup> Further information is available from the Walter Eucken Institute, <http://www.walter-eucken-institut.de/>.

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<sup>22</sup> GRÄFIN von LÖSCH, A. M.: *Der nackte Geist. Die juristische Fakultät der Berliner Universität im Umbruch von 1933*. Tübingen. Ed. Mohr Siebeck. 1999.

<sup>23</sup> GRÄFIN von LÖSCH, A. M.: *Der nackte Geist*. op. cit., p. 343.