



Federal Ministry
of Justice and
Consumer Protection



The Rosenberg Project

Information on the work done by the Independent Academic Commission at the Federal Ministry of Justice and Consumer Protection regarding the critical study of the National Socialist past

About the Rosenberg Project at the Federal Ministry of Justice and Consumer Protection

When the lawyers of the Nazi regime went on trial in Nuremberg in 1947, the failings of the German judicial system – spearheaded by the Reich Ministry of Justice – were condemned as crimes against humanity. But once the Federal Republic was established in 1949, the lessons were quickly forgotten. Jurists who had been major figures within the Nazi regime were soon returning to their desks.

maker and Christoph Safferling, the Commission examines the personnel-based and approach-based continuities at the Ministry from the Nazi period through to the post-war years of the early Federal Republic. It looks at the role played by lawyers in the Nazi regime and their subsequent activities in the “Rosenburg” (the first post-war seat of the Federal Ministry of Justice in Rosenberg Castle near Bonn). But the project is not merely an exercise in legal

history. Ultimately, it considers the implications for modern legal education (and for professional legal ethics in general) resulting from Nazism’s breach with civilization and the post-war failure to address it.

I believe that the Rosenberg Project should be understood as an awareness-raising initiative on democracy and human rights. This is why I attach great importance to making the project transparent and open to public involvement.

In keeping with the spirit of public

history, we want the research findings to stimulate widespread critical debate. Because examining the Nazi past is not simply about fulfilling a moral obligation. Knowing where the judicial system has failed in the past is a precondition for ensuring that the rule of law remains a powerful guarantor of freedoms and civil rights in the future.



Heiko Maas
Federal Minister of Justice and Consumer Protection

“The coalition will foster the critical examination of the National Socialist past of the ministries and the federal agencies.”

Coalition Agreement for the 18th Legislative Period

During the early post-war years, the Federal Ministry of Justice was riddled with lawyers who – in their capacity as officials in the Reich Ministry of Justice and other agencies – had served as willing accomplices of the Nazi regime. It became the modus operandi to draw a veil over the past while there was little sign of perpetrators being prosecuted, victims being rehabilitated or the judiciary being reformed in line with democratic principles.

Today, the failings of the post-war judicial system are universally recognized. Yet we know almost nothing about how ministries and other public authorities dealt with the legacy of Nazism in the 1950s and 60s. In order to address this deficit, the Federal Ministry of Justice and Consumer Protection set up the Independent Academic Commission for the Critical Study of the National Socialist Past. Under the chairmanship of professors Manfred Görte-



1. The research project

On 11 January 2012, the Federal Ministry of Justice and Consumer Protection set up an **Independent Academic Commission for the Critical Study of the National Socialist Past** chaired by Professor Manfred Görtemaker (Professor of Contemporary History, University of Potsdam) and Christoph Safferling (Professor of Criminal Law, Friedrich-Alexander University of Erlangen-Nürnberg). The Independent Academic Commission is tasked with **investigating the continuities in terms of personnel and political approach that extended from the Nazi era to the post-war activities of the Federal Ministry of Justice in the 1950s and 60s**. During this period, the Ministry had its official seat in the “**Rosenburg**” in Bonn and the project takes its name from that location.

for Nazi law and jurisprudence to remain effective in the post-war era and not be repealed or overturned? What was the Ministry’s stance towards the prosecution of Nazi criminals? Why were certain instruments – such as compensation for the victims of Nazi injustice – not used?

The heads of the Independent Academic Commission are tackling this broad range of issues in collaboration with an interdisciplinary team of experts including Professor Thiessen (Eberhard Karls University of Tübingen – for the field of economic law), Professor Schumann (Georg August University of Göttingen – primarily for the field of family and juvenile law) and Professor Will (EBS University of Wiesbaden – for the field of constitutional law).



Prof. Dr. Christoph Safferling



Prof. Dr. Manfred Görtemaker

The Independent Academic Commission is thus looking at **how the Federal Ministry of Justice dealt with its own National Socialist past**. This is closely linked to the question of **continuities in terms of personnel** at the Ministry. How many employees in the Ministry’s early post-war phase had been actively involved with the National Socialists? Who were they? What positions did they hold? The Commission furthermore aims to establish whether this resulted in **continuities of approach** tainting the Ministry’s work. For instance, how was it possible

Within this context, the key issues being investigated in the field of **criminal law** include:

- The position taken by the Ministry regarding the Nuremberg Trials and the prosecution of crimes perpetrated in connection with the Holocaust;
- Amnesty and the statute of limitations;
- The reversal of rulings handed down by Nazi courts;
- The reform of general criminal law and criminal law relating to juveniles;
- Political criminal law until its reform in 1968.

The considerable amount of work already carried out by the Federal Ministry of Justice on the reintroduction of military tribunals is also being analysed in more depth.

The aforementioned research is being done using source material from the Ministry's personnel and case files. Meanwhile, another important focus of the Commission's work is the atmosphere that prevailed in the Federal Ministry of Justice during that era. What exactly was the "**Rosenburg spirit**" so often mentioned at the time? How did people interact at the Ministry? How was the work done? Was the past ever a topic of discussion? In order to shed light on the daily events and routines at the Rosenberg, the Commission is concentrating on gathering **personal testimonies** from members of staff who served in the Ministry from 1950 until 1973.



The warped justice of the Nazi regime cast its shadow deep into post-war Germany. Photo: Roland Freisler, then the President of the People's Supreme Court (Volksgerichtshof) and former State Secretary at the Reich Ministry of Justice, during a show trial on 20 July 1944.

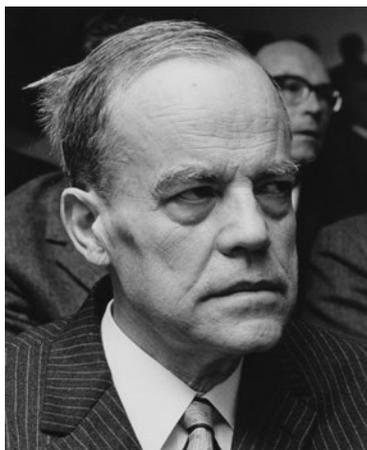
2. Personnel continuities

Based on the interim results of the Independent Academic Commission's critical study of the National Socialist past, we can assume that the cases revealed so far are merely the **tip of the iceberg** with many unsettling personal histories yet to be uncovered. The most prominent examples currently known include the following:

- The case of Franz **Maßfeller** – who prior to 1945 was employed in the Reich Ministry of Justice as head of the division for family law and race law, who attended the meetings following up on the Wannsee Conference, who published a commentary on the Law for the Protection of German Blood and German Honour (*Blutschutzgesetz*), and who continued to work at the Federal Ministry of Justice from 1945 until 1960 with the rank of permanent secretary (*Ministerialrat*) as head of the division for family law;
- The case of Eduard **Dreher** – who served as head public prosecutor (*Erster Staatsanwalt*) at the Innsbruck Special Court (*Sondergericht*) until 1945 and who was involved in the death sentences handed down by that court, and who subsequently worked for the Federal Ministry of Justice from 1951 until 1969, ending his career with the rank of assistant director (*Ministerialdirigent*), where he was responsible for the Introductory Act to the Act on Regulatory Offences of 10 May 1968 which gave amnesty (without the legislator's realization) to numerous individuals involved in committing Nazi atrocities;
- The case of Ernst **Kanter** – who was involved in handing down 103 death sentences prior to 1945 while serving as a “General Judge” in Denmark when the country was occupied by German forces, who likewise found subsequent employment with the Ministry (until 1958) as an assistant director (*Ministerialdirigent*), and who went on to become the presiding judge of a Senate at the Federal Court of Justice (*Bundesgerichtshof*);
- The case of Walter **Roemer** – director (*Ministerialdirektor*) and head of the public law department responsible *inter alia* for constitutional law, who

until 1945 had served as a public prosecutor at the Regional Court I (*Landgericht I*) of Munich and who was likewise involved in the death sentences handed down by this court, including the sentencing of members of the White Rose (*Weißerose*) resistance group;

- The case of Hans **Gawlik** – head of the central division providing legal protection to Germans prosecuted abroad (*Zentrale Rechtsschutzstelle*) in the Federal Ministry of Justice, prior to 1945 public prosecutor at the Breslau Special Court (*Sondergericht*), involved in handing down numerous death sentences and, after the end of the war, initially a defence attorney for the intelligence service SD (*Sicherheitsdienst*) of the SS and a number of deployment group heads (*Einsatzgruppenführer*) in the Nuremberg Trials.



Ministerialdirektor
Walter Roemer

One case that attracted particular attention both in Germany and abroad during the post-war period involved Max **Merten** who served in Nazi-occupied Greece as a military administrator (*Kriegsverwaltungsrat*) where he was responsible for dispossessing tens of thousands of Jews before sending them to the gas chambers. After the war, he was wanted in Greece as a war criminal. The Federal Ministry of Justice nevertheless redeployed him as head of the division for coercive execution. Following his arrest in Greece in the mid-1950s, the Ministry made considerable efforts to secure his release. He even received compensation for his period of imprisonment.

3. Public history – transparency through public involvement

The project initiated by the Federal Ministry of Justice and Consumer Protection forms part of a series of efforts pursued by federal ministries and government authorities to investigate and reassess this chapter of the German past. Some of these projects have already been concluded while others are still ongoing. The Rosenberg Project is nevertheless **breaking new ground**. Rather than being designed exclusively for historians and a limited audience of experts sitting in the “ivory tower” of scholarly research, it strives to involve the whole of society in terms of writing **public history** and encouraging people to critically engage with the work being done. Beyond the research itself and the resulting insights, the aim is to **initiate a broad critical discussion** with major emphasis being placed on **transparency**. This is particularly significant when considering one of the project’s main target groups – those who were persecuted by the National Socialists and their descendants

Numerous events of critical history have already been carried out by the Independent Academic Commission in conjunction with the Federal Ministry of Justice and Consumer Protection:

- The opening event to launch the project (survey of the research done so far) held on 26 April 2012 in the historic Plenary Chamber of **Berlin Higher Regional Court (*Kammergericht*)**: “The Rosenberg – The Federal Ministry of Justice and its Handling of the Nazi Past”;
- Second Rosenberg Symposium on “**The Responsibility of Jurists**” held on 5 February 2013 in **Courtroom Number 600 (*Schwurgerichtssaal*) of Nuremberg-Fürth Regional Court (*Landgericht*)**, the courtroom where the main war criminals went on trial before the International Military Tribunal. The symposium was attended by Gabriel Bach, former judge at the Supreme Court of Israel and deputy prosecutor in the Eichmann trial;
- Third Rosenberg Symposium held on 8 May 2013 in the European Academy in Berlin: “**How Ministries and Other Federal Institutions Are Examining Their Nazi Past**” (also known as

the **First “Critical Examination Conference”**), featuring many contributions from the other historical commissions that have studied or are still studying the federal ministries and federal authorities in this regard;

- Presentation of the Rosenberg Project on 8 July 2013 at the **Institute of Contemporary History** in Munich, an event attended by the former Federal Minister of Justice Hans-Jochen Vogel;
- Fourth Rosenberg Symposium held on 21 October 2014 at the **Federal Court of Justice in Karlsruhe** on “**Examining the Judiciary’s Nazi Past – Perpetrators, Victims, Justice**”, which focused on the post-war judicial system and its handling of the National Socialist legacy;
- Fifth Rosenberg Symposium held on 26 April 2016 at the “**House of the Wannsee Conference**” in Berlin on “**The Early Federal Republic and the Nazi Past**” (the so-called **Second “Critical Examination Conference”**), during which the different expert commissions set up at the federal level exchanged ideas about methods, results and the implications of their research work;



5th Rosenberg Symposium

- Sixth Rosenberg Symposium held on 29 June 2016 at Bucerius Law School in Hamburg on “**The Rosenberg – Implications for the Professional Ethics of Lawyers**”, where the focus was on the project’s international aspects and the interim findings of the research work with regard to professional legal ethics.

The results of the inaugural event were published in the book “**Die Rosenberg: Das Bundesministerium der Justiz und die NS-Vergangenheit – eine Bestandsaufnahme**” (The Rosenberg: The Federal Ministry of Justice and its Nazi Past – An Appraisal). This volume was presented to the public on 10 June 2013 in the Theodor-Haubach-Saal of the **Press and Information Office of the Federal Government**. At the presentation event, the author **Ralph Giordano** delivered a highly acclaimed speech that has since been published as “**Der perfekte Mord – Die deutsche Justiz und die NS-Vergangenheit**” (The Perfect Murder – the German Judiciary and its Nazi Past).

There have also been discussions about the Rosenberg Project with **numerous groups and individuals**. Apart from associations representing the legal professions (such as the **German Federation of Judges** and the **Association of German Attor-**

neys), these include the various Jewish associations (headed by the **Central Council of Jews in Germany**) as well as the **International Auschwitz Committee** and the **Central Council of German Sinti and Roma**. The heads of the Independent Academic Commission have also conducted talks with constitutional judges from Latin America and subsequent Nobel Peace Prize winners from Tunisia. In addition, various groups of students and other young people from Germany and abroad have been invited to the Federal Ministry to discuss the Rosenberg Project with Minister Maas (including a group of senior pupils from the Ida-Ehre-Schule in Hamburg who had been awarded the Bertini Prize for young people demonstrating civil courage).



Historical document: general meeting of Ministry staff at the Rosenberg in the late 1960s

4. Public reaction

The response to the Rosenberg Project has been considerable. Everyone who has come into contact with the project has expressed their **great enthusiasm and unreserved support**. This particularly applies to the associations of those persecuted under the Nazi regime and their descendants. The Central Council of Jews in Germany has described the research done at the Federal Ministry of Justice on investigating the “aftermath” of the Shoah as **irreplaceable**. In 2014, the **Union of Progressive Jews in Germany** awarded the **Israel Jacobson Prize** to Federal Minister Maas for his commitment to the Rosenberg Project and for involving the general public.



Heiko Maas receiving the Israel Jacobson Prize on 25 July 2014 from Sonja Guentner, President of the Union of Progressive Jews

The “Rosenburg Files – A Study of the Involvement of Former Party Members in the German Justice Ministry Post-World War II” received a similarly positive reception from Jewish associations in the USA when presented on 17 November 2014 at the **Leo Baeck Institute in New York** in cooperation with the American Jewish Committee. At a presentation of the Ministry’s research into its Nazi past at the **German Historical Institute in Washington**, the reaction of the American public was equally favourable. Particular interest has furthermore been expressed by the Israeli Government. Federal Minister Maas has already presented the project in **Israel** on several occasions and will be introducing the results of the project there in autumn 2016.

Shortly after the Independent Academic Commission was set up, the Rosenberg Project was also presented to the **Bundestag Committee on Legal Affairs**. The representatives of all the parliamentary groups welcomed the Commission’s establishment and pledged to support its work.

The project has furthermore received a significant amount of **media attention** as evidenced by numerous press reports as well as a long-term documentary about the Commission’s work being produced by the ARD Berlin Studio. The unreserved support of the Ministry’s **Staff Council** has also helped to make the Commission’s work a great deal easier.

5. Outlook

The Rosenberg Project has also had an impact on the political sphere. The **Coalition Agreement** for the current legislative term reads as follows:

“The coalition will foster the critical examination of the National Socialist past of the ministries and the federal agencies. This is to begin by taking stock first of the current findings of research and then of the need for further scholarly work to be done at the federal level in order to deal with and come to terms with the history of the early post-war years of the ministries and agencies of the Federal Republic of Germany and of the GDR. In light of the enormous deficits exhibited by youth in their knowledge of the two German dictatorships in the 20th century, the task will furthermore consist of using effective means to better transfer such knowledge, such as political education in school and in extra-curricular programmes.”

In autumn 2016, the Independent Academic Commission will publish its concluding report in the form of a book entitled **“Die Akte Rosenberg: Das Bundesministerium der Justiz und die NS-Zeit”** (The Rosenberg Files: The Federal Ministry of Justice and the Nazi Era). But this concluding report does not mark the end of the Rosenberg Project. On the contrary – the results will then be made available to a wider audience with an illuminating and memorable **travelling exhibition starting in early summer 2017**. There will also be a continuation of the events accompanying the Rosenberg Project – with symposia in Bonn, Leipzig and Karlsruhe.

The Commission’s concluding report will itself require **careful analysis and evaluation**. One key issue is already emerging: why did lawyers in the Nazi period mutate into mere willing accomplices of the regime? How can we explain their lack of ethical integrity? Does traditional legal education in Germany produce mere “technicians of the law”? Is there a consequent need to reform legal education in Germany? And is there a similar need to redesign the advanced training of lawyers?

These questions will be addressed during the panel discussion entitled “When justice becomes injustice – How lawyers are responsible for the rule of law” at the 71st German Jurists’ Forum in Essen on 13 September 2016.

Further information (in German) about the Rosenberg Project is available at www.bmjv.de/Rosenburg



The Rosenberg (in the late 1960s)

Imprint

Published by:

The German Federal Ministry of Justice
and Consumer Protection
Mohrenstraße 37
10117 Berlin
Tel.: +49 (0) 30 18 580-0
Fax: +49 (0) 30 18 580- 9046

Weblinks:

www.bmjv.de
www.bmjv.de/Rosenburg

Design:

Atelier Hauer + Dörfler, Berlin

Photo credits:

Front cover: Gerd Nettersheim
Page 1: Werner Schuering
Page 2: Photothek
Page 3: Bundesarchiv, Bild 151/39/19A
Page 4: Bundesbildstelle, Bild 27559/35
Page 5: BMJV
Page 6: Bundesbildstelle, Bild 28828/8
Page 7: BMJV
Page 8: Bundesbildstelle, Bild 27373/9

Printed by:

Bonifatius, Paderborn

Last revised:

August 2016



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