

**The Concentration Camp SS 1936–1945:  
Excesses and Direct Perpetrators in Sachsenhausen  
Concentration Camp**

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**Günter Morsch (Ed.)**

**The Concentration Camp SS 1936–1945:  
Excesses and Direct Perpetrators  
in Sachsenhausen Concentration Camp**

An exhibition at the historical site

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Cover front:

Prisoners in front of "Tower A" in the command staff precinct.

SS propaganda photo, February 1941

*Getty images, Munich*

Cover inside:

Prisoners marching through the gate in "Tower A",

SS propaganda photo, February 1941

*Getty images, Munich*

Cover back:

SS officers in front of prisoners on the roll-call area, from left:

Report Leader Herrmann Campe, Block Leader Meyer, Menne Saathoff,

Max Hohmann, Werner Krämer, Erich Schröder, Erwin Seifert.

SS propaganda photo, winter 1940-41

*GuMS*

Inside cover back:

The other perpetrators exhibitions in the Sachsenhausen memorial

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**Prof. Dr. Erardo Cristoforo Rautenberg**

**District Attorney  
Dr. Fritz Bauer and the  
Criminal Prosecution  
of Nazi Crimes**

Fritz Bauer (\* July 16, 1903, Stuttgart; † July 1, 1968, Frankfurt am Main) was one of the most important post-war lawyers in the Federal Republic of Germany. After his death, he was quickly forgotten beyond Frankfurt am Main. His return to the collective consciousness began only after the biography of Irmtrud Wojak, which appeared in 2009, and the documentary film presented by Ilona Ziok at the Berlinale in 2010 (“*Tod auf Raten*”)<sup>1</sup>. In 2015 his media profile was higher than at any time previously. The contributions of Fritz Bauer to Germany’s confrontation with the darkest chapter in its history and to the democratization of the young Federal Republic of Germany are only now getting the recognition they deserve. As a “Jew” and active Social Democrat, he lost his judgeship in 1933 and was brought to the Heuberg Concentration Camp in Württemberg. In 1936, he fled to Denmark and then to Sweden. After the end of the Second World War, he belonged to the minority of Jewish émigrés who returned to the land of the perpetrators. Bauer’s aim was not only to pursue criminal prosecutions to address the wrongs committed during the Nazi regime. He also demanded that society examine the causes of those crimes in order to rule out any repetition of this unparalleled barbarism, an eventuality that Bauer considered quite possible. Since, for him, the Nazi state had stood in the tradition of the German authoritarian state, which he traced all the way back to the period of the Holy Roman Empire of the German Nation, Bauer believed it was important to eliminate its relics in the Federal Republic of Germany and to democratize society. While the majority of those who had experienced the

<sup>1</sup> There are also English, Russian, Polish, and Spanish versions of the film; a Portuguese and a French version are in preparation. See <http://www.fritz-bauer-film.de/> (accessed on October 13, 2015).

Nazi state at first-hand rejected Bauer's ideas, they were met with approval above all among the younger generation, with which he therefore sought contact.

Beginning in 1950, Bauer held the office of district attorney in Braunschweig, and there he laid the groundwork to ensure that the would-be assassins of July 20, 1944, could no longer be denounced as "traitors to the nation" without punishment. The court accepted Bauer's argument that the Nazi regime was an *Unrechtsstaat* (a state not based on the rule of law), because it perpetrated mass murder. Active opposition to that regime was thus justified, he argued, up to and including the bomb attack on Hitler.<sup>2</sup>

After Bauer became district attorney in Hessen in 1956, he "brought the criminal prosecution of Nazi crimes to a new high point in the years 1967 and 1968 and, following the Auschwitz and euthanasia trials, also made the crimes of the *Wehrmacht* (armed forces of Nazi Germany) and the participation of the German Foreign Office in the Nazi's 'final solution to the Jewish question' a topic discussed throughout society as a whole. As he told the press, well over 140 large and dozens of smaller Nazi trials were pending at the Hessian public prosecutors' offices in January 1968."<sup>3</sup>

One of his major achievements is considered to be the initiation of the first Auschwitz trial: "It was Fritz Bauer who, on February 15, 1959, formally requested that the *Bundesgerichtshof* (Federal Supreme Court) establish the jurisdiction of the District Court at Frankfurt am Main over all crimes committed in Auschwitz and Auschwitz-Birkenau according to § 13a StPO (Code of Criminal Procedure). The *Bundesgerichtshof* granted the request on April 17, 1959. On December 20, 1963, the main proceedings got underway 'versus Mulka, et al.,' the first Auschwitz trial. The sentence was pronounced

on August 20, 1965. Seventeen of the defendants were found guilty of murder or murder in concert and/or of jointly aiding and abetting murder in concert. It was a time when anyone who was willing to listen could start to understand the full extent of what had happened in Germany from 1933 to 1945."<sup>4</sup>

Overall, the effort to address Nazi crimes with criminal prosecutions was not successful, although one shudders to contemplate how poorly it would have fared without Fritz Bauer. With his death on July 1, 1968, the leading figure in the effort to apply criminal law to Nazi-era wrongs fell silent, which accordingly led to a decrease in prosecutorial pressure.

In a commentary that appeared posthumously, Bauer pointed out that the legal philosopher and former Minister of Justice Gustav Radbruch (\* 1878, † 1949), a Social Democrat and the first professor to be driven out of office by the Nazis, presented the German judicial system with a different approach to dealing with the crimes of the Nazi regime than the one it had taken.<sup>5</sup> Following the Nuremberg judgement against the major war criminals, Radbruch had expressed the view that Control Council Law No. 10 of December 20, 1945,<sup>6</sup> was a fully adequate legal foundation for further prosecutions.<sup>7</sup>

According to Article II 1c), "crimes against humanity" were "atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed

2 Bauer's indictment and final speech are reproduced in Monika Nöhre (ed.), *Zerstörte Rechtskultur. Vorträge im Berliner Kammergericht* (Berlin, 2013), pp. 45ff.

3 Irmtrud Wojak, *Fritz Bauer. 1903–1968. Eine Biographie* (Munich, 2009), p. 448.

4 Ilse Staff, *Im Kampf um des Menschen Rechte*, in: Kritische Justiz (ed.), *Streitbare Juristen* (Baden-Baden), pp. 442–443. The pronouncement of the sentence had actually already begun on August 19, 1965, however.

5 Fritz Bauer, *Das "Gesetzliche Unrecht" des Nationalsozialismus und die deutsche Strafrechtspflege*, in: Arthur Kaufmann (ed.), *Gedächtnisschrift für Gustav Radbruch* (Göttingen, 1968), pp. 302, 307–308.

6 (accessed on October 13, 2015).

7 Gustav Radbruch, *Zur Diskussion über die Verbrechen gegen die Menschlichkeit*, in: *Süddeutsche Juristenzeitung* 1947, column 131ff.

against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.” Article III 1d) sentence 2 states: “Such tribunal [where defendants will be brought to trial] may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality, or stateless persons, be a German Court, if authorized by the occupying authorities.” While the U.S. Military Administration made no use of this provision, the British applied it extensively.<sup>8</sup>

Regarding the offense of “crime against humanity,” Radbruch noted<sup>9</sup> that this law does not have any retrospective effect if it is demonstrated that the content of this seemingly new law “was in effect beforehand, admittedly not in positively expressed form, but as natural law, law of reason, in short as supra-statutory law.” “Crime against humanity,” he added, is not a fully described offense in itself but “only the authorization granted to judges to establish certain offenses in accordance with a position set forth by the legislative body.” The view that the “penal provision addressing the crimes against humanity” only represented a framework to be filled by jurisprudence was, it was said, shared by the British Military Administration, which stated in a decree “that before the authorization is granted to German courts to try these cases, judgement should be passed on certain selected cases by Military Administration courts so that the recognized penalties are available as precedent judgements.”<sup>10</sup>

Up until the beginning of 1949, charges were brought against 148 persons in courts of the British Military Administration, and authority was gradually granted to German courts, in which charges were brought against several thousand persons before the application of this legal framework ended on August 31, 1951.<sup>11</sup> The Supreme Court of the British Zone (German acronym: OGH) founded in May 1948 served as a court of appeal, and its numerous decisions concerning the interpretation of Control Council Law No. 10 contributed significantly to the further development of international criminal law.<sup>12</sup> Judicial precedents of this kind were also set in the twelve so-called “subsequent Nuremberg trials,” which took place between the end of 1946 and mid-April 1949 in the Palace of Justice, Nuremberg, in U.S. military courts overseen by a variety of judges.

But on January 31, 1951, High Commissioner John J. McCloy announced that he had granted pleas for clemency in 79 out of 89 cases brought before him, which led to the immediate release of 30 inmates from prison in Landsberg.<sup>13</sup>

Bauer criticized this “about-face” of the Western Allies in the course of the Cold War as follows: “Germany was rearmed, and they quickly lost their original interest in the trials. Many perpetrators who had been convicted of serious crimes, and even the most grave crimes, were pardoned. Some of them took up respected positions in the rapidly growing economy. The Allies prohibited new proceedings based on the old material, which ruled out the possibility of new trials for the perpetrators. But the reason for this provision of the Allies was their fear

8 Wolfgang Form, *Der Oberste Gerichtshof für die Britische Zone: Gründung, Besetzung und Rechtsprechung in Strafsachen wegen Verbrechen gegen die Menschlichkeit*, in: Justizministerium des Landes Nordrhein-Westfalen (ed.), *Verbrechen gegen die Menschlichkeit – Der Oberste Gerichtshof der Britischen Zone*. Schriftenreihe “Juristische Zeitgeschichte Nordrhein-Westfalen,” Vol. 19, pp. 8, 20ff. with further references.

9 Radbruch, *Zur Diskussion*, column 135.

10 Radbruch, *Zur Diskussion*, column 133–134.

11 Form, *Der Oberste Gerichtshof*, pp. 24, 29.

12 Form, *Der Oberste Gerichtshof*, pp. 8–9, with further references.

13 Thomas Alan Schwarz, *Die Begnadigung deutscher Kriegsverbrecher*, Vierteljahreshefte für Zeitgeschichte, Vol. 39(1990), No. 3, pp. 375ff., accessible at: [http://www.ifz-muenchen.de/heftarchiv/1990\\_3\\_2\\_schwarz.pdf](http://www.ifz-muenchen.de/heftarchiv/1990_3_2_schwarz.pdf) (accessed on October 13, 2015).

that we Germans could use a retrial to exonerate the perpetrators they had condemned.”<sup>14</sup>

In any event, the fact that persons who bore considerable responsibility for Nazi crimes were ultimately getting away with small punishments was a signal that hindered additional, thorough prosecution of Nazi crimes by the judicial system of the Federal Republic of Germany. But Control Council Law No. 10 was also rejected as a basis for such prosecution, which led Bauer to note with resignation: “The Control Council Law gave judicial authorities in Germany the chance to overcome a period of revolutionary injustice, which Radbruch called demonic and apocalyptic, with revolutionary justice. The Control Council Law and Radbruch’s opinion of it were met with criticism and disapproval, especially from the Bundesgerichtshof. It refused to apply the law. They didn’t want a revolution, not even in the form of law and with the tools used in the administration of justice.”<sup>15</sup>

The First Law Concerning the Repeal of Occupation Law of May 30, 1956,<sup>16</sup> formally repealed Control Council Law No. 10, after it had been suspended by the Western Allies on May 5, 1955, and had only rarely been applied since the formation of the Federal Republic of Germany.<sup>17</sup>

Further prosecution of Nazi crimes was thus based on German law, which was, however supplemented by the Bundesgerichtshof with the “Radbruch Formula.” According to this formula, the “conflict between serving justice and safeguarding the rule of law” should be resolved in favor of the positive law, law

enacted by proper authority and power, even in cases where it is unjust in terms of content and purpose, except for cases where the discrepancy between the positive law and justice reaches a level so unbearable that the statute must make way for justice because it has to be considered ‘erroneous law.’”<sup>18</sup>

Bauer asserted<sup>19</sup> that, according to this formula, the Nazi trials faced no difficulty in establishing the objective elements of the offense of homicide, the objective unlawfulness of the “final solution to the Jewish question” and of what was called “euthanasia.” He rightly criticized, however, that Radbruch makes no clear statement regarding the problem of a “sense of wrongdoing in a state that disregards the rule of law.” Radbruch would not have drawn the conclusion that the acceptance of a core area of law not susceptible of alteration by any legislator “must necessarily also entail the acceptance, in every person, of a core sense of right and wrong.”<sup>20</sup> The administration of justice has followed Radbruch in this regard as well and has thus opened up legal loopholes for those who have without a doubt violated the core area of law but who claim not to have been aware of that.

The fact that the judicial system of the Federal Republic did not systematically prosecute Nazi crimes thus probably had less to do with underlying legal provisions than with the fact that most of the lawyers in the judiciary of the Third Reich returned to the judiciary after the war.<sup>21</sup> This is immediately evident if one looks at the British Zone of Occupation, where the OGH would not employ any judge or prosecutor who had previously belonged to the Nazi party or one of its subsidiary organizations, although this restriction did not apply to any

14 Fritz Bauer, *Im Namen des Volkes/In unserem Namen. Die strafrechtliche Bewältigung der Vergangenheit*, in: Helmut Hammerschmidt (ed.), *Zwanzig Jahre danach. Eine deutsche Bilanz 1945-1965*, (Munich/Vienna/Basel, 1965), pp. 301, 308–309.

15 Bauer, *Das “Gesetzliche Unrecht,”* p. 307.

16 BGBl. (Bundesgesetzblatt) I, p. 437.

17 It was not until the *Völkerstrafgesetzbuch* (Code of Crimes against International Law) of June 26, 2002, (BGBl. I, 2254) that the offense of “crime against humanity” was added to German law with § 7.

18 Gustav Radbruch, *Gesetzliches Unrecht und übergesetzliches Recht*, in: *Süddeutsche Juristen-Zeitung* 1946, pp. 105, 107.

19 Bauer, *Das “Gesetzliche Unrecht,”* pp. 303ff.

20 *Ibidem*, p. 305.

21 Hubert Rottleuthner, *Karrieren und Kontinuitäten deutscher Justizjuristen vor und nach 1945* (Berlin, 2010).

of the courts subordinate to it.<sup>22</sup> The OGH immediately came into conflict with the dispensation of justice by the lower courts, whose numerous acquittals in the application of Control Council Law No. 10 were followed by a large proportion of successful appeals filed by the district attorney.<sup>23</sup> The subsequent legal practice of the Bundesgerichtshof and lower courts must therefore be explained not solely with reference to the application of German law as such, but above all in view of the fact that it was being interpreted by practitioners who had themselves been enmeshed in the National Socialist system.

In the East, Nazi lawyers had for the most part been systematically purged from the judicial system<sup>24</sup> and then replaced by “people’s” judges and prosecutors who fell in line with the socialist system. In the western zones of occupation, on the other hand, Western Allies began allowing former judges and public prosecutors to serve again in the judiciary following a review. After the “Law Concerning the End of Denazification” went into effect on March 17, 1951, in Schleswig-Holstein — which had been a National Socialist stronghold and the first West German Bundesland to elect a minister-president possessing a Nazi party membership book (in 1950) — the German Bundestag

passed the “Law Governing the Legal Status of Persons Falling Under Article 131 of the Basic Law” with only two abstentions on May 11, 1951, according to which all former National Socialists, with the exception of Group I (Major Offenders) and II (Offenders) were legally entitled to regain civil service jobs. By 1954, all the *Länder* had created similar laws putting an end to denazification.

The fact that Franz Schlegelberger and Curt Rothenberger, two former state secretaries in the *Reichsjustizministerium* (Reich Ministry of Justice) who had been convicted in December 1947 in the Nuremberg “Judges’ Trial,” were denazified in Schleswig-Holstein following their release from prison in Landsberg (1950 and 1951) and assigned to Group V (Persons Exonerated) serves as a good example of how easily even large fish passed through the net spun by the Allies. In fact, at least 28 judges of the *Volksgerichtshof* (People’s Court, a “special” Nazi court established by Hitler) and 74 of the prosecutors who had worked there in the *Reichsanwaltschaft* (Reich prosecutors’ office) returned to work in the judiciary; only a few members of the judiciary who had worked in high-profile positions during the Third Reich did not return.<sup>25</sup>

In light of the fact that the West German government had exerted itself on behalf of convicted war criminals, and its vice-chancellor protested when, on June 8, 1951, the Americans executed some of the *Einsatzgruppen* (Nazi death squads) leaders who had been convicted of the most heinous mass murder, Fritz Bauer observed: “By the mid-1950s, district attorneys and courts felt that they could safely conclude from this that, in the view of the legislature (parliament) and executive (government), the process of coming to terms with the past had been concluded from a legal point of view.”<sup>26</sup>

Beginning in 1955, the German Democratic Republic reacted by publishing information about the Nazi past of judges, public prosec-

22 Hinrich Rüping, *Das “kleine Reichsgericht”. Der Oberste Gerichtshof für die Britische Zone als Symbol der Rechtseinheit*, in: *Neue Zeitschrift für Strafrecht* 2000, pp. 355, 356; Form, *Der Oberste Gerichtshof*, p. 42.

23 Rüping, *Das “kleine Reichsgericht,”* p. 358; Gerhard Pauli, *Der Konflikt zwischen dem Obersten Gerichtshof für die Britische Zone und seinen Untergeordneten bei der Anwendung des Kontrollratsgesetzes Nr. 10*, in: Justizministerium des Landes Nordrhein-Westfalen (ed.), *Verbrechen gegen die Menschlichkeit – Der Oberste Gerichtshof der Britischen Zone*, Schriftenreihe “Juristische Zeitgeschichte Nordrhein-Westfalen,” Vol. 19, p. 64ff.

24 Ernst S. Carsten/Erardo C. Rautenberg, *Die Geschichte der Staatsanwaltschaft in Deutschland bis zur Gegenwart. Ein Beitrag zur Beseitigung ihrer Weisungsabhängigkeit von der Regierung im Strafverfahren*, 3rd ed. (1st ed. 1932), (Baden-Baden, 2015), pp. 270–271, with further references.

25 Ibidem, pp. 265–266, with further references.

26 Bauer, *Im Namen des Volkes*, p. 309.

ecutors, and high-ranking civil servants, which ultimately led to a special publication: “Brown Book: Nazis and War Criminals in the Federal Republic and West Berlin.” When a reprint of the third edition from 1968 appeared in 2002,<sup>27</sup> the historian Götz Aly explained in a review<sup>28</sup> that, although it was propaganda material, its empirical foundations had proven to be extremely reliable, and “the rate of errors was considerably less than one percent.”

The political perception that it was not yet possible to draw a line under the effort to come to grips with Nazi crimes led, on December 1, 1958, to the formation in West Germany of the “Central Office of the State Justice Administrations for the Investigation of National Socialist Crimes,” which was intended to enable systematic prosecution of such offenses.<sup>29</sup> Later, § 116 of the German Judiciary Act of September 8, 1961, provided that: “A judge or prosecutor who, in the period from September 1, 1939, to May 9, 1945, was active as a judge or prosecutor in the field of criminal justice, can be placed in retirement at his request.” By the application deadline on June 30, 1962, this provision had been made use of by 149 judges and prosecutors, out of the roughly 15,000 persons in this occupational group at that time in West Germany.<sup>30</sup>

The former Berlin Attorney General at the *Kammergericht* (Court of Appeal), Hans Günther, responded as follows: “But the provi-

sion, ironically referred to as the ‘Nazi protection act’, and for good reason, proved to be a blessing for most of those who made use of it; they received early pensions that weren’t meager, and they earned many times that working as lawyers or corporate counsel for large companies. Others chose not to submit an application in the first place despite what were often substantial incriminations and responded to suggestions from judicial authorities that they do so by insisting on their rights under the Basic Law in the way National Socialists did.”<sup>31</sup>

Then, however, on July 24, 1962, Wolfgang Fränkel (\* 1905; † 2010), who had just been appointed chief federal prosecutor on March 23, 1962, was suspended from duty, because it transpired that Fränkel, who had joined the Nazi party in 1933 and was appointed as a public prosecutor’s assistant in 1934, had been sent to Leipzig from 1936 to 1943 to serve as an assistant at the *Reichsanwaltschaft*, where he participated in approving death sentences for minor offenses in the course of processing pleas of nullity.<sup>32</sup> Günther commented further: “What was even more disastrous in its effect was that tensions between East and West, whose positions were hardening as time passed, soon led to a ‘cold war’. In the course of that war, it was simply inevitable that every former Nazi party member naturally seemed more dependable politically than such unreliable types as former ‘leftists’, no matter whether they were old communists, socialists, or left-wing liberals. In the case of a former National Socialist, it was hardly to be feared that he could ever conspire with the opposing side.”<sup>33</sup>

The result achieved by lawyers who had been involved in the Nazi system and later dealt with Nazi crimes in their capacity as members of the West Germany judiciary is defined by their effort to exclude themselves from prosecution

27 <https://web.archive.org/web/20101119233721/http://braunbuch.de/3-04.shtml> (accessed on October 13, 2015).

28 *Süddeutsche Zeitung*, August 9, 2002, p. 14.

29 At their spring conference from July 17 to July 18, 2015, the justice ministers decided (Agenda item no. II.1) that the Central Office “will be maintained in its present form as long as there is prosecutorial work to perform,” and that “following the as yet unforeseeable end of its investigatory work, the Central Office and the Ludwigsburg site are to be used for a modified purpose as a place of remembrance, education, and research and to that end will be maintained in the form of, for example, a documentation, research, and information center.”

30 Carsten/Rautenberg, *Die Geschichte der Staatsanwaltschaft*, p. 267, with further references.

31 Hans Günther, *Staatsanwaltschaft. Kind der Revolution. Versuch eines juristischen Essays* (Frankfurt am Main/Berlin/Vienna, 1973), p. 116.

32 Carsten/Rautenberg, *Die Geschichte der Staatsanwaltschaft*, p. 267, with further references.

33 Günther, *Staatsanwaltschaft*, p. 117.

and, as for the rest, to keep criminal prosecution within the boundaries accepted by society at that time. To that end, it was especially convenient to prosecute “excess perpetrators” in the concentration camps, which gave rise to the image of the “abnormal, pathological, intellectually deprived sadists from the lower class, from whom the majority of the German population could easily distance itself.”<sup>34</sup> It was these murderous henchmen of the SS, along with a few unscrupulous Nazi leaders, who were actually responsible, according to this portrayal, which made it possible for others to conceal or suppress their own involvement in the criminal regime. If, on the other hand, murder was committed at the behest of Nazi leaders, the law as administered tended to treat the recipients of orders not as perpetrators but as mere helpers, which facilitated inappropriate mitigations of punishment. Bauer was spared the knowledge that, through the Introductory Act to the Regulatory Offences Act (*Einführungsgesetz zum Ordnungswidrigkeitengesetz*), which took effect on October 1, 1968, a provision had been entered into the criminal code (§ 50 para. 2) that enabled the “judiciary, should it be willing,” to restrict the prosecution of those who abetted Nazi murders. Meanwhile, many believed that, rather than being a case of legislative sloppiness, the ministry official and former Nazi lawyer Eduard Dreher was actually the one pulling the strings.<sup>35</sup> According to § 50 para. 2 StGB (Criminal Code), if the perpe-

trator, but not the abettor, exhibited “special personal characteristics” that established the criminal liability of the perpetrator, the punishment was to be mitigated for the abettor. In a judgement of May 20, 1969,<sup>36</sup> the 5th Criminal Division of the Bundesgerichtshof regarded the murder criterion of “base motives” as one such characteristic. That had the following consequence: If the criteria for the criminal offense of murder were fulfilled simply because the perpetrator had acted out of base motives, and if these motives were absent in the abettor, the maximum sentence for the latter was 15 years. If the limitation period, which was in abeyance up until May 8, 1945, was not interrupted in the following 15 years by a judicial investigation, then it would no longer be possible to prosecute these abettors of murder because the limitation period would have expired. The result consisted of a “covert amnesty for ‘white-collar’ Nazi perpetrators,” which, in an act of “political damage-control,” first led to an extension of the limitation period for murder, and ultimately to the current rule, according to which there is no statutory limitation for prosecutions of murder and genocide.<sup>37</sup>

After Bauer’s death, the circumstances of which have not, in my view, been fully clarified,<sup>38</sup> the criminal prosecution of the “euthanasia” murders fizzled out, and for a long time, the prosecution of concentration camp personnel focused on the “excess perpetrators and direct perpetrators.”

34 From the address of Günter Morsch at the opening of the exhibition “The Concentration Camp SS 1936–1945: Excess Perpetrators and Direct Perpetrators” in the Sachsenhausen Memorial and Museum on March 22, 2015; see the introduction to this catalogue.

35 See Hubert Rottleuthner, *Hat Dreher “gedreht”? Über Unverständlichkeit, Unverständnis und Nichtverstehen in Gesetzgebung und Forschung*, in: Lerch, Kent D. (ed.), *Die Sprache des Rechts*, Vol. 1, *Recht verstehen* (Berlin, 2004), pp. 307ff., accessible at: [http://edoc.bbaw.de/volltexte/2011/1875/pdf/307\\_Rottleuthner\\_Hat\\_Dreher\\_gedreht.pdf](http://edoc.bbaw.de/volltexte/2011/1875/pdf/307_Rottleuthner_Hat_Dreher_gedreht.pdf) (last accessed on October 13, 2015).

36 Bundesgerichtshof, in: *Neue Juristische Wochenschrift* 1969, pp. 1181ff.

37 Monika Frommel, *Taktische Jurisprudenz – Die verdeckte Amnestie von NS-Schreibtischtätern 1969 und die Nachwirkung der damaligen Rechtsprechung bis heute*, in: Matthias Mahlmann (ed.), *Gesellschaft und Gerechtigkeit, Festschrift für Hubert Rottleuthner* (Baden-Baden, 2011), pp. 458, 468.

38 Erardo C. Rautenberg, *Die Bedeutung des Generalstaatsanwalts Dr. Fritz Bauer für die Auseinandersetzung mit dem NS-Unrecht*, *Forschungsjournal Soziale Bewegungen*, No. 4/2015, pp. 179ff.