

A short discussion of Professor Luis Greco with Dr. Ioanna Anastasopoulou about the international influence of the German criminal doctrine

Ioanna Anastasopoulou (I.A.): Professor Greco, at the age of 39 you became full Professor of Criminal Law, Criminal Procedure, Comparative Criminal Law and Criminal Law Theory at the Humboldt University of Berlin. You studied law in Brazil, and then – a few years ago – you passed the first state exam (Erstes Staatsexamen) and received your law degree in Germany. In the meantime, you completed your doctorate and post-doctorate in Munich and wrote a significant number of monographs and articles. It would be accurate to say that you have had a remarkable, if not phenomenal, track record in German academia. Is it true that one of the decisive factors in your career was the affinity in the legal foundations and jurisprudence between your home country and Germany?

Luis Greco (L.G.): In hindsight, it is always difficult to say why something worked as it did. At most, I can name a few factors. I would not consider the similarities between German and Brazilian law as one of these factors. It is true that Brazilian criminal law recognizes the differences between fulfilment of the objective prerequisites of the relevant offence, unjustness and guilt, and the names of Mezger, Welzel and later Roxin are well-known; but beyond these external similarities, there are no real affinities. I believe that the determining factor, apart from my love for the subject, was my fortunate encounter with three extraordinary, open and generous personalities: Claus Roxin, my supervisor in my LL.M. and doctorate; Bernd Schünemann, at whose Institute I worked for nearly ten years as a research associate, and who supervised my postdoctoral thesis; and Jürgen Wolter, who opened the door for me to the journal “*Goltdammer’s Archiv*”. All three of them always treated me only as what I felt I was – a scholar. My origin never mattered to any of them.

I.A.: In Greece our criminal law, as well as our traditional criminal law doctrine, have been deeply influenced by German criminal law. As you may know, Greek criminal scholars have worked as research associates in Germany, for example in Munich or Frankfurt, and then accepted professorships in Greece. The reason for this influence lies back in history. The first King of Greece was from the House of Wittelsbach and he used the Bavarian Penal Code of the time as the foundation for the Greek Penal Code and Greek criminal law. What was the development in Brazil or in other South American countries?

L.G.: As I mentioned above, in Brazil the German influence has been relatively modest. The textbook of v. Liszt has been translated into Brazilian Portuguese, and our greatest criminal law theorists of the 20th Century (Hungria, Bruno, Fragoso) were familiar with the German criminal doctrine. For the most part, however, the German influence came to us indirectly, through Portugal and Spain, which have a much closer relationship with Germany than we do. Equally, Mezger and Welzel were well-known in Brazil mainly through Portugal (two of the most important Portuguese criminal law theorists, Correia and Cavaleiro de Ferreira, were guest researchers with Mezger during their doctorates) and Spain (numerous translations). One has to consider that, even in my days as a student, most of the acclaimed Brazilian legal scholars, whose textbooks we were taught, did not even have a doctorate.

I cannot say much about the other South American countries; Brazil and the other, Spanish-speaking South American countries do not really share a common culture. The relationship between Germany and some of these countries, especially Argentina, but also Columbia, Chile and Peru, seems to have been traditionally closer.

I.A.: If it is true that in the European legal sphere continental law (including German law, naturally) and English-American law converge to a certain point – as demonstrated for example in the book *Core Concepts in Criminal Law and Criminal Justice* (Ambos/Duff/Roberts/Weigend/Heinze [Ed.]) – could the same apply to the German criminal dogma, or will this convergence in criminal law as a whole prove to be to the detriment of the German criminal science, because the German approach is considered to be too doctrinaire, systematic and complicated in comparison to Anglo-Saxon law?

L.G.: My view is that German criminal law is as complex as its material demands. Of course, we can form things in a way that it all becomes very easy; for example, I can say that I only recognize three colours: black, white and everything in between. Thus, everything has become simpler, but also oversimplified, as I seem to suggest that everything in between is one and the same thing. A good criminal law theory must convey the phenomenon of law in all its breadth, and this phenomenon has many nuances. Therefore, it is not overly complicated, but rather appropriate to differentiate between unjustness and guilt, causation and attribution, perpetration and participation.

I.A.: The monumental work of Roxin on the General Part of German criminal law (you are co-editor in the latest edition) is often read and cited, not just in Brazil, but also, for example, in Argentina, Chile, Peru, Columbia, etc.

L.G.: Roxin's textbook was translated into Spanish by Professor Diego Luzón (Alcalá/Madrid, Spain) and his students (2. Ed. of Vol. 1; 2. Vol.). As a result, it had a huge impact throughout Latin America. I am currently working with my students on a translation of the current 5. Edi-

tion of Vol. 1 into Brazilian-Portuguese. However, much has been misunderstood or received in a way that is wrought with prejudice. For example, the doctrine of dominance over the criminal act has been repeatedly misunderstood as criminal responsibility for holding a specific position (see more in Greco/Leite, ZIS 2014, 284).

I.A.: We have seen that you have a truly international guest team at the Humboldt University, with many researchers mainly from the Far East or from South America. Would you welcome a closer collaboration with Greek criminal scholars?

L.G.: Of course! The door of my Institute is open for Greek researchers. I enjoy reading the work of the many Greeks – from Androulakis to Mangakis, Mylonopoulos and the younger scholars that I cannot cite by name because there are so many of them who have published in Germany, and I am consistently amazed by their level. At the same time, I regret that I cannot get acquainted with the wealth of these teachings in their original version. I would very much like to strengthen my relationship with a culture that I admire and where everything that we consider to be significant today began.

Let me add here some personal remarks. I discovered Plato during my first semester at the university. He made me passionate about philosophy and the law. In my lecture notes for first-semester students, I always make at the beginning a short reference to the Humboldtian ideal of education and recommend among others for further reading regarding the connection between education, knowledge and happiness, Plato, the *Republic*, Books 7, 9, an unsurpassed work that is truly the cornerstone of Western culture and is preferably to be read in its entirety. I have also tried to make use of Aristotle's reflections on virtue in the field of criminal procedure (FS Wolter, 2013, S. 61 ff.). Even my love for the *Iliad* is not merely academic (GA 2009, 636, 638); it has a strong personal connotation as well: my dog is called (in Portuguese) Aquiles...