

## LAUDATIO JÜRGEN J. WEITZEL

*Dirk Heirbaut*

Professor Jürgen Weitzel (born in 1944) studied law in Frankfurt and Heidelberg, and already as a student he became interested in legal history, even writing his Ph. D. about it. Unlike many other German lawyers-legal historians, who write either their Ph.D. or their habilitation about contemporary law, Jürgen Weitzel also has a habilitation about an historical subject. However, this does not mean that he is not interested in contemporary law, as he has written extensively about administrative law, procedural law and the law of obligations. Moreover, first as an assistant professor in Berlin, later as a full professor in Würzburg he has been teaching about the most diverse subjects of contemporary law: general introductions to civil law, the law of obligations, civil procedure and even church-state relations. Like his teaching about contemporary law, his teaching of legal history has been so extensive, that one cannot escape the impression that if a field of law has a history, Jürgen Weitzel has been teaching it, from classics like the history of criminal law to more arcane subjects like the history of zoning law. In spite of all this teaching, he has found time for other activities: he has served as the dean of his law faculty in Würzburg and, most of all, he has been writing a lot.

His major publications are about topics of legal history, the first dealing with the appeals to the *Reichskammergericht*, Germany's highest court in the early modern period. The *Reichskammergericht* was also the subject of his Ph. D., *Der Kampf um die Appellation ans Reichskammergericht* (1976) in which elements of social and political history have been integrated into legal history, as the main focus was the fight of local populations and their rulers in the German empire over the right to appeal to the central *Reichskammergericht*. In later articles J. Weitzel has expanded on this Ph. D., e.g. by studying the advocates working there or the role the notion of *ius publicum* played in procedures before it. The research about the *Reichskammergericht* has also been the starting point for a much wider research into the role of higher courts (*Über Oberhöfe, Recht und Rechtszug. Eine Skizze* (1981)).

After all this research about higher courts in Germany, which were characterised by a romanised, learned procedure, and were thus as far removed from ordinary people as they could be, Jürgen Weitzel has made a study of a completely different world of courts in his habilitation: *Dinggenossenschaft und Recht. Untersuchungen zum Rechtsverständnis im fränkisch-deutschen Mittelalter* (1985). The *Dinggenossenschaft*, the meeting of the people, presided by a judge, was a more democratic system for meting out justice. Although it was typical for the Early Middle Ages, most of our sources come from a later period. Consequently, many elements of the *Dinggenossenschaft* and its early history have remained obscure or have become the subject of idle speculations. We have Jürgen Weitzel to thank for writing maybe what may well be the final book about this subject. Interestingly enough, he also studies later courts whose composition and proceedings were influenced by the *Dinggenossenschaft*, so that his work is a treasure trove for anyone interested in the evolutions of the judicial organisation during the Middle Ages, but his main achievement may just be that, thanks to him, we have a better understanding of the dominant role non-professionals once played in our courts.

Moving away from the judicial organisation, but remaining in the Early Middle Ages, Jürgen Weitzel has also taken up the study of criminal law in the age of the Merovingians. Up to now, the generally accepted opinion has been that early medieval criminal law was most of all a private affair, public authorities not intervening in the feuds and conciliations of families, but Jürgen Weitzel has shown that the role of the king and the influence of Roman practices was greater than has hitherto been assumed, first in his article *Strafe und Strafverfahren in der Merowingerzeit*, published in Germany's leading review of legal history, the *Zeitschrift für der Savigny-Stiftung für Rechtsgeschichte (Germanistische Abteilung)*, 1994) and thereafter in a book he edited: *Hoheitliches Strafen in der Spätantike und im frühen Mittelalter* (2002). That Jürgen Weitzel is Germany's leading scholar in the fields of early medieval criminal law and the history of the courts becomes clear when one consults major scientific encyclopaedia such as the *Handwörterbuch zur Deutschen Rechtsgeschichte*, the *Lexikon des Mittelalters*, the *Ergänzbare Lexikon des Rechts*, or the *Reallexikon der Germanischen Altertumskunde*, for which he has written lengthy and extremely

documented articles about subjects like *Rechtsmittel*, *Gerichtsverfassung* or *Prozess*.

Even though he writes mainly about the Middle Ages, one would do Jürgen Weitzel an injustice if one would see him as just a legal historian of the Middle Ages or the Early Modern period. In fact, a major theme of his research has been agrarian law in the Nazi era (e.g. his article about the *Reichserbhofrecht* in the *Zeitschrift für neuere Rechtsgeschichte* (1992)), a branch of law which played a very important part in the ideology of Nazi Germany. Apart from all this, Jürgen Weitzel has also taken up the study of a host of other subjects, which are in many cases completely unrelated to the rest of his work, e.g. his article about the measures the German princes took for the integration of Huguenot refugees (in: *Der Exodus der Hugenotten als Europäisches Problem. Zur Aufhebung des Edikts von Nantes 1685* (1986)).

In short, Jürgen Weitzel studies law from the Romans until the present day, sometimes even bridging the centuries comparing the old and the new, as in his *Das alte Reich und die neue Union (Festschrift f. K. Kroeschell* (1997)), in which the complexities of Germany's old empire are set against those of today's European Union. The following article continues in that vein, searching for principles of European criminal law more than a millennium before the European Union.