

Festrede zur Eröffnung der European Law School

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Romans, Countrymen, Friends (Julius Cesar), lend me your ears, if I may start with words from the poet who wrote as well. The first thing we do, let's kill all the lawyers (Henry VI). Romans or today, Europeans, for that is what we all are, those coming from Europe, from the European Court, presidents from the finest Supreme Courts, from the finest Universities and from one outstanding Bar in the European States, or those loving Europe, coming from the finest universities across the Atlantic, Europeans or Romans that is what we all are. And countrymen, for countrymen, we all are, our superb first graduates or superb future graduates and students here present, countrymen in beautiful states of Europe, somehow even countrymen of civilisation as such. And Friends, in other versions even "Lovers". What a beautiful epithet and description of everything, encompassing and embracing the world as such. Romans, Countrymen, Lovers, for these three words of welcome let's be prepared to forgive, to forgive the "kill all the lawyers".

Forgive, Forgiving is the first and perhaps sole topic of my welcome speech for the European Law School. Forgiving.

Pardonner, pardonner, c'est la première parole de la phrase que je juge la plus importante du vingtième siècle que nous avons tous vécu. Pardonner. Pardonner, ne pas revendiquer. Une phrase d'un politicien français qui a changé le monde et qui nous a donné ce-moment-ci. Pardonner, ne pas revendiquer. Plus importante que toutes les phrases qui peut-être sont bien plus célèbres. Des phrases anglophones comme "Blood, Sweat and Tears" ou bien "I have dream ...", certainement ces phrases aussi d'une énorme intensité, qui aussi nous remplissent certainement d'émotions très fortes et très sincères. Ou bien aussi des phrases germanophones dont la plus célèbre, prononcée avec un fort accent était sans doute: "Ich bin ein Berliner" ou bien "Völker dieser Welt, schaut auf diese Stadt.". Pardonner, ne pas revendiquer, prononcée par Robert Schumann, un des pères-fondateurs de l'Union Européenne.

Vergebung nicht Vergeltung, ein Satz aus der Bergpredigt, jener Predigt, die so erbaulich ist, aber auch so gänzlich nutzlos für unser Leben, unser tatsächliches Leben. Damit kann man keine Gesellschaft konstituieren. Vergebung, nicht Vergeltung, der Satz, der so weltfremd und nutzlos daher kommt, so fast schon antiquiert, im Munde jenes französischen Außen- und Justizministers, 1958 und davor, der wichtigste Satz des 20. Jahrhunderts. Nur der aus ihm sprechende Geist vermochte es, Europa, wie wir es heute leben dürfen, wie wir es kennen,

zu schaffen. Vielleicht hat unser verehrter Gast, Prof. Joseph Weiler, doch auch Recht, wenn er sagt und eine ganze Monographie dem widmet: „Un europa cristiana.“ – zumindest auch.

Pardon and not revenge. This phrase which Robert Schumann repeated over and over again has created Europe as we live it today. We celebrate this year the 200th anniversary of Humboldt University which was founded under the occupation by Napoleonic troops. This was the moment when this German idea came into being that it was the German spirit, the strength of thinking – when earthly power was lacking, the power of a state – which created a German nation, which was the bond between all German people. And as in this very same year the then empress of Prussia, Luise, died, that year 1810 was as well the year in which the myth was born that it was the French invasion, Napoleon, who had killed her, because he had not been gentle enough to give mercy to Prussia nor to Prussia's young empress who had implored him to do so. Thus, the year of birth of this university, 1810, was as well the year of the famous French and German "Erzfeindschaft", hatred over generations, Luise's son being William the first who conquered France in 1871 and then – to humiliate France – created the German Empire, becoming the first emperor, in the castle of Louis XIV., Versailles. And later World War I with the treaty of Versailles and World War II – 150 years of humiliation from one side and from the other, between two nations at the centre of Europe, certainly two of the finest and most sublimely civilised nations. 150 years.

Pourquoi dire tout cela? Pourquoi tant parler d'une histoire passée? Entre 1810 – la naissance de mon université, mais aussi d'une constellation néfaste en Europe – et 1958, l'année de naissance de l'Union Européenne, et par pure chance aussi l'année de ma propre naissance, entre ces deux dates, il y a la grande différence, le véritable miracle de transformation de haine en amitié. Une Europe qui non seulement était la région la plus innovatrice pendant cinq siècles ou plus, mais aussi la région du monde qui plus a porté la guerre partout au monde et aussi en Europe même, qui c'est presque annullé elle-même, cette Europe est devenu la région peut-être la plus pacifique, aimant la paix, "Irenophil", peaceful, la région qui cherche la paix, Et ceci, parce que Robert Schumann, dans la position du plus fort, n'a plus proposé un traité de Versailles, mais a convaincu ces compatriotes – et peu à peu toute l'Europe – de "Pardonnez, ne pas revendiquer". Merci à ce grand français!

Meine Damen und Herren, dieses Wunder, den jungen Menschen, die wir ausbilden, die Schönheit der Vielfalt, die darin liegt, dies immer wieder nahe zu bringen, dieses Wunder, das so häufig in unserem Bewußtsein grell überstrahlt wird durch die Schrecken des Unrechts zuvor, durch all die Grausamkeiten des 2.

Weltkriegs, dieses Wunder, das allzu sehr im Schatten steht, dieses Wunder, das uns fragen lässt, ob Adolf Hitler wirklich so ungleich mehr Aufmerksamkeit verdient als Robert Schumann, dieses Wunder immer wieder zu vermitteln, ist Aufgabe einer Europäischen Ausbildung.

We do it in Law. Is Law the place to teach forgiving? And let me remember that it is not only France which has forgiven Germany, it is as well, as one core example, the Jewish people as such, those who suffered most. And therefore, for our doctor honoris causa we chose the outstanding European Law and European Union thinker in you, Prof. Weiler, this was the motive of choice, but that – in addition – you were not French, German and British, but American, and even more: that you have Jewish roots was a coincidence which made us happy, made us feel that there is a fortunate second aspect about our choice. And when I announced this choice to you, your silence first, almost half a minute, and your answer confirmed everything. You said that Humboldt was so particularly important to you, because even as a child you and your father had already and always said: Despite all, Humboldt is our common heritage. And you offered me your book on the case Steinmann which, very sincerely, is a true jewel and has been discussed since then by all my students of the European Law School and myself. Again, this shows, that a common heritage can be stronger than atrocities lived, a way of pardon. So again: Is Law the place to teach forgiving? Can we this kind of teach emotions? Can we do more than just create networks among Europeans – which we do –, make our students understand the different styles of European States – which we do –, have our students live in the other countries and make them experience their flair and their beauty – which we do. Can we teach emotions in Law? We do it, of course, already by these three things, by networks, by styles and by experiences of beauty. But the question is not really whether we can teach emotions in law as well, the question is rather: We not only can, for Europe we should. We should show the young Europeans – and young European lawyers or jurists have a truly important role to play among these young Europeans –, we should tell young Europeans and young European lawyers that the real dynamics stem nowadays from this (European) level, the important exchanges, the important steps of course in legislation, but as well, if we enter a bit into the life of law, a particular style is created mainly because of Europe (and would not have been created in England, France or Germany alone): the style of intense discussion between traditions which have not been just one same kind over decades and decades, often centuries, thus a style of discussion between heterogeneous traditions, a discussion, however, which is one within one common European homestead. This brings about a different style as well in legal discussion: We do not only discuss our daily legal world across borders, but

because we want to convince one another and because, for doing so, the own tradition is not such a strong argument for others in Europe, we start to make a habit to justify the social role and benefit of law and of laws again. Law becomes or discovers again that it is a social science, a science for society which takes into account many voices, from philosophy via behavioural sciences to economics or sociology. Yes indeed, we not only can, we have to teach emotions, starting from the miracle, from the gift which Robert Schumann made to Europe.

Lassen Sie mich an dieser Stelle, nochmals in Deutsch, einen zweiten großen Gründungsvater des heutigen Europas zu Wort kommen. Seine Memoiren sagen uns: Hätte ich neu zu beginnen, ich begänne mit der Kultur. Jean Monnet, auch er Franzose, hatte den Masterplan entwickelt, den dann Walther Hallstein dahin gehend umschrieb, dass Europa eine Rechtsgemeinschaft sei. Denn dieser Masterplan umfasste die Idee, dass sich Staaten für ihre Eingriffe in die Freiheit der Unionsbürger, vor allem die wirtschaftlichen Freiheiten, würden rechtfertigen müssen, dass Staaten solchermaßen nicht mehr absolut, sondern dem gemeinsamen Recht unterworfen seien, das sie auch nicht mehr souverän, sondern in gemeinsamem Entschluss entwickeln würden. Let me switch to English for two seconds. Hallstein's legally constituted European Union and Society, the Rechtsgemeinschaft, the next step was to make it a concrete programme of implementation. It is our distinguished guest, Prof. Joseph Weiler, who, together with Capeletti, took this step intellectually and conceived the outstanding map and series of treatises which is known under the title of "Integration through Law" in the 80ies of last century. Rechtsgemeinschaft also. Die Rechtsgemeinschaft ist in diesem genannten Punkte – der systematischen Rechtsfertigungsnotwendigkeit für vormals absolut-souveräne Staaten – und in den genannten Neuausrichtungen der Art, des Stils und des Paradigmas rechtlicher Diskussion – Diskussion in Vielfalt unter einem einheitlichen Dach – ein – für die letzten fünfzig Jahre unglaublicher – Erfolg, den zu vermitteln allein schon lohnt und große Aufgabe ist. Und dennoch hätte der alte Monnet mit der Kultur, mit dem gesamten Denken in Europa begonnen. Deswegen musste das morgendliche Kolloquium heute auch unter dem Begriff „Thinking in Europe“, natürlich fokussiert auf das „Legal Thinking“ stehen. Was sagt uns Monnet für die European Law School damit. Sicherlich, dass Europäische Juristen, Juristes Européens, die diesen Titel und heute diese Graduierung verdienen, auch das Denken in seiner ganzen Breite üben und lieben sollten und sicherlich durch die Schule dazu angeregt werden sollten. Deswegen bringen wir die Studenten aller beteiligter Länder und Klassen jährlich für etwa zwei Wochen zusammen zur Sommerakademie und wählen uns – neben gemeinsamem Tanz, Fahrten auf dem See oder Abenden in einer alten Schlossbibliothek – auch Gesamthemen

wie: Konsens und Verhandeln – in Philosophie, Drama, Mediation und Recht. Da geht es dann vom zerbrochenen Krug zum Contrat Social, vom Wealth of Nations bis zur Information Asymmetry und zur Transaktionsanalyse.

Emotions for a Europe and its legal development and Culture and Thinking – these are the two main ingredients of this school which carry them further than their national law degree which of course they all have passed, and brilliantly passed as well. I spoke in French, I spoke in German, I spoke quite a bit in English as well, but did I speak about England – as I did about France and about Germany? Robert Schumann and Jean Monnet were French politicians. 1810 and 1958 might be seen rather as Franco-German dates than as British dates – although none of the catastrophes referred to would have had such a relatively positive end had there not been England and the English speaking world. And this brings us to the English contribution. The truth is that if today we hail freedom, human dignity, rule of law and vividly enjoyed democracy as a mode of being in Europe, the cradle of it all stands, of course, in England and the English speaking world. England is not only a bridge to the world for Europe, it is as well a bridge to where it all started, modern European values. I could extend on this, but I would rather switch to another area. What is true for state, fundamental rights etc., is true as well for markets. Is not England the outstanding modern example that freedom of trade, of global trade, even creates empires. Is this empire not the one which was mostly grounded in economic freedom. And in this sense – substituting the idea of mercantilism and state directed economy by the idea of individual exchange and global economic relationships -, again, England seems amazingly paradigmatic for the European Union as such. Of course, there are problems with this type of freedom as well, but among all models, it certainly is ours. So after all: Be it an island, is it nevertheless perhaps the most European of us all! And certainly for more time already than all the others!

I spoke in three languages – which only together can stand for Europe and which I all love. We gave the compound an English name and called it “European Law School”, nous avons donné un titre français pour marquer le point final des études que nos étudiants poursuivent, le titre d’un ‘juriste européen’, und wir haben als Geburtsort für diese paneuropäische Universität jenes Pflaster Berlin gewählt, auf dem vor zweihundert Jahren ein weniger glücklicher Stern über Europa schien, und einen deutschen Gründungspräsidenten, und dafür danke ich, dem sein gleichaltriges Schwesterchen Europa eine Herzensangelegenheit ist. Vielen Dank.