

**Ceremonial Presentation of the Festschrift  
in Honour of**

**Professor Dr. Nestor Courakis**

Freiburg, 22 September 2017

**Greetings to the Honouree**



MAX-PLANCK-GESELLSCHAFT

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*Booklet edited by: Maria Tsilimpari and Marilena Samaritaki*

*Editorial office: Ines Hofmann*

## Programme of the ceremony

- 10:15 Welcome and *laudatio*  
Prof. Dr. Dr. h.c. mult. *Ulrich Sieber*
- 11:00 Presentation of the Festschrift to the Honouree  
“Europe in Crisis: Crime, Criminal Justice, and the  
Way Forward – Essays in Honour of Nestor Courakis”
- 11:15 Keynote speech and discussion:  
“In search for a new Eutopia in Criminal Policy:  
The Role of Social Justice”  
Prof. Dr. *Nestor Courakis*
- 12:30 Lunch buffet with the option of comments by contributors  
to the Festschrift and friends of Nestor Courakis
- 14:30 The Max Planck Institute for Foreign and International Criminal  
Law and the Greek Penal Sciences – Past and Future Coopera-  
tion, followed by a discussion  
Dr. *Emmanouil Billis*
- 15:30 Coffee and Discussion of Future Cooperation

*Prof. Dr. Dr. h.c. mult. Ulrich Sieber*

*Director at the Max Planck Institute for  
Foreign and International Criminal Law, Freiburg i.Br*

## Laudatio

With this *Festschrift*, friends, students, and colleagues pay tribute to Professor Dr. *Nestor Courakis*, who is celebrating his 70th birthday this year. They wish to honour an outstanding scholar who gathered a wealth of international experience early in his career, significantly promoted the advancement of the criminal sciences, made important contributions to improvements in crime control, and who always supported young researchers and colleagues with great commitment.

### I.

*Nestor Courakis' academic career* epitomizes that of an open-minded, international researcher with wide ranging interests. He completed his law studies at the University of Athens (1971) and his studies of economics and political science at the University of Thessaloniki (1973). In 1977, he was awarded a doctorate from the University of Freiburg for his dissertation, *Zur sozioethischen Begründung der Notwehr* (On the Socio-Ethical Rationale of Self-Defence), written under the supervision of Prof. Dr. *Hans-Heinrich Jescheck*. *Nestor Courakis* continued his education at the University of Paris II and at the Paris Institute of Criminology, where he earned diplomas for advanced studies in criminology. Subsequently, he returned to Freiburg to conduct research and – along with Prof. *Anna Benaki*, later Speaker of the Hellenic Parliament – joined the Greek researchers who laid the foundations for the close cooperation between the Max Planck Institute for Foreign and International Criminal Law in Freiburg and Greek criminal law science that is still flourishing today.

After his time abroad, *Nestor Courakis* returned to Greece in 1981 to pursue his academic career. In 1984, he earned a post-doctoral lecturing qualification (*Habilitation*) at the University of Athens, and in 1993, he was appointed professor in the Department of Criminal Sciences at its law faculty, where he taught criminology, economic criminal law and criminology, juvenile criminal law and criminology, gender criminology, criminalistics, penology, and criminal policy. *Nestor Courakis* also took on a position as director of the Centre for Research in Criminal Law and Criminology in 2001. During this time, he never lost interest in foreign legal systems: He taught as a visiting professor at Oxford University (1996, 1997) and later

at several universities in Cyprus and Italy; in the following years, he was often a guest researcher at the Max Planck Institute for Foreign and International Criminal Law and at Prof. Dr. *Klaus Tiedemann's* Department of Criminology and Economic Criminal Law.

In 2014, he was awarded the title of Emeritus Professor at the University of Athens, which did not diminish his creative energy in the least. Since then, he has been teaching and researching as a full-time professor of criminal law and criminology at the University of Nicosia in Cyprus.

## II.

*Nestor Courakis* is an enormously productive scholar. In addition to 14 monographs, his *academic oeuvre* comprises approximately 200 contributions to journals, *Festschriften*, and anthologies in Greek, German, English, French, and Italian. Furthermore, he has served as editor and co-editor of numerous anthologies and journals, including the e-journal called “The Art of Crime”. This comprehensive body of written work is astonishingly diverse. It includes articles on criminology as well as on criminal law, whereby the subject of his research is often viewed from the perspective of both disciplines – the honouree is one of very few researchers who have mastered both disciplines equally. Publications on the fundamental subjects and questions of law round off his contribution to “the entire spectrum of criminal science.”

A theory of punishment and the law of penal sanctions are at the heart of his *criminological* research, including the analysis and development of alternative penal sanctions. The range of criminological subjects addressed by *Nestor Courakis* is, however, much broader: He has conducted research on the development of crime in Greece and on juvenile gangs in Athens, analysed political violence, “bullying”, and violence in connection with soccer matches, traced the development of ethno-psychology in the context of criminal law, written papers on the prison system, and drafted blueprints for future developments in criminology. As director of the Centre for Research in Criminal Law and Criminology at the law faculty of the University of Athens, he headed 15 empirical research projects on key issues of criminal law, such as euthanasia, corruption, incarceration of women and juveniles, and hooliganism.

*Nestor Courakis' contributions to criminal law* are equally broad. They primarily address the general part of criminal law, economic criminal law (with groundbreaking contributions to the development of the *fraus legis* clause in criminal law, to EU fraud, and to financial crime), corruption, sentencing, the legal definition of organized crime, and legal issues of migration. One of his masterpieces is his treatise on the historical development of Greek criminal law from antiquity to the present (with a focus on the theory of punishment and the prison system). Special

mention should also be made of his textbook on economic criminal law – already in its third edition – which has become a standard reference work in Greek criminal law science.

The publications in which *Nestor Courakis* brings criminology and criminal law together methodologically are particularly interesting. This approach is clearly apparent in his papers on *criminal policy*, in which he convincingly achieves the cross-fertilization of criminal law and criminology as called for by his doctoral supervisor. Focuses on criminal policy can be found in his work in the areas of juvenile criminal law, economic criminal law, prison law, and hooliganism. His keen perception of current developments and the broad perspective of his criminal policy analyses are also evident in his recent work on the relationship between criminal policy and social justice; initial results in this area were published in a first volume in 2016.

*Nestor Courakis'* research is based not only on criminological approaches and criminal law doctrine. It often also relies on the method of *comparative legal research*, e.g., in studies on the structure and interpretation of English criminal law and in his comparative analysis of the criminal law of corruption. Thus, his oeuvre – like that of his teachers *Hans-Heinrich Jescheck* and *Klaus Tiedemann* in Freiburg and his mentors *Jacques Léauté* and *Jean Carbonnier* in Paris – is characterized by a successful union of criminal law, criminology, comparative criminal law, and criminal policy. In order to respond to the challenges posed by today's global information and risk society, this approach – one adopted early on by *Nestor Courakis* – is indispensable.

Finally, it is hard to overlook the fact that *Nestor Courakis'* interests go far beyond the sciences of criminal law and criminology: This is readily apparent from his book on classical ideals for a modern education, his writings on the culture and ideals of Classical Greece, as well as his publication on the military strategy of the Byzantine emperors – presented to the members of the Academy of Athens. In an era of scientific specialization, the honouree, with his expertise in many fields and with the broad sweep of his writings, evokes the Renaissance ideal of the *homo universalis*.

### III.

*Nestor Courakis* has not only committed his thoughts on law and criminology to paper. He has actively *translated them into practice* by presenting them to *students and legal practitioners*, and he has been widely acclaimed for doing so. As a *teacher* at the University of Athens, he developed new courses that expanded the boundaries of previous university curricula and led to the publication of three standard textbooks in the areas of economic criminal law, gender criminality, and criminal policy. As evidenced by the numerous contributions from young research-

ers in this *Festschrift*, he was the dedicated mentor of numerous students, masters' degree students, and doctoral candidates, whom he encouraged to present their ideas at the many conferences he organized.

*Nestor Courakis* also enriched the *practice of law* by contributing to the drafting of many *legislative proposals in Greece* and by making recommendations to the Council of Europe, including a recommendation on new ways of addressing juvenile delinquency. Greek legislation on the law of sanctions, prison administration, drug law, hooliganism, and juvenile criminal law all bear his hallmark. He was a member of the Criminal Law Commission responsible for the new Greek criminal code, vice president of the National Radio and Television Board, advisor to the Greek government in criminological matters, and served as his homeland's representative on various committees of the Council of Europe, the European Union, and the United Nations. Within this framework of administrative and practical activities that were entrusted to the honouree, he was able to put his research results into practice. For example, from 2007 to 2010, he headed *Epanodos*, the Centre for the Rehabilitation of Former Inmates of Correctional Institutions supported by the Greek Ministry of Justice, and was president of the Greek Consultative Body against Corruption from 2013 to 2015. In addition, he served as a defence lawyer in Greece.

*Nestor Courakis'* academic and practical efforts earned well-deserved *recognition* when he was still quite young. He was a fellow of the Athens Bar Association, the German Academic Exchange Service (DAAD), the French government, and the Max Planck Society. For his doctoral dissertation, he earned the distinction "summa cum laude" from the law faculty of the University of Freiburg. Already in 1974, he received the *Aghis Tambakopoulos Prize* from the Academy of Athens for his essay on the abuse of rights in civil and public law. He was awarded the Prize of the Society of Greek Penalists in 1985. In addition, in 2012 he was distinguished with a very special honour: He was appointed a full member of the European Academy of Sciences and Arts in Salzburg – a position reserved for only a small number of European scholars. In 2015, 137 of his colleagues, most of them Greek, presented him with a remarkable volume based on a congress organized in honour of the occasion of his 35th anniversary as a professor. It can be seen as the first volume of the present international *Festschrift*.

#### IV.

The most outstanding features of *Nestor Courakis*, however, are his *fine character and his exceptionally friendly nature*. *Nestor Courakis* has remained the same friendly, considerate, and polite scholar I came to know and appreciate 40 years ago when he was conducting research at the Freiburg Institute for Criminology and Economic Criminal Law. Despite his modest nature, in any discussion with *Nestor*



*Courakis*, one quickly senses his keen interest, his attentiveness, and his vibrant personality. His empathy and enthusiasm also enrich any scientific discussion: He expresses criticism clearly, but also always objectively, constructively, and courteously. In academic debates, his positive attitude to others is often reflected in the fact that he prefaces his critical commentary, even to questionable contributions, with a few words of praise. Due to his calm and dignified manner, he enjoys a high standing as a mediator and builder of bridges in situations involving academic controversy and other differences of opinion. For his students and pupils, he has always been a reliable counsellor whose suggestions for improvement are at the same time encouraging and confidence-building.

*Nestor Courakis'* balanced temperament and optimism have also shaped his approach to scientific thinking as a whole. His studies often take a holistic approach towards combining contrasting views. One example is his theory on “synthetic criminology”, which since the 1980s, has been recognized as a fundamental and progressive synthesis of traditional and contemporary thought on the nature and function of criminology.

*Nestor Courakis* is highly respected not only for his academic achievements but is also held in high esteem in Greece and abroad for his fine character. He is well known both nationally and internationally. It therefore comes as no surprise that 93 friends and colleagues from Greece, Germany, France, England, and many other countries immediately agreed to contribute to this *Festschrift*. It is a personal honour and privilege for me to author the foreword to this publication, both because of my high regard for the rich tradition of Greek criminal law science and because of my great admiration for my friend *Nestor Courakis*.

In closing, it is my great pleasure to congratulate *Nestor Courakis* on his 70th birthday on behalf of all the contributors to this *Festschrift* and to thank him for many years of cordial friendship as well as for his significant contribution to criminal law, criminology, criminal policy, comparative criminal law, and to the history of law. We wish him many more successful and happy years with his family, friends, and research colleagues, and we also wish him quiet moments on the beaches of his cherished sea, which he loves to gaze upon while pondering wise solutions to the problems of our time.

*Ulrich Sieber*

*Dr. Emmanouil Billis, LL.M.*

*Senior Researcher at the Max Planck Institute for  
Foreign and International Criminal Law, Freiburg i.Br.*

**Presentation of the Festschrift  
“Europe in Crisis: Crime, Criminal Justice,  
and the Way Forward”**

As Irving Louis Horowitz summarized:

“Festschriften persist and multiply. Why? Because they are not just retrospective, but prospective. That is to say the Festschrift is a Beruf, a call to further work, effort, and energy, a call to the improvement of learning, of a discipline, a science, an artistic vision, or an intellectual position. Even in this age of mass Festschriften, they remain a special literary genre ...”

– Communicating Ideas: The Politics of Scholarly Publishing, p. 237

The idea for this FS originated with Dr. Nikos Theodorakis, who was a student of Prof. Courakis. I myself was also a student of Prof. Courakis, briefly, during my master studies in Athens. But ever since I started working in Freiburg and our meeting here in 2011, we have had the chance to reconnect for various projects. The project for this FS was planned and organized by Dr. Theodorakis under the supervision of Prof. Calliope Spinellis, who was unable to join us here today, but who sent us a letter instead, which Nikos will read to us shortly. In the course of the project they/Prof. Spinellis and Nikos asked me to participate as their co-editor and I gladly accepted the challenge, even though I knew right from the start that it was not going to be easy to coordinate so many globally recognized authors and to edit this large number of contributions. Even though there are still some small things that I would like to change if we had more time and capacities, I want to assure you that we did our best to publish this widely accessible 2,000 page volume in honour of Prof. Courakis in the time available to us.

This FS gathers 84 contributions in English, German, French, and Italian, by 90 Greek and international legal scholars. The detailed foreword in honour of Prof. Courakis was written by Prof. Sieber. More than 15 people affiliated with the Max Planck Institute in Freiburg as current or former researchers and guests contributed to the volume, including Dr. Jarvers, Dr. Rinceanu, and Dr. Chalkiadaki who are here with us today. The 13 chapters of the FS mirror the topics Prof. Courakis himself was particularly interested in during his long career as an academic, professor of criminal law and criminology, and legal practitioner. The FS is available online

free of charge (<http://en.crime-in-crisis.com/>), and can be downloaded not only via the dedicated for this purpose webpage but already also via the OPAC of the MPI-library. A limited number of print copies will be sent to major libraries around the world, obviously including the Library of the MPI. One print copy is right here and will be presented to Prof. Courakis after we listen to what Prof. Spinellis wishes to say.

*Emmanouil Billis*

*Professor Dr. Dr. h.c. mult. Albin Eser, M.C.J.*

## **Tischrede auf Professor Dr. Nestor Courakis am 22. September 2017**

Lieber Herr Courakis, sehr verehrte Frau Courakis,  
sehr geehrte Damen und Herren,

es freut mich sehr, bei diesem Lunch anlässlich der feierlichen Übergabe einer Festschrift zu Ehren von Professor Dr. Nestor Courakis einen Toast auf ihn ausbringen zu dürfen. Denn möglicherweise kann ich damit – wenigstens zu einem gewissen Grad – ein Versäumnis wiedergutmachen, das gewiss nicht zu rechtfertigen, aber vielleicht doch zu entschuldigen ist: die Nichteinhaltung meines Versprechens, zur Festschrift meines verehrten Kollegen, mit dem ich mich schon seit vielen Jahren freundschaftlich verbunden fühle, einen Beitrag zu leisten. Trotz besten Bemühens waren aber andere, unaufschiebbare Verpflichtungen und gesundheitliche Beschwerden letztlich derart viele, dass es mir nicht mehr gelungen ist, fristgemäß einen Festschriftbeitrag fertigzustellen. Umso lieber nehme ich die Gelegenheit wahr, wenigstens auf diesem Wege meine hohe Wertschätzung von Herrn Courakis zum Ausdruck zu bringen und dies hoffentlich auch von ihm als eine Art von Satisfaktion akzeptiert zu finden.

Doch bevor ich auf Sie, lieber Herr Courakis, näher zu sprechen komme, mögen einige nostalgische Erinnerungen an mein Verhältnis zu Griechenland erlaubt sein. Wenn es in meiner Jugend Träume von fremden Ländern gab, so waren diese vor allem auf Japan und Griechenland gerichtet. Mein besonderes Interesse für Japan wurde ausgelöst durch einen Roman eines – inzwischen kaum noch bekannten – Christoph Schmid, worin unter dem Titel „Kreuz und Chrysantheme“ das Aufeinanderprallen japanischer Tradition und christlicher Mission – mit anschließender Abschottung Japans gegenüber dem Ausland für mehrere Jahrhunderte – in faszinierender Weise dargestellt wurde und nachhaltige Neugier weckte. Mein besonderes Faible für Griechenland geht auf dessen Sprache, als eines meiner Lieblingsfächer am humanistischen Gymnasium, und das intensive Studium seiner frühen philosophisch-politischen Kultur zurück. Natürlich ist das moderne Griechisch nicht mehr das von Homer, Herodot oder Thukydides; aber selbst wenn es heute anders ausgesprochen wird, als es noch von Erasmus überliefert wurde, ist das schriftliche Alpha-beta-gamma noch dasselbe. Daher ist es, wenn ich von einem griechischen Kollegen mit einem Sonderdruck bedacht werde, immer wieder eine reizvolle Herausforderung herauszufinden, wie weit dabei mit meinem Altgriechisch noch zu kommen ist. So also schon von Jugendträumen her offen für

Griechenland und alles Griechische habe ich auch in meinem wissenschaftlichen Lebensbereich keine Gelegenheit ausgelassen, um mit griechischen Kollegen in Kontakt zu kommen, und Einladungen zu Vorträgen in Griechenland immer gerne wahrgenommen.

Auf diese Weise bin ich auch mit Herrn Courakis schon vor vielen Jahren bekannt geworden, wobei ich mich allerdings nicht mehr genau erinnern kann, ob dies bereits bei gleichzeitigem Aufenthalt in Tübingen, Freiburg oder anlässlich einer Begegnung in Athen geschehen ist; aber da sein Gedächtnis ja noch jünger und sicherlich auch frischer ist als das meine, wird er vielleicht besser wissen, wo und wann sich unsere Wege erstmals gekreuzt haben. Von den zahlreichen Anlässen, durch die ich seitdem mit ihm in Beziehung gekommen bin, möchte ich vor allem drei von recht unterschiedlicher Art erwähnen.

Als ein besonders nachhaltiger Eindruck, weil dieser über den auf Konferenzen üblichen „small talk“ hinausging, ist mir sein schon in der heutigen Laudatio zu Recht hervorgehobener Beitrag zu sozialetischen Grenzen der Notwehr in Erinnerung geblieben. Damals selbst auf der Suche, wie man der überzogenen, weil leicht zu unverhältnismäßigen Verteidigungsfolgen führenden, traditionellen Devise „Recht braucht dem Unrecht nicht zu weichen“ Grenzen setzen kann, bin ich auf den tieferschürfenden Beitrag von Nestor Courakis gestoßen. Dabei wurde mir schlagartig klar, Herr Courakis ist nicht nur, wie schon bei mehreren gesellschaftlichen Begegnungen erlebt, ein netter Kollege und geistreicher Gesprächspartner, sondern ein Strafrechtler von wissenschaftlichem Gewicht, den es genau zu studieren lohnt und aus dessen Schriften reiche Erkenntnisse zu gewinnen sind.

In einer ganz anderen Funktion, nämlich weniger der eines Autors als vielmehr der eines Wissenschaftsmanagers, ist mir Herr Courakis im Zusammenhang mit der Festschrift für den – leider vor kurzem verstorbenen – Kollegen und Freund Dionysios Spinellis in Erinnerung geblieben. In seiner Eigenschaft als Herausgeber dieser im Jahr 2001 erschienenen Festschrift ließ er zwei scheinbar widersprüchliche, sich tatsächlich jedoch effizient ergänzende Charakterzüge erkennen: einerseits die schon mehrfach erwähnte Liebenswürdigkeit, mit der Herr Courakis Gesprächspartnern zu begegnen pflegt und die er auch für das Gewinnen von Kontributoren zu wissenschaftlichen Projekten und Sammelwerken wirkungsvoll einzusetzen vermag, und andererseits eine zielbewusste Entschlossenheit und Durchsetzungskraft, mit der er Projektbeteiligte bei der Stange zu halten und schließlich zur fristgerechten Ablieferung eines Beitrags zu motivieren versteht.

Diese glückliche Kombination von Freundlichkeit und Durchsetzungskraft konnte ich noch auf einem ganz anderen, und zwar eher politischen Feld miterleben. Als ich Anfang dieses Jahrhunderts als Scientific Expert der beim Europarat angesiedelten „Groupe d’Etats Contre la Corruption“ (GRECO) in Straßburg zu fungieren

hatte, war in den Beratungen über rechtliche Vorkehrungen gegen Korruption Herr Courakis mehrfach mit der Vertretung seines Landes betraut. Wie auf Sitzungen internationaler Organisationen nicht unüblich, pflegen sich bei der Bewertung eines Mitgliedslandes die Vertreter anderer Länder gerne mit Kritik zurückzuhalten, um sich nicht der Gefahr von Gegenkritik auszusetzen, wenn das eigene Land auf dem Prüfstand steht – mit der Folge, dass es häufig mir in meiner Rolle als neutraler Experte – und damit nicht als Interessenvertreter Deutschlands – überlassen blieb, kritische Fragen zu stellen und damit oft erst genauere Aufklärung auszulösen. Von dieser Atmosphäre allseitigen Beschweigens nationaler Mängel haben sich die Auftritte von Herrn Courakis immer wieder als ungemein belebende Momente abgehoben. Nicht nur, dass er das von ihm vertretene Griechenland geradezu kämpferisch zu verteidigen wusste; er scheute auch nicht davor zurück, den Repräsentanten anderer Länder den Spiegel vorzuhalten, wenn sie meinten, eigene Mängel beschönigen und sich dadurch in besseres Licht setzen zu können. Doch selbst solche Interventionen wurden nicht mit grobschlächtigem Säbelrasseln vorgetragen, vielmehr gelang es ihm auch hier, gleichsam mit dem Florett charmanter Freundlichkeit sein Ziel zu verfolgen und seinen Ansichten Nachdruck zu verleihen. Einen besseren als diesen gleichermaßen elegant argumentierenden und engagiert durchsetzungskräftigen Repräsentanten hätte sich Griechenland für GRECO kaum wünschen können.

Sehr verehrter Kollege, lieber Herr Courakis, auch wenn ich in diesem Rahmen nur einige wenige Begegnungen in Erinnerung rufen konnte, hoffe ich, damit einige Ihrer Charakterzüge verdeutlicht zu haben, die sich mir von Ihrer gewinnenden Persönlichkeit und wissenschaftlichen Reputation als besonders beeindruckend eingeprägt haben und die sicherlich auch von anderen als schätzenswert empfunden werden. In diesem Sinne bleibt Ihnen und auch uns zu wünschen, dass Sie bei guter Gesundheit mit gleichem Scharfsinn und Engagement wie bisher Ihre Studien betreiben und unser Wissen bereichern können.

*Albin Eser*

*Dr. Nikolaos I. Theodorakis,*

*Associate Professor and Fellow, University of Oxford*

## **Two Words for Professor Courakis**

I will always remember my first days at the University of Athens Law School. Full classrooms, huge textbooks, and the natural curiosity about the following years of our lives. In one of those first days, I attended Professor Courakis' Criminology class: and it was a unique experience, as every course that Professor Courakis taught.

A prolific academic, an inspirational mentor, a visionary, always thriving to excel. Pursuing knowledge and excellence in perpetuity. Always helping his students and supporting them for their further studies and their academic quest. Navigating the entire academic community in Greece through the riddles of criminology, and its multiple facets and interaction with law, sociology, psychology, and so many other disciplines.

If one thing impresses me the most about Professor Courakis, this is his kindness. When we met in Athens to discuss about the honorary volume, he told me "you should always be kind with people, and giving. There's no such thing in life as being too kind". I bear this advice as a lighthouse of knowledge and I am convinced that his kind nature was determinant in becoming one of the most influential and respected academics in Greece.

It has been an honor, and a privilege, to have worked on this volume. I am happy to know that this book has documented the appreciation and affection that a wealth of renowned academics have for such a wonderful professor, mentor, and human/citizen of the world, according to the Aristotelian definition.

Thank you for your attention.

*Nikolaos I. Theodorakis*

*Dr. Vasiliki M. Chalkiadaki, LL.M.*

I have known Professor Nestor Courakis since my first semester in the Law School of the University of Athens in 2003.

I was an absolute novice, confronted with the whole new world of law studies, yet keen on attending something exciting like Criminology. At that time, I was simply fascinated by his lectures; looking back now, after having known so many professors and teaching styles over my studies, I realize how charismatic a teacher he was, since he could break down the complicated theories of crime and sanctioning to pieces and get them across to us easily, offering us, at the same time, food for thought and motivation for research with his challenging topics for seminar papers. During my studies I attended many of the courses in his Chair, as well as workshops offered by the Center for Penal and Criminological Research, of which he was the Director for many years; actually workshops “off the beaten track”, such as Graphology.

A more personal relationship with Professor Courakis started when he gave me recommendation letters for my applications for postgraduate studies in German Universities; he also took time to sit down with me and discuss my next steps: he was the one to point out that the University of Freiburg could be the ideal choice for me, as a criminal law lover, due to the ties with the Max Planck Institute for Foreign and International Criminal Law.

I also owe my first important publication to Professor Courakis, as he asked me to write an article on possessing child pornography in a computer system for the Greek scholarly journal “Egklimatogia”(“Criminology”). His support continued while I was searching for a dissertation topic, and, during my PhD years, it transformed into interesting discussions during his visits to the MPI.

Writing an essay in this volume has been a great honor for me, but it is also another chance to thank him once more for his motivation and support during my academic career. Thank you, Professor Courakis, for all your support! Your current students at the University of Nicosia are really lucky to have you.

*Vasiliki M. Chalkiadaki*



## **Greetings to the Honouree by friends and Festschrift-authors not able to attend the ceremony in Freiburg**

*C.D. Spinellis, em. Professor of Criminology,  
Law School, University of Athens*

### **Nestor Courakis: His Human Dimension**

*Vis major* compels me to absent myself from Freiburg and from this exceptional event.

Max-Planck Institut fuer auslaendisches und internationales Strafrecht has nurtured, and is still nurturing, penal scientists from all over the world, and, of course, from Greece. Among them my colleague Nestor Courakis is standing out.

I met Nestor almost 40 years ago! Our close collaboration during all these years has conduced me to discover a number of characteristics connected with his personality, and with his career as an academic teacher. I very soon realized that Nestor is the case of the teacher who does not only bid his students to enter the house of his Wisdom, as Khalil Gibran pertinently depicts it, but who also leads them to the threshold of their own mind.

He is equally the teacher who does not focus on knowledge susceptible to forgetfulness, but who instead offers values which can be preserved – similarly as happens with education in its real sense which, according to a maxim of B.F. Skinner, educations is “what survives when what has been learned has been forgotten” (in: *New Scientist*, May 1964, No 392, p. 484).

Nestor Courakis' education – *παιδεία* will be the proper word – covers a broad spectrum. This can be evidenced by his scientific work, which is so rich in quality and quantity, that it almost attains the level of a Renaissance “*homo universalis*” besides Criminology in its broad sense (“*lato sensu*”), comprising therefore par excellence sub-disciplines such as penology and crime policy.

It would not be an exaggeration to state that Nestor sometimes might transform students whith restricted horizons into students with open “criminological horizons”, as is also the title of one of his books.

Colleagues and students who have known Nestor Courakis, would agree that he is effective, probably because he loves work without being workaholic, given that he has plenty of interests. Moreover, he loves perfection without being perfectionist, given that he adopts the ancient Greek golden principle of “*metron ariston*” (everything in moderation).

We miss Nestor now that he enjoys Cyprus, the island of Venus. However, we are happy that he is continuing to offer scientific stimuli and knowledge and values to a new generation of young students, and that he is making new collaborators and friends.

I wish you well, Nestor, and I trust that you will preserve your many good human qualities that the international penal scientists participating in the Festschrift which is presented to you today are often declaring.

*C.D. Spinellis*

*Prof. Dr. Dr. h.c. mult. Claus Roxin*

Sehr verehrter Herr Prof. Courakis, meine sehr verehrten Damen und Herren, ich kann bei der heutigen Feier nicht dabei sein, möchte aber Herrn Prof. Courakis durch den Mund von Herrn Dr. Billis auch persönlich meine herzlichen Glückwünsche zu seinem Ehrentag aussprechen! Herr Prof. Courakis gehört zu den bedeutendsten griechischen Strafrechtlern. Er hat die umfangreiche internationale Festschrift, die ihm heute überreicht wird, mehr als verdient. Ich bin stolz und glücklich, dass ich als Autor an dieser Festschrift beteiligt bin. Der heutige Tag ist, nachdem wir einander im letzten Jahr bei einer Tagung in Athen getroffen haben, ein weiterer Beweis für die engen wissenschaftlichen und persönlichen Beziehungen, die das deutsche und das griechische Strafrecht miteinander verbinden. Ich kann das leicht an meinem eigenen Beispiel zeigen: Zahlreiche junge Griechen haben bei mir promoviert; noch jetzt – im hohen Alter – habe ich eine griechische Doktorandin. Ich habe Vorträge in Athen, Komotini und Thessaloniki gehalten, bin Ehrendoktor der beiden erstgenannten Universitäten und habe an zahlreichen griechischen Festschriften mitgewirkt (ich nenne nur die Namen Mangakis, Spinellis, Androulakis, Benaki und Dedes). Zahlreiche griechische Wissenschaftler haben mich in München besucht und an meinem Institut gearbeitet. Einer von ihnen (Charalambakis) war sogar mehrere Jahre lang mein Assistent.

Diese engen Verbindungen haben bei mir dazu geführt, dass ich auch über die Grenzen der Wissenschaft hinaus gelernt habe, Griechenland zu lieben. Meine Frau und ich haben seit 45 Jahren fast in jedem Frühjahr einen mehrwöchigen Urlaub in Griechenland verbracht (meist auf Inseln) und werden das auch weiter tun, solange ich noch reisefähig bin.

Der heutige Tag bekräftigt mithin eine alte und bewährte Freundschaft. Ich schließe mit einem Hoch auf Prof. Courakis, auf das griechische Strafrecht und auf ganz Griechenland!

*Claus Roxin*

*Professor em. Dr. Dr. h.c. mult. Klaus Tiedemann*

### **Knowing Nestor Courakis**

I have known Nestor for decades. We first met in Paris where I prepared my Ph. D. Thesis on comparative aspects of the legal situation of prisoners. Nestor had just published his famous article on white collar crime in the leading review “Revue de science criminelle et de droit pénal comparé”. This article was fundamental in many regards, and was the first one of its kind in France.

Afterwards, we spent much time together, discussing criminological and criminal law policy questions, both in Athens and Freiburg where we would host Nestor at my University Institute and have him in my house where we didn’t only discuss scientific items but also played baby-foot and had some wine from the Freiburg region. This was also an opportunity to get our wives to know each other.

During, and since that time I followed Nestor’s great career and kept reading his writings, the most important of them being published also in French.

Therefore, he truly merits an international “Festschrift”, covering the broad field he has worked on. I am proud of being his friend and mentor and congratulate him, and my academic follower Ulrich Sieber, on this book which is of high value.

*Klaus Tiedemann*

*Professor Dr. Thomas Weigend, Köln*

Ich bedaure sehr, dass ich an der Veranstaltung zu Ehren von Nestor Courakis nur aus der Ferne in Gedanken teilnehmen kann. Ich erinnere mich noch sehr gut an unsere Begegnungen in den 1970er Jahren, damals noch in den alten Räumlichkeiten des Max-Planck-Instituts, als wir beide an unseren Dissertationen arbeiteten. Während wir jungen Deutschen die Zeit gerne mit Fußballspielen, launigen Gesprächen und kühlen Getränken verbrachten, umgab Nestor Courakis schon damals eine Aura des Gelehrten – er war immer freundlich und zugewandt, dabei aber ernsthaft und voll konzentriert auf sein wissenschaftliches Vorhaben. Professor Hans-Heinrich Jescheck, unser gemeinsamer Lehrer, war schon damals überzeugt davon, dass aus dem jungen Griechen ein großer und wichtiger Wissenschaftler werden würde. Und *Jescheck* hat damit Recht behalten. Hatte sich Nestor Courakis in jenen Freiburger Jahren noch auf die Strafrechtsdogmatik konzentriert, so hat er in den folgenden Jahrzehnten ein Werk geschaffen, dessen Vielfalt wirklich staunen macht. Ich kenne niemanden, der die gesamte Strafrechtswissenschaft in ihrer ganzen Spannweite, von der antiken Geschichte bis zur aktuellen Wirtschaftskriminologie und zur Genderforschung, so umfassend und tiefgründig bearbeitet hat wie Nestor Courakis. Dabei hat sich sein Fokus – vielleicht auch das eine Frucht jener frühen Freiburger Jahre – keineswegs auf die Situation in Griechenland beschränkt, sondern immer auch die anderen größeren Rechtsordnungen erfasst. Neben all seinen wissenschaftlichen Arbeiten und seiner umfangreichen Lehrtätigkeit hat sich Nestor Courakis auch in der Praxis der Kriminalpolitik engagiert und dort – etwa im Bereich der Hilfe für entlassene Strafgefangene – viel Gutes bewirkt.

Die Festschrift, zu der ich mit großer Freude einen kleinen Beitrag leisten durfte, spiegelt die ungewöhnliche Weite der wissenschaftlichen Interessen des Jubilars wider. Das Leitmotiv der Krise verbindet die verschiedenen Teile, von den fundamentalen Grundkonzepten des Strafrechts über Fragen des europäischen und internationalen Rechts bis zum Jugendstrafrecht und zur Wiedergutmachung. Wenn man die vielfältigen Probleme unserer Zeit durch ernsthaftes Nachdenken und kluge Vorschläge tatsächlich lösen könnte – mit diesem Buch wäre ein wesentlicher Schritt zu einer friedlicheren, gerechteren Welt getan. Es ist nicht das geringste Verdienst von Nestor Courakis, dass seine Ausstrahlung und sein Renommee so viele Wissenschaftler unterschiedlicher Disziplinen unter dem Banner dieses voluminösen Bandes zusammengeführt haben. Wir alle sind ihm zutiefst dankbar für seine großartigen Leistungen, und ich persönlich wünsche ihm noch viele Jahre für kreatives und fruchtbares Schaffen.

*Thomas Weigend*

*Prof. Dr Evangelos Moutsopoulos*  
*Member of the Academy of Athens*

I first met professor Nestor Courakis during my rectorate at the University of Athens. I immediately got aware of his deep knowledge in the field of Law Studies and his acute spirit, as well as his humanity. I was inspired by the gifted young colleague and a warm friendship grew between us. Later on, I assisted to the marriage of his daughter and son and our family ties became even stronger. Recently, due to my infirmity, he took the initiative of helping me by assuring for me a permanent assistance. My gratitude towards him does by no means shade up my admiration for his scientific accomplishments which embrace social and human rights altogether, and are testified by the publication of his bimensual review *New Politics*. The great number of the colleagues who participate in the present edition testifies also to the immense international respect professor Nestor Courakis personality imposes.

*Evangelos Moutsopoulos*

*Professor Andreas Kapardis*  
*Department of Law, University of Cyprus*  
*and Visiting Professor, Institute of Criminology, Cambridge University*

### **Some Comments on Nestor Courakis**

To have known and collaborated extensively with Nestor has been both a pleasure and a privilege. One man can indeed make a difference and, yes, Nestor Courakis' impact for decades both on Criminology in Greece as well as on those that come into contact with him is immeasurable. Being a polyglot, a polymath and a prolific author who approaches knowledge with respect, coupled with his charismatic, though humble personality and positive attitude, are characteristics that endear him to all who meet him. You see, Nestor is a scholar par excellence and a principled gentleman.

Since we met at a conference in Athens in 1999, he has not only been an excellent friend and a fantastic collaborator in a number of projects; more importantly, he has been the one friend whose virtues never cease to impress me. In John Quincy Adams' words, he is a leader who does not crave to hold offices but whose actions inspire others to dream more, learn more, do more and become more.

"Yesterday's the past, tomorrow's the future, but today is a gift. That's why it's called the present". How I wish dear Nestor I could be with you on this very special occasion. Till we meet again, I have no doubt the Festschrift in your honour will be a resounding success and you more than deserve it. Thank you Nestor for being a fantastic friend and colleague to so many of us – just continue being you.

*Andreas Kapardis*

*Assoc. Prof. Maria Krambia-Kapardis*  
*Cyprus University of Technology, Chair, Transparency International-Cyprus*

## **Reflecting on Nestor Courakis**

Editing a book with Nestor on economic crimes back in 2000 left me in no doubt as to his plethora of charismata: commitment, calm disposition, intellect, breadth and depth of knowledge and, above all, his positive approach to everything. Subsequently, Nestor proved a real asset in helping me put economic crime on the map in Cyprus, for which I am indebted to him. Despite his usual very busy schedule, he has always responded promptly and positively to a broad range of requests for collaboration. I must say I particularly enjoyed co-authoring a book chapter on anti-corruption measures and look forward to more such collaborations in the future.

I regret not being able to attend the Festschrift in Honour of my dear friend Professor Dr. Nestor Courakis in Freiburg on 22 September 2017 but I have no doubt whatsoever he will continue being a fantastic teacher and a prolific scholar of international repute.

*Maria Krambia-Kapardis*



*Professor Helen Xanthaki*

*Professor of Law, UCL; Director, International PG Laws Programmes, University of London; Senior Research Fellow, IALS; President, International Association for Legislation; LLB (Athens), MJur, PhD (Dunelm), SFHEA; Lawyer (Athens)*

I had the great privilege of encountering Professor Courakis in my early University years. I was a rather lost year-3 law student, moderately interested in the law, which at the time I felt unable to understand, let alone love. The Nestor of my academic life, and I do not think that the name is a coincidence, was Professor Courakis. His lively enthusiasm infected me with his love of law, whilst his tranquil support nurtured my newly found love for academia. He showed me how much a professor can inspire students, help them understand the complex structure of law, and how much they can nurture achievement in average students like me. At the time I did not dare dream of an actual academic career, but his incredible trust put into a generous recommendation letter started my postgraduate student life, and now here I am. I have used Professor Courakis as a role model in my own career: low key, but ever there; challenging, yet tolerant of mistakes; inspiring and motivating, yet not loud. Of course I probably failed to reach his high standard, but this is my fault as an executor rather than his fault as a teacher and mentor. I believe that Professor Courakis is the epitome of an excellent academic: progressive research, inspiring teaching, ever present for the University and his students. Perfection is rare in life, but Professor Courakis is certainly one of the few. It is a real privilege and a rare honour to have had him in my student and academic life, which I owe to a large extent to him.

*Helen Xanthaki*

***Professor Ioannis Panousis***  
***University of Athens***

Professor Nestor Courakis has a truly exceptional academic career. President/member of many Greek and European scientific and social/cultural bodies, author of 30 books and 200 articles concerning Criminology, Penology, Criminalistics, and overall, a brilliant university's teacher. He has inspired hundreds of students to follow criminological studies, and by his researches Professor Courakis opened new horizons in penological theory.

A distinguished personality, expert not only in scientific matters, but also in literature and history, Professor Nestor Courakis has graced the title of the university's teacher and the mission of an authentic intellectual.

*Ioannis Panousis*

***Professor Dr. Angeliki Pitsela***  
***University of Thessaloniki***

It is very touching that the Max Planck Institute for Foreign and International Criminal Law has decided, on the initiative of its Director, Professor Ulrich Sieber, to bestow the honor of gifting a commemorative volume to Professor Emeritus Nestor Courakis and Doctor of Law of Albert-Ludwig University of Freiburg on his seventieth birthday anniversary. This honor serves as recognition of his valuable, long-lasting, and significant contribution in the fields of Penal Law and Criminology, not only in the University of Athens but also in other European universities and research institutes. It is a great pleasure and at the same time an almost impossible mission to refer in a very short time to his work and personality, so I will have to be selective.

The honoree, Professor Nestor Courakis, has conducted research in various fields of “the entire spectrum of criminal science”. His classical textbooks include the disciplines of Penitentiary Law, Juvenile Law, Criminology, Theory of Penalty and Financial Criminal Law. He has served as an editor in dozens of books containing contributions of young scientists in the research fields of Forensic Science, Gender Criminology, Crime Policy (four volumes) as well as a series of volumes in honor of his colleagues. His scientific work has a large resonance within the academic community, as it is evident through the presentations and the reviews of his books, the number of citations, his articles etc.

The honoree has often served as a representative of the Greek Department of Justice in various conferences of the Council of Europe, the European Union and the United Nations, in issues concerning Criminology (especially the prevention of delinquency, Penitentiary Law, juvenile delinquency and crime prevention policy). He has also taken part in law drafting committees for the revision of Penitentiary Law, the Penal and the Criminal Procedure Codes, Juvenile Law, Drug and Sports Legislation.

He is a creative, active and tireless intellectual worker, who is completely dedicated to his science and also in literature. Furthermore he has a deep knowledge and love for the ancient Greek world. He studied Law in Athens, where he obtained his degree with honors. Consequently, he wrote his doctoral dissertation under the title “On the Socio-ethical Rationale on Self-Defence” under the supervision of the legendary Professor of the University of Freiburg and Director of the Max Planck Institute, Hans-Heinrich Jescheck and defended it successfully receiving the highest distinction.

In 1977, when he was thirty years old, after completing his compulsory 26 months long military service in the Navy, apart from his doctoral title (summa cum laude), he had already received a Diploma of Superior Studies (DEA) in Crim-

inology from the University of Paris II. Two years later (1979) he was awarded the Diploma of the Paris Criminology Institute. His scientific trajectory is defined by excellence. A valedictorian graduate of Athens Law School, a summa cum laude Doctor of Law (University of Freiburg Law School), an excellent partner in the Criminology and Penitentiary Law Chair of Athens University, a distinguished academic teacher, an author of insightful works, with deep knowledge of the general issues of Criminology, he entered the Academy of Athens and he was honored by the Hellenic Criminal Bar Association.

He held a particular affection towards his students and the young scientists, who – as he has readily acknowledged – have enriched his work thanks to their intellectual curiosity and their academic worries. He has incessantly encouraged and emboldened their work, while he was never frugal but fair regarding their evaluation. The honoree has served (2001-2015) with special zeal at the Laboratory of Criminal Science of Athens Law School, which was founded in 1973 by his teacher, Professor Ioannis Daskalopoulos, Doctor of the Munich Law School. Under his directorship the laboratory has flourished. Several young scientists were employed at the Laboratory and a number of conferences and workshops were organized as well as special lectures, other scientific activities and significant publishing initiatives were carried out. In this context, the online crime magazine “the Art of Crime” serves as a constant effort for the promotion of Criminal Sciences.

It is not an exaggeration to state that Professor Courakis with his teaching, research, writing and general scientific contribution has opened new horizons in Criminology. He is deservedly included among the pioneers of Criminology that have contributed decisively with their scientific work to the renewal of Criminal Sciences in Greece, following in the footsteps of the founding father of Criminology Konstantin Gardikas, doctor of the Law School of Geneva. He started his academic teaching and research in the scientific field of Criminology-Penitentiary Law in the University of Athens during the 1920’s and Professor Ioannis Daskalopoulos and Professor Emeritus Kalliopi Spinelli succeeded him. All four of them are renowned members of the international academic community.

I am particularly content that I had the fortune to meet in this Max-Planck Institute, during the late 1970’s, among the members of this wonderful academic community (comprising both German and foreign scientists), this wise teacher, the good friend, the supportive mentor, the gentleman and the brilliant scientist with special social sensibility, Professor Nestor Courakis.

Ad multos annos

*Angkeliki Pitsela*

*Maria Archimandritou, Ph.D*  
*Assoc. Professor of Criminology-Penology*  
*Aristotle University of Thessaloniki, Gr.*

Dear esteemed colleagues,

It is wonderful to know that Prof. Dr. Nestor Courakis will be in Freiburg to give a lecture and attend the presentation of his Festschrift. He certainly deserves every honour.

His students talk about a great teacher. We, his colleagues from afar think of him as a wonderful colleague, flexible, sensitive, and always curious toward scientific issues. He is everything that marks an extraordinary academic. Hoping that he continues his brilliant academic route, we all celebrate his years as a Professor at the Kapodistrian University of Athens. I would like very much the idea of being there in Freiburg with you to share some thoughts about how much he has influenced directly and indirectly all of us. Yet, I am deeply sorry to say that multiple obligations do not permit me to be there.

Wishing Professor Dr. N. Courakis and all of you the very best on the occasion,

Kind regards,

*Maria Archimandritou*

*Dr. Konstantinos Kalliris*

*Lecturer, UoL International Programmes, LLB, LLM, MSc (Oxon),  
DPhil (Oxon), Fellow, YTL Centre for Politics, Philosophy and Law,  
King's College London, Barrister, Athens Bar Association*

### **A brief tribute to Professor Nestor Courakis**

In all his years as a distinguished criminologist, Professor Nestor Courakis was keen to master the fundamental virtues of a modern academic and social scientist: cutting-edge research; research-led teaching; true impact and considerate mentoring. As one of his many students, it is a privilege and a great pleasure to be able to say a few words about his accomplishments in these areas and what they reveal about his views on life, academia and what we owe to others.

Professor Courakis was – and still is, of course! – happy to explore new methods and approaches in his research projects. He was among the pioneers of interdisciplinary research in Greece, combining law, sociology and his thorough knowledge of history and literature to produce holistic responses to pressing questions. His work extended to fields with little or no presence in Greece, including financial crime and gender-based studies of criminal activity. A prolific writer, he contributed to the development of criminological studies in Greece with a large number of books, essays and articles. Many Greek lawyers and criminologists were influenced by his work and pursued excellent research projects of their own, some under his supervision.

Teaching is often overlooked as an aspect of an academic career that is ‘not as important as research’. Contemporary approaches to academic excellence tend to assign limited importance to teaching. However, passing on knowledge and skills to the younger generations is a core academic duty. Professor Courakis was a gifted teacher with an obvious interest in the enhancement of his students’ learning experience. I first met him, as a teacher, during my LLM years at the University of Athens and still recall the vivid discussions his lecturing inspired. For many young lawyers, he was the spark that led to brilliant careers in the study and practice of criminal law, as well as in the broader area of crime studies. Under his supervision, some of the best doctoral theses were written.

Impact is a term that is often misunderstood. In current academic jargon, it can refer to anything from citations to consultancies but the essence of academic impact is to – somehow – make the world a slightly better place. Professor Courakis contributed his expertise to several committees, legislative projects and watchdogs which focused on issues ranging from sports violence to youth crime. He was a member of governing bodies whose aim was to improve the lives of prisoners,

tackle drug use or fight corruption, in Greece and abroad. He was a constant and inspiring presence in the academic, social and legislative endeavours of Greece and Europe.

I would like to conclude on a personal note. As already mentioned, Professor Courakis taught in the LLM in Criminal Law at the National University of Athens when I was a postgraduate student there. More importantly, he supervised my doctorate on organised crime and corruption (also at the University of Athens) and served as mentor during my time as Greek Scholarship Foundation postgraduate scholar. Most of my graduate and doctoral work at Oxford was scrutinised and assessed by him. It goes without saying that his research-related advice was invaluable. What I must stress, however, is the commitment, understanding and open-mindedness with which he guided my steps during those years. I join his many students in thanking him for his mentoring and wishing him all the best for the future.

Thank you.

*Konstantinos Kalliris*

***Nikolaos Koulouris***

***Assistant Professor, Department of Social Administration  
and Political Science, Democritus University of Thrace***

In the life-course of a university teacher there are at least two categories of special circumstances requiring an extensive reference to his/her work. The first concerns his/her academic progress and it is often a stressful endeavour, which, when successfully completed, is a substantiation for his teaching and research. For Professor Nestor Courakis, this process was formally completed in 1993, after a twelve-year period during which he successfully ascended all the academic grades at the National and Kapodistrian University of Athens Law School. The second category of circumstances is the recognition of one's scientific performance and academic ethos by students, associates, colleagues, friends, either agreeing or disagreeing with the views he /she expressed, but welcoming the values and principles he/she taught with his words and actions. For my teacher, colleague and friend Nestor Courakis, today's event belongs in the second category. We, his students, colleagues and collaborators, are asked to present sufficiently, within a few minutes, the impressive course of an over thirty-five-year academic life and ten more years of his rich, prior scientific activity. The mission is impossible, especially if we realize the quality and the quantity of his work. Being aware of this restriction, I admit that such a subjective effort can just be selective and include only a few snapshots.

First of all, his great work “Penal Repression between Past and Future,” a unique interdisciplinary piece with five editions (1984, 1985, 1997, 2005, 2009) where historical, philosophical and legal-penological approaches to the reduction of crime by penal sanctions are met, in the light of the humanistic ideals of our time that favor the abandonment of vengeful, useless, costly or offensive to human dignity penalties. I had the honor, the joy and the responsibility to contribute personally in the last three editions of this book.

The comprehensive presentation of the often conflicting criminological and penal approaches and the views expressed in the “Law for Juvenile Delinquents”, a valuable teaching and research tool, which was first published in 2004 and fully revised in 2012. In this book one can find a discussion of the "institutional dysfunction" approach, the malfunctioning of social institutions. This theory, first formulated in 1987, is Nestor Courakis' response to sociological theories which identify the implications of certain problems in juvenile delinquency in a deterministic / mechanistic manner, without examining how socializing factors actually operate and their relationship to the existing structure of values in a society.

His arguments for a dialectic harmonization of the contradictions between “traditional” and “new” criminology, towards a “synthetic” criminology,



combining the positive elements of the two paradigms. This approach was formulated in 1985, in an article on the perspectives of criminology, which is included in “Criminological Horizons”, a two-volume collection of some of Nestor Courakis most important studies (in two editions, one in 1991 and one in 2005, with a common body of studies and some different ones, adapted to the data of the periods to which they refer). It is based on his position that contemporary industrial societies “neither have the cohesion of a primitive, monolithic society with universally accepted rules (consensus), nor are they mutually supportive societies of oppressors and oppressed and class-determined penal rules (dissensus)”. In these societies, he argues, there is no consensus on all the socially protected values, but there is a pluralist consensus with the concept of reciprocity in the process of accepting these values.

In my long standing collaboration with Nestor Courakis, we also joined our forces in the edition of three of the totally four volumes of “Crime Policy”, a collection of contributions issued from 1994 to 2003, with great impact and massive participation of the scientific community. The range of subjects submitted by dozens of leading and new scientists covered all areas of penal and criminological sciences. We collaborated, together with my beloved teacher, Professor Calliope Spinellis, in four editions of “Penitentiary Legislation” (1990, 1995, 1998, 2001), in which we tried to collect and classify the rich regulatory production of the Greek legislator, framed by basic texts of European and international prison and penal policy. Moreover, we met in committees and councils for the reform of penitentiary law and policy, in research groups studying violence in sports and juvenile detainees during their detention and after release etc. After many years of multifaceted cooperation, I can say that Nestor Courakis has the gift to ideally combine quality and quantity in his scientific work, a work that covers such a wide range of topics so that it is impossible to deal with any aspect of the subjects of criminological sciences and related areas without consulting at least one study of his. Besides, my honored teacher is a man who trusts and inspires his students and collaborators in a way that helps them to improve scientifically, making the most effort possible with invasive diligence and consciousness. I owe this virtue to him and I thank him because, together with Professor Spinellis, he has impelled me to follow the difficult paths of criminological sciences, which, due to their work, become more accessible. I wish Nestor Courakis all the best in his current position in Nicosia, with ongoing productive scientific work that will bind even more space in our libraries and will document our scientific quests for wider criminological horizons, for substantive, social justice for juveniles and adults, for the de-escalation of penal repression.

*Nikolaos Koulouris*

*Dr. Irene Sagel-Grande*

*Ass. Professor em., Faculty of Law, State University of Groningen,  
The Netherlands*

Sehr geehrter Herr Professor Courakis,

als ich mich mit der Frage beschäftigte, welches Thema ich für meinen Beitrag zu Ihrer Festschrift auswählen sollte, kannte ich zwar einige Ihrer Veröffentlichungen, aber ich wollte es genauer wissen und befragte das Internet. Was ich dort fand, war sehr umfangreich und vielfältig. Es ließ mir quasi die freie Wahl. Ich habe mich dann für das Thema „Heranwachsende im Strafrecht“ entschieden, weil es in den Niederlanden gerade hoch aktuell war und auch außerhalb der Niederlande diskutiert wurde.

Bei der Abgabe meines Beitrags war ich, wie mir mitgeteilt wurde, die Erste. Was dann im Laufe der Vorbereitung der Festschrift alles hinzukam, ist ein großartiger Schatz, der den gegenwärtigen Stand unserer Wissenschaft dokumentiert und festhält. Ich freue mich, dass ich einen kleinen Beitrag zu diesem Werk leisten durfte. Festschriften sind und bleiben einzigartige, reichhaltige Dokumente und Zeitzeugen. Seit sie im Internet für alle jederzeit zugänglich sind, ist ihr Wirkungsbereich weiter gewachsen und ihr Einfluss noch stärker geworden.

Mit diesem kleinen ‚*Aphorismos*‘ zur Bedeutung der Festschrift sende ich Ihnen meine herzlichen Glückwünsche zur feierlichen Präsentation Ihrer Festschrift im Max Planck Institut in Freiburg im Breisgau am 22. September 2017.

*Irene Sagel-Grande*

*Professor Dimitris Triantafyllou*  
*Legal Adviser of the European Commission*  
*Honorary Professor of the University of Würzburg*

Professor Courakis is not only a profoundly human and accessible Intellectual with broad interests ranging from Sociology – over Law and Economy – to History, but also a brilliant example of a genuinely European Scholar, who has studied, taught and researched in several European countries and published in all the main European languages. Through his comparative approach he made a remarkable contribution to the development of a common criminal science throughout Europe, which is badly needed nowadays because of the cross border crime; and with his works on financial crime and EU fraud in particular Prof. Courakis paved the way for the newly founded European Prosecutor, an Authority whose competence is expected to expand in the coming years. This is why it would be for the European legal order as a whole to pay tribute to Prof. Courakis.

*Dimitris Triantafyllou*

*Professor Nestor E. Courakis*  
*Faculty of Law, University of Nicosia, Cyprus,*  
*Emeritus Professor, Faculty of Law, Athens University*

## **Greetings and Keynote Speech by the Honouree**

Dear Colleagues and Friends,

It is indeed very moving to be here again, at the Max-Planck Institut für ausländisches und internationales Strafrecht. This is the place where I prepared my Doctoral Thesis, having as Doctorvater one of the best penologists of his time, but also one of the most cultivated and noble persons: Professor Hans-Heinrich Jescheck. This is also the place where I had the pleasure to meet a young but very promising assistant of Criminal Sciences at the time, Dr. Ulrich Sieber, whose Dissertation on “Computer Crimes and Penal Justice” opened new paths on this issue and this already in the 1970s, when the use of computers was in fact very restricted. Finally, Max-Planck Institut für ausländisches und internationales Strafrecht is for me the place where I enjoyed a real scientific atmosphere, a place where I could find whatever book or essay of penal/ criminological interest I would need, but also where I might meet friendly colleagues who could give me any additional information or explanation about the issue under research. For all this good atmosphere, which of course still exists, I am always very thankful to the people of this Institute.

On this occasion, let me pay tribute, apart from Professors Jescheck and Sieber, also to some other important persons, who have been my teachers and mentors, or who have influenced my academic career afterwards. I always bear in mind with gratitude the names of my university teachers Daskalopoulos, Mangakis, Androulakis, Anna Benaki, Georgiadis, Stathopoulos in Athens, Tiedemann and Eser in Freiburg and Léauté and Carbonnier in Paris. Moreover, I honour my colleague Roger Hood, Professor at Oxford University, with whom we organized a European seminar on Criminal Policy.

Furthermore, I am deeply thankful to my dear colleague in Athens Professor Calliope Spinelli, with whom I have had a harmonious collaboration during almost 40 years and who have had the kindness to prepare a touching greeting about me.

All these prominent persons, teachers and colleagues, have shaped my mentality and my way of thinking in two directions: Firstly, they taught me that one must not be absolute in his/her ideas, but, on the contrary, that one should show understanding to the opposite ideas of other persons and try to find the positive aspects of all these opposing ideas, in order to bring them to a harmonious whole. Perhaps Social Justice, about which I will set out some considerations immediately afterwards, is a

good example of this kind of balanced way of thinking. Secondly, these same distinguished persons taught me to consider scientific research not as a goal per se, but as a way to improve the living conditions of other people. Within this framework, it is important, in my opinion, instead of exercising barren criticism to others, to search and find concrete proposals which can ameliorate the situation and may have a positive effect on the others.

Before I come to my keynote speech, let me also say some words in German:

Sehr geehrte Damen und Herren, liebe Kollegen und Freunde,

Ich bedanke mich herzlich bei Ihnen dafür, dass Sie heute gekommen sind, um an dieser Festschriftübergabe teilzunehmen. Ich bin auch Herrn Professor Sieber sehr dankbar für seine Initiative, das Vorwort der Festschrift zu verfassen, diese schöne Veranstaltung organisieren zu lassen und eine so ehrenvolle Laudatio über meine Person vorzustellen. Großen Dank schulde ich auch Frau Prof. Spinelli, Herrn Professor Theodorakis, Herren Dr. Billis und Papadimitrakopoulos, die diese wertvolle Festschrift herausgegeben haben, sowie Herrn Antonis Sakkoulas, der den schönen Band von etwa 1900 Seiten veröffentlicht hat.

Es ist auch den mehr als 80 Autoren zu danken, die zu der Festschrift wichtige Beiträge geleistet haben, sowie Herrn Prof. Roxin, dem führenden Strafrechtler der Gegenwart, für seine netten Worte über mich.

Last but not least möchte ich auch meiner lieben Frau Vicky von Herzen dafür danken, dass sie mir alle diese Jahre unseres gemeinsamen Lebens immer nah gewesen ist und mich in vielerlei Hinsicht unterstützt hat.

And now I would like to share with you some of my thoughts about the topic “Social Justice and Criminal Policy”. I will concentrate to the main points, giving thus our guests time for discussion and intervention.

*Nestor E. Courakis*



The Festschrift (at the middle of the picture) together with other criminal law books related to the MPI, as they were exhibited during the ceremony



Professor Dr. Dr. h.c. mult. Ulrich Sieber, Director of the Max Planck Institute for Foreign and International Criminal Law, while delivering his laudatio in honour of Prof. Courakis



The Honouree Professor Nestor Courakis while giving his keynote speech on Social Justice and Criminal Policy



Professor Sieber together with two of the Festschrift's Editors: Dr. Emmanouil Billis and Dr. Nikolaos Theodorakis

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## **In search for a new Eutopia<sup>1</sup> in Criminal Policy: The Role of Social Justice**

**Abstract:** According to the author, Social Justice constitutes an important, new challenge in the field of Criminal Policy. Based on the concepts and principles of social solidarity and meritocratic fairness as its primary pillars, Social Justice respectively has a double task: (a) to enhance the social rights that are considered to be essential for the decent living of citizens in a modern Social State, and (b) to create the conditions needed in order to ensure that opportunities deemed necessary for a successful career are given to those who have the skills and ability to take advantage of them.

This chapter aims to advance restorative justice theory by linking it with social justice and by contesting that both can play an important role at the three levels of Criminal Repression: legislative, judicial and correctional. Social Justice can also prove to be particularly effective in the field of social prevention of crime, (a) by improving the standard of living, with emphasis on vulnerable social groups and, in this way, by preventing relevant criminality or delinquency against property, and (b) by coping with nepotism, bureaucracy and corruption, which may hinder meritocratic social mobility and the well-functioning of society's institutions in general and, hence, by reducing anomic situations which may conduce to civil disobedience and relevant criminality.

### **I. THE CONCEPT AND NECESSITY OF SOCIAL JUSTICE IN A PERIOD OF CRISIS**

#### **What are the meaning and the role of Social Justice**

1. The difficult financial conditions that most Europeans have been facing, following the onset of the 2008 financial crisis, have led to the emergence of new challenges in the field of Criminal Policy and to the respective need of new responses,

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<sup>1</sup> Eutopia (unlike Utopia, which is really Ou-topia, or no place) is merely your own place perfected.



given that, as Albert Einstein once said, “If you always do what you always did, you will always get what you always got”. Under this aspect, a possible response to this new demanding situation could be based, as it will be subsequently explained, on the double aim for a greater level of social solidarity in human relations, as well as for meritocratic fairness when assessing incidences of inequality.

### **The contribution of Restorative Justice to Criminal Policy**

2. During the last decades, Criminal Policy has developed the idea of reconciliation of conflicts between the offender and the victim. Indeed, it is a known fact to those involved with the Penal Sciences, that a dominant contemporaneous trend is that of Restorative Justice. This means that Criminal Law and Criminology have to address the needs of the victim of a criminal act and to advocate for relevant methods aiming at extrajudicial settlements and at the reconciliation of the offender and the victim. Restorative Justice is, hence, based on the triptych of the perpetrator assuming responsibilities for their actions, of restoring, as far as possible, the effects of the injurious actions against the victim and, also, of actively expressing the desire for reconciliation with the victim (cf. Gavrielides, 2007, 139). These ideas have already penetrated in legislations. For example, in Greek Law for Minors there is a provision for the reformatory conciliation measure, pursuant to article 122 case e of the Greek Penal Code.

3. Apparently, this trend has reinforced the detachment of criminal law from state authority and from the so called *jus puniendi*. At the same time, it has brought to the forefront both the decisive role that the victim plays in disputes of a criminal nature and the active participation of the community in resolving differences among its members, for example, through mediation. Therefore, this trend toward Restorative Justice, which owes its origin, and even its name, to Aristotle (Nicomachean Ethics, V 6, 1130 b 38 ff.) (cf. Artinopoulou/ Gavrielides, 2013) has opened up new horizons in the field of Criminal Policy, as well as in the field of criminal science in general.

### **The trend for “just deserts” and the principle of proportionality**

4. At the same time, another significant trend has emerged in the field of Criminal Policy, and more specifically in the field of sentencing. This trend focuses on the principle of proportionality, and is based on the assumption that the sanction or any other social reaction, caused by the criminal act, must be both proportionate and appropriate to the offence. Known as “*just deserts*” (=deserved punishment or reward), this trend is complementary to Restorative Justice and draws attention to the gravity of the offence, to the idea of retribution and to the respect of the rights of the perpetrator, either as defendant or as prisoner – cf. von Hirsch, 1985 and von Hirsch/ Ashworth, 2005.

## The need for more solidarity and fairness in our era

5. However, both these trends favour only a mere restoration of the *status quo* in the form of a so called “numerical” equality and proportion (cf. Aristotle, Nicomachean Ethics, V 6, 1131 a 33 ff) between the damage caused and the compensation awarded. Yet, the characteristics of the perpetrator and the conditions that led him to the criminal act are not taken into account, except for some general considerations regarding his capacity for imputability and the degree of his criminal responsibility. Consequently, factors which have led to criminal behaviour, such as the perpetrator’s poor financial situation, do not seem to play an important role in his criminal treatment, even though coping with these factors could certainly contribute to the elimination or reduction of such criminal acts in the future.

6. Therefore, in this period of time, a time of profound crisis at all levels, as for example at the level of values crisis, there is a need for more than simple offender-victim conciliation. There is a need for this spirit of reconciliation and solidarity between persons involved in a criminal act to be extended to the benefit of all those, who are experiencing hard times and may, therefore, in their deprivation and frustration, be led to committing crime or to suffering from it. In other words, in view of the current difficult financial conditions, a new form of justice is required to fill this existing gap by embracing the two aforementioned fundamental concepts of social solidarity and meritocratic fairness. Besides, this kind of justice could also be appropriate for healing at a more general level society’s wounds relating to crisis and distress.

7. This new form of justice, where the two concepts come together, is Social Justice. More specifically, according to a Report published in 2006 by the International Forum for Social Development of the United Nations (p. 7)<sup>2</sup>, Social Justice “may be broadly understood as the fair and compassionate distribution of the fruits of economic growth”.

Consequently, Social Justice has two main aspects and serves, at the same time, two main purposes:

8. Firstly, Social Justice focuses on social solidarity, humanism and Christianity, having therefore as a main objective the idea of helping others in a spirit of love and “compassion”, and even of offering our belongings to those in need<sup>3</sup>. Secondly, this same notion of Social Justice contains the idea of meritocratic fairness, which prioritises excellence, and encourages each individual to develop their abilities and skills in order to overcome oneself and build a better future at a personal level. Meritocracy contains here a specific sense: According to *Aristotle*, it provides

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<sup>2</sup> <http://www.un.org/esa/socdev/documents/ifsd/SocialJustice.pdf>

<sup>3</sup> cf. under this aspect: Malekian, 2017: esp. 217 ff. and furthermore Rawls, 1971: 191-192, who considers the so called “love of mankind” as prompting to acts of supererogation and as binding a community of persons together, quoted in Malekian, op. c., 29.

equality for those who are equal and inequality for those who are unequal (Politics, III 5, 1280 a 12 ff. and 1282 b 22 ff.). This kind of “deserved equality” means that emphasis is placed on the specific characteristics of each individual, so as to achieve, in accordance with the relevant teaching of the same philosopher, the goal of distributive justice and of a so called “geometric” equality (Nicomachean Ethics, V 6, 1131 b 15 ff, VII, 1132 a 3 ff).

9. At a more general level, but almost similar in effect, Justice, according to *David Miller* in his work “Principles of Social Justice”, 2003: 207 ff., 134 ff., 232, has three major principles and pillars: (a) need (one is lacking in basic necessities and one’s capacity to function is being impeded); (b) desert (one earns reward based on performance); and (c) equality (society regards and treats its citizens as equals, so that certain rights should be distributed equally) – cf. Caravelis/ Robinson, 2016, 20 and: Capeheart/ Milovanovic, 2007, 41 ff. The idea that equality is also a pillar of justice is in principle correct. However, apart from some specific civil and political rights which must be recognized equally to all citizens, (irrespective of their race, ethnicity, gender etc.), all other available resources and disadvantages in society have to be distributed on the basis of particular characteristics of these citizens, depending each time on the circumstances – hence mainly on the basis of their needs and their desert.

10. Obviously, these two criteria and purposes (needs and just desert) conceal in the last analysis two opposing worldviews. In fact, in their extreme forms, they are contradictory to one another and, when disconnected from each other, create more problems than the ones they solve: The idea of helping others in view of their needs, detached from the motivation of rewarding those who are talented, can lead to a society where citizens have no incentives for excellence and who consequently, instead of working hardy, will be expecting help from others and the State. On the other hand, desert and excellence alone encourage an attitude of extreme individualism. This individualistic approach implies, in particular, that everyone must be interested only in themselves, and, essentially, to such an extent that the ideas of social cohesion and social offering are deprived of every substantive content and value. Nevertheless, this view has been particularly expressed by the libertarian *Robert Nozick* in his essay “Anarchy, State and Utopia”, 1974: 150 ff.), where he considers the redistribution of income through progressive taxation as “theft” and even “servitude” imposed by the government.

### **Social Justice as a concept that bridges differences**

11. A bridging and creative synthesis of these opposing approaches and worldviews is, therefore, essential, also because they are both indispensable for a well-functioning society. Besides, these two counter-balancing views tend to disguise a more general conflict between idealism and utilitarianism, or even between equality and freedom, especially in the form of an opposition between socialism and

(neo)liberalism. Furthermore, such controversies can also be detected in the interpretation of legal rules, where the principles of natural law and *equitas* (in the sense of *Aristotle*, *Nicomachean Ethics*, V 15, 1137 b 16 ff) contradict the so called legal positivism.

12. Hence, a crucial question arises: In which way can Social Justice contribute to the bridging of these contradictions? In my opinion, this can be achieved if some limits are set concerning both approaches and if the one eventually influences the other in a positive way so as to jointly create an organic whole. More specifically:

13. As regards to the *concept of humanism (and social solidarity)*, the limit is to ensure a basic level of living and dignity for our fellowmen, both at a national and an international level. Obviously, this concerns mainly the vulnerable social groups (e.g. unemployed and homeless people, economic migrants, drug-dependents, inmates that have been released from prison, etc.). In the case of these people, solidarity does not constitute a form of generosity within the Social State, but an important obligation of the State, particularly related to securing citizens' basic social rights, such as education, health and social security services, employment and housing opportunities, protection of children and of the elderly, etc. *John Rawls'* development of the Difference Principle (*A Theory of Justice*, Harvard University Press, 1971, § 26) provides us with some insight as to how this solidarity in favour of our weak, unqualified fellowmen can be achieved.

14. However, this theory was formed back in the 1970s, when the economic development in European countries was still unhindered and there was a consistent funding of the Social State's institutions. Yet, nowadays, the economic conditions have deteriorated dramatically and a more general phenomenon of impoverished social groups is observed, especially in Southern European countries. Consequently, a new and innovative proposal is required to support these groups and reduce the great economic inequality in society which can lead to crime and to social unrest. This kind of proposal and with such an objective unfortunately is not found in Rawls' work, even if the influence of this work in modern political philosophy cannot be denied and its ideas are still broadly discussed, whenever Social Justice is at stake (cf. Clayton/ Williams (eds.), 2004, in particular the contributions of Robert Nozick, Ronald Dworkin, G.A. Cohen, Elizabeth S. Anderson and David Miller – Amartya Sen could also be included here!). In particular, the work of Rawls constitutes, according to a pertinent remark, an "ideal theory" and not an approach of how, for example, to organize social institutions in societies with serious scarcity of resources (Meyer/ Sanklecha, 2016, 16).

15. Furthermore, as regards to the *concept of excellence (and meritocracy)*, the limit is to ensure equal opportunities for all citizens from the beginning of their careers onwards. An important condition for the achievement of this goal is of course to ensure the adequacy of the aforementioned services of education, healthcare etc., which are related to the social rights and the Social State's function.

Moreover, what is also crucial is to combat and, if possible, to eliminate the conditions that favour lack of meritocracy, such as clientele relations and corruption. In addition, equally important is to address the factors that give rise to corruption, for instance the multitude of laws, bureaucracy, the lack of employee assessment and accountability, maladministration and impunity for duty offences, as well as the lack of public sensibilisation, especially of young people, concerning these issues.

## **How to achieve Social Justice**

### **The practical implications of the implementation of Social Justice**

16. Based on the above, Social Justice attempts to bring together, in a spirit of humanism and of meritocracy, (a) a decent standard of living for the members of a society, esp. the vulnerable ones, by enhancing their social rights (Kant refers, here, to man's need for being *sui juris*) (1798, in the edition of 1968: 345), and (b) the possibility of equal opportunities at an educational and a professional level for those aspiring to improve their social situation. On this occasion, it is useful to underline here that, in my opinion, this equality of opportunities should not be limited to economic equality and justice. Instead, it should also aim, to some extent, at the equality of outcome, even by means of a radical redistribution of income (e.g. by imposing high inheritance taxes). In this way, necessary resources can be provided to offer support, through state scholarships or working capital at the beginning of a professional career, to individuals whose skills and abilities have already become evident during school and higher education.

Although this synthesis cannot easily be addressed, one could take into account, on a practical level, an important UN document, namely the Copenhagen Declaration and Program of Action (1995)<sup>4</sup>. This is a thorough and comprehensive program concerning the ways in which the vulnerable social groups, as well as the countries within which they are found, can be supported without putting economic growth at risk.

17. It is obvious that the synthesis of these two approaches, i.e. the humanistic and the meritocratic, within the conceptual framework of Social Justice, is characterised by fragility, due to difficult balances that must be achieved every time. However, this is a synthesis that constitutes, in my belief, the optimal form of Justice, because it combines all the positive aspects of opposing conditions and interests, eventually going back to and even tackling the primary conflict between the community and the individual, or between collectivism and individualism.

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<sup>4</sup> <http://www.un.org/esa/socdev/wssd/text-version/>

18. At a political level, a substantive form of this Hegelian “synthesis” (or of the “harmony” in the terminology of Heraclitus) could be found in the ideology of social democracy and social liberalism, as a “centrist” reconciliation between socialism and (neo)liberalism. Moreover, at a financial level, a similar form of this synthesis is observed in the successful model of *soziale Marktwirtschaft*, which has been, for decades, the theoretical foundation of the economic policy of the Federal Republic of Germany<sup>5</sup>. Similarly, some of the so-called “mixed economy theories” have been set forth within the same theoretical framework.

19. However, it should be noted that Social Justice, although a result of a synthesis between socialism and (neo)liberalism, does not necessarily coincide with the political “center” and social democracy. Instead, Social Justice should mainly be understood as overcoming the traditional division between the Left and the Right, which goes back to the French Revolution 1789, and as putting the priority on “pragmatic” policies (“Realpolitik”!) that are primarily based on the effective and efficient management of power. This is the case, as it seems, with the governments that the French President Emmanuel Macron formed from 2017 onwards and, to a lesser extent, with the governments of the English statesman Tony Blair: During the ten years of his premiership (1997-2007), and in the spirit of the so called “Third Way”, he advocated social justice, cohesion, the equal worth of each citizen, and equal opportunity combined with an emphasis of personal responsibility.<sup>6</sup>

### **The changing content of Social Justice, according to the circumstances**

20. Social Justice, as was described above, is an archetypical notion, having therefore an idealistic character (esp. in the work of John Rawls) and concerns societies and economies studied by scholars under so called “laboratory conditions”. On the contrary, in real contemporary societies, and especially in societies undergoing an economic crisis or distress, conditions are in a state of flux and, therefore, models are required which would be able to harmonize the proper degree of humanism and meritocracy with the respective given circumstances. More specifically: When the primary focus in a society is on the economic development and on the increase of the gross domestic product, (neo)liberal policies and wealth accumulation evidently come to the forefront, so as to create big, powerful businesses that will not only survive, but will also prevail in the intense international competition. But, once a country’s position in the regional and international economic environment is established, it becomes feasible for socialist, or social-democratic, policies to then be applied, in order to achieve a fairer distribution of the already accumu-

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<sup>5</sup> cf. [https://de.wikipedia.org/wiki/Soziale\\_Marktwirtschaft](https://de.wikipedia.org/wiki/Soziale_Marktwirtschaft)

<sup>6</sup> cf. [https://en.wikipedia.org/wiki/Third\\_Way](https://en.wikipedia.org/wiki/Third_Way); see also Cook, 2006, esp. pp. 67 ff., where criminal policy of the Blair administration is assessed.

lated wealth, i.e. of the big “wealth pie”, especially in favour of the vulnerable social groups.

21. Finally, if economic development has been established, but its maintenance is put at risk due to conditions of crisis or distress, then a new model becomes, in my opinion, essential, which may take a more complex form, combining the two main political systems, i.e. (neo)liberalism and socialism. Such a model would pursue the target of distribution of social wealth with concern to vulnerable social groups, so that they do not become impoverished, but also without causing any serious impact on the market economy. Achieving this fragile objective is indeed difficult, but it is, probably, the only solution to the problems triggered by a breaking crisis.

## **II. THE IMPORTANCE OF SOCIAL JUSTICE IN THE FIELD OF CRIMINAL POLICY**

22. We are now coming to the second part of this study, trying to give some answers to the crucial question: What are the possibilities for Social Justice, as this has been briefly analysed above, to help in the planning and implementation of an effective criminal policy at the legislative, judicial (sentencing) and correctional levels, as well as in social prevention of crime? And, besides, what are the problems which should be taken into consideration in such an endeavour?

### **Social Justice at the Legislative Level**

#### **The principle of solidarity in criminal legislation**

23. At a legislative level, there are institutions that reinforce the idea of social solidarity and humanism, while, at the same time, there are other institutions that attempt to prevent any unequal treatment of citizens, thus emphasizing the promotion of meritocracy.

24. As regards the first part of the above issue, i.e. social solidarity and humanism, criminal law penalizes the behaviour of any person who does not show solidarity with their fellowmen and who is not willing to protect them from life-threatening danger, as long as he/she can do it without risking his/ her own life or health – cf. art. 307 Greek Penal Code and art. 422b ff. Belgian Penal Code; see also Feinberg, 1984, 165 ff. Furthermore, the punishment becomes more severe when the person who fails to take such an action has a special legal obligation to do so (e.g. a father who is able to swim and does not do so to save his child from drowning, is liable for intentional homicide – cf. art 15 Greek Penal Code and § 13 German Penal Code). In addition, a criminal sanction can be inflicted if a person

fails to offer the assistance requested in the case of a fatal accident, of a common danger or of general emergency, provided that this assistance may be offered without putting themselves in substantial danger – cf. art. 288 para. 2 Greek Penal Code and § 323c German Penal Code. Finally, punishment is also imposed to anyone who, in the case of self-defence, exceeds the limits of its proper exercise and badly injures, for instance, a child or a mentally disabled person who steals something from their garden. Apparently, such an act is contrary to the prerequisite of solidarity towards vulnerable persons and furthermore violates the principle of proportionality, which of course plays a decisive role in most legal relations – cf. art. 22 Greek Penal Code and § 32 German Penal Code.

25. At a more general level, social solidarity and Social Justice are also recognized as primary principles. In fact, some Constitutions, such as the Italian (art. 2) and the Greek (art. 25 para. 4) ones, stipulate that the State has the right to claim of all citizens to fulfil the duty of social and national solidarity. Moreover, in the existing Treaty of the European Union (art. 3 para. 3) there is a clear reference to the obligation of the European Union to promote, *inter alia*, “social justice and protection”.<sup>7</sup>

Likewise, of particular importance, at the level of soft-law, is the provision (art. 1) of the Universal Declaration of Human Rights (1948), under which people must treat each other in a spirit of brotherhood<sup>8</sup>. It is noteworthy to remind that brotherhood (*fraternité*) was also one of the principles of the French Revolution 1789, along with freedom and equality.

### **Meritocracy in criminal legislation and the issue of taxation**

26. Apart from penal regulations concerning social solidarity, there are also relevant institutions, which seek to ensure an equal and meritocratic treatment in the distribution of tax burdens, in proportion to the citizens' means (cf. art. 13 of the Declaration of the Rights of Man and of the Citizen 1789<sup>9</sup>). The violation of the relevant provisions because of tax evasion has serious implications and, in the case of Greece, it can even lead to felony sentencing, especially if it exceeds a certain amount of money (art. 8, Law-Nr. 4337/2015) and/or occurs concurrently with the offence of money-laundering. Under this aspect, legislation on taxation indeed attempts to moderate economic inequality and, therefore, to enhance Social Justice.

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<sup>7</sup> <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-1-common-provisions/4-article-3.html>

<sup>8</sup> [http://www.un.org/en/udhrbook/pdf/udhr\\_booklet\\_en\\_web.pdf](http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf)

<sup>9</sup> [https://fr.wikipedia.org/wiki/Imp%C3%B4t\\_progressif](https://fr.wikipedia.org/wiki/Imp%C3%B4t_progressif) and <https://de.wikipedia.org/wiki/Steuerprogression#Deutschland>



However, this rule is reversed when legislation leaves room for tax avoidance as happens, for example, when an offshore company is established, particularly in the so called “tax heavens” (cf. Zucman, 2013). As a result of this legislative “loop-hole”, a lot of wealthy tax-payers avoid to pay taxes “according to the law”, while, on the other hand, the majority of tax burdens is encumbered to those whose income cannot be hidden (mainly salaried employees and pensioners).

### **Inequality in the criminal legislation concerning, in particular, financial crimes**

27. Similar problems of legislative inequality in the treatment of citizens, in the context of criminal legislation, arise with regards to financial crimes. This inequality in this domain was stressed particularly by *Edwin Sutherland* in his well-known theory of white-collar crime, back in 1939 (see his paper on “White-Collar Criminality”, published in: *American Sociological Review*, 5: 1940, 1-12). According to this theory, financial crime, at least in the USA, is not always primarily treated on the basis of criminal provisions (instead, administrative regulations and fines are preferred). In addition, even when treatment is of a criminal nature, the penalties provided are not severe enough and rarely lead to the perpetrators’ imprisonment, even in cases where the damage caused may be particularly great.

28. However, it needs to be acknowledged that over the last few years, due to the financial crisis, this lenient legislative approach towards financial crimes has changed and several big businessmen have already been convicted and imprisoned in the U.S.A. and elsewhere because of fraud, stock market manipulation, etc.<sup>10</sup> In my opinion, this is a positive evolution, given that society cannot be lenient to persons who, exploiting their high socio-economic situation, violate important laws, thus giving a bad example to the others. In contrast, persons from vulnerable social groups should be treated in a more lenient manner, since they usually do not bear alone the whole responsibility for their illegal acts. Most of them, according to researches, have faced problems during their childhood and afterwards, being excluded from school, finding no work as adults and consequently having little or no legal income.<sup>11</sup>

29. Issues of inequality may also be observed at other levels of criminal repression, thus violating the principles of Social Justice. More specifically:

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<sup>10</sup> <http://money.cnn.com/2016/04/28/news/companies/bankers-prison/>

<sup>11</sup> cf. a *Home Office* white paper published in February 2001 under the title: *Criminal Justice: The Way Ahead*, p. 41, also accessible online: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/250876/5074.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/250876/5074.pdf)

## Social Justice at the Sentencing Level

### Judicial treatment and sentencing of socially vulnerable or socially powerful defendants

30. At the level of sentencing, an important question arises as to whether judges, prosecutors, police officers and other law enforcement officials are guided or not in their judgments by a spirit of solidarity and equity in favour of the socially marginalised defendants who belong to vulnerable social groups and deserve some special support so as not to relapse.

31. According to some scholars, especially those supporting the ideas of “Radical Criminology”, the competent law enforcement officials neither treat the less favoured citizens in a spirit of solidarity, nor behave in a spirit of impartiality and fairness towards the wealthy citizens<sup>12</sup>. However, research in some European countries reveals that things are more complex. In particular, according to the results of various studies on this topic, it seems that a basic “extra-legal” factor that influences the behaviour of law enforcement agencies is whether the suspect or defendant meets the characteristics of a “socially integrated person”. This means that judges or other law enforcement officials are more lenient if the defendant has a permanent job (even if the person is poor!), has never before had any issues with the law, has a family and, in general, neither causes any problems in society, nor is likely to create such problems in the future by committing new criminal acts (cf. mainly the research findings of Pollück, 1977: 282 ff., of Blankenburg/ Sessar/ Steffen, 1978: 268 ff., 292-294, 302 ff. and of Kapardis, 2014, 185-199).

32. Certainly, this perspective does not satisfy those who would like to see a stronger spirit of solidarity, equity, and “gentleness” in the treatment of suffering people by the law enforcement agencies. But even so, it would be difficult for these judicial and police officials to be blamed of being prejudiced against a suspect or defendant who simply has a low socioeconomic situation. However, the situation seems to be different in the U.S.A., where there are strong indications that “unwarranted racial disparities persist”, esp. if the perpetrator or the victim were African American (Reamer, 2014, 276 ff.) or also Latinos (Caravelis/ Robinson, 2016, 138 ff., 260 ff) – cf. on this topic: Reiman/ Leighton, 2012<sup>10</sup>, Wacquant, 2009, Spohn, 2002. See also the findings of a research conducted in Canada: *National Council of Welfare*, 2009.<sup>13</sup>

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<sup>12</sup> cf. [https://en.wikipedia.org/wiki/Radical\\_criminology](https://en.wikipedia.org/wiki/Radical_criminology)

<sup>13</sup> [http://www.oaith.ca/assets/files/Publications/justice\\_andthe\\_poor.pdf](http://www.oaith.ca/assets/files/Publications/justice_andthe_poor.pdf)

### **Judicial handling of cases involving socially powerful defendants**

33. Furthermore, it seems that the objections of those who believe that the court cases of socially powerful defendants in financial crimes rarely lead to their conviction or severe punishment are rather valid. In fact, during the trial of such cases, the well-paid lawyers of the defendants, who are presumed to be experienced, socially connected and with excellent law education, usually do have the knowledge to find out and emphasize the deficiencies, obscurities and gaps of the law to be applied. As a result, in such cases the defendant cannot easily be found guilty “beyond reasonable doubt” and, hence, be convicted. On the contrary, it is more likely to be declared innocent “because of doubts”.

34. Moreover, as has been already mentioned above (§ 27), in the case of financial crimes legislation lacks the required vigour to tackle them, while further difficulties also arise during the procedure of evidence, and this mainly for two reasons: Firstly, because, usually, the “objective causal connection” between a defendant’s conduct and its result cannot easily and firmly be established (for example, that the sea environment was polluted by wastewater as a result of activities of a specific factory and, besides, of a specific individual). Secondly, because it is also difficult to find plaintiffs, witnesses for the prosecution or experts who will be willing to get involved in disputes on economic interests of great importance and to give evidence against powerful businesspersons before the court. Along with the above, the usually “positive” background of financially prominent defendants may be taken into consideration by the judges as well, also for the reason that these businesspersons provide employment to dozens or even hundreds of workers and, consequently, appear as the “pillars of society”, even when their actions demonstrate that, in essence, they are primarily interested only in themselves and in their profit.

## **Social Justice at the Correctional Level**

### **Correctional treatment and Social Justice**

35. Finally, at the correctional level, i.e. when the criminal decision is issued and the convicted criminal has to be imprisoned or has to serve a non-custodial sanction, Social Justice can also be essential, both as social solidarity and as meritocratic fairness. Indeed, social solidarity may be evinced if convicts are given all the possible opportunities to develop their personality and improve themselves. On the other hand, meritocratic fairness and impartiality are ensured if correctional officers equally to other prisoners treat the convict, as well as if convicts’ personality is fully respected, irrespective of their socioeconomic situation. In view of this double function of Social Justice at the correctional stage, one could make a parallel to the two classical models of correctional policy, i.e. respectively: (a) the *welfare model*, which places emphasis on the social reintegration of the prisoner through education

and appropriate treatment and support by the society, and (b) the *justice model*, which focuses on respecting the prisoner's rights, and, furthermore, on ensuring the conditions necessary for their decent and equitable living in prison or, in less severe cases, on serving properly a non-custodial sanction (for example a community service order).

36. These remarks should be considered along with the critical question concerning whether the treatment of prisoners is affected by factors relating to their socioeconomic situation, i.e. if prisoners facing financial difficulties receive less favourable treatment by correctional officers than those of higher one. At this point, it should be mentioned that research on this topic is, generally, limited due to the "dark figure" of existing evidence. More specifically, prisoners tend to avoid making complaints about any discriminatory behaviour against them in fear of the consequences. As a result, the number of reported incidents of prisoners' unfavourable treatment by correctional officers is usually small. Furthermore, it is just recently – mainly due to the financial crisis – that eminent politicians or businesspersons in the U.S.A. and elsewhere, even as a result of "scapegoating", have been sent to prison for serious financial crimes, usually connected with fraud or with corruption (rake-off) committed on the occasion of armament programs or of public works – cf. references above, under § 28.

37. Although the number of prisoners that have been sent to prison in such cases is still relatively small, these new developments create the conditions for further, more thorough research as concerns the question whether the way in which prisoners are treated by the correctional officers may be influenced by their socioeconomic situation, in violation to the internal and international regulations which protect their rights of prisoners (cf. on such research: Stadler/ Benson/ Cullen, 2013, Logan, 2015).

## **Social Justice and Social Prevention of Crime**

### **The importance of social prevention in Criminal Policy**

38. Apart from the aforementioned applications of Social Justice at the legislative, judicial and correctional levels, its role in the wider field of social prevention of crime is equally important. In particular, the two basic principles of Social Justice, i.e. social solidarity and meritocratic fairness may contribute decisively in two respective directions: that citizens of vulnerable social groups could be hindered to become impoverished, while at the same time talented citizens would gain prominence within a wider framework of opportunities and mobility, similar to what Plato had envisioned in his allegories in "*The Republic*" (415 a 1 ff.).

39. Actions that might be taken by the heads of a government towards social prevention of crime can move to a double direction:

- Firstly, to improve the opportunities for housing, education, healthcare services, social care, protection of children and of the elderly, while ensuring employment opportunities for all social groups and esp. for the vulnerable ones.
- Secondly, to combat lack of meritocracy, clientele relations and corruption, as well as the factors which, as we mentioned above (§ 15), lead to these phenomena (cf. Kapardis/ Courakis, 2016). In such cases, the recruitment or the promotion of an employee through acquaintances or political intervention, but also the assignment of a public work and the issuance of a permit for investment following a transaction with the state service, can reasonably lead to the malfunctioning of society and eventually to the gradual decline of the whole State, where such situations are fostered.

40. Among the abovementioned actions, those concerning the latter issue of fight against lack of meritocracy do not require any significant financial cost. Instead, what is needed is political will for the better functioning of public administration and, mainly, for having a confrontation on the part of political leaders with the mentality of patronage and favouritism, which is primarily promoted by trade-unionists, suppliers of the state, and strong local politicians. This ought to be, obviously, an acute confrontation, the outcome of which is uncertain. Yet, its undertaking and carrying out is essential, especially in Southern European countries, in order for them to achieve the necessary modernization which will set the pace for the 21<sup>st</sup> century.

41. Conversely, the measures aimed at achieving a decent standard of living, especially for the citizens of Southern European countries, entail various problems and require a considerable budget, which is, indeed, hard to find in the current time of financial distress. In addition, things are even more difficult in these countries, due to a high level of unemployment and of impoverishment of large groups of the population, even of scholars, which started taking place in the 1990s. This situation has been mainly the result of some new worldwide evolutions which unfortunately cannot be reversed, such as the further opening of markets (globalisation) and the subsequent growth of multinational enterprises, in connection with the competitive low wages of other countries which are in a state of rapid development (India, China, Korea, etc.) and the predominance of new technologies favouring computerisation/ “robotisation” of work and thus rendering a lot of jobs useless.

### **Practical issues that need to be addressed**

42. However, the problem of securing resources in favour of vulnerable social groups could be resolved to a great extent, and this without requiring from the citizens to pay an excessive amount of money for taxes and retrenchments in salaries and pensions. This is, if the public administration could function more appropriately and if patronage together with corruption could be drastically reduced, in accordance with what has been stated above. More specifically, a state mechanism

where there are no bureaucracy, clientele relations and corruption, where nearly all transactions are done electronically through computers – as seems to occur, for example, in Estonia –, where there exists a stable, investor-friendly tax system and an equally stable and attractive level of interest rates, and where all transactions rely on the state’s trustworthiness, can certainly attract significant investments, so that thousands of new jobs to be created. As a result, these measures may conduce to better standards of living and may equally strengthen citizens’ confidence in meritocracy. Besides, from the angle of Criminal Policy, a great part of offences which can be attributed to bad living conditions and to anomic situations might be diminished.

### **The need for achieving a balance of objectives**

43. Certainly, a redistribution of wealth by means, even by means of progressive taxation, which is the rule in most countries, may give a wider and richer in quality content to the notion of Social Justice. Nevertheless special attention is needed as to how to materialize this objective. Indeed, there is a danger that, under such political initiatives, the incentives of the individuals who have both the ability and willingness to build wealth and, hence, to contribute to the economic growth of their country, will become weaker or will even be wiped out. It is, thus, likely that the continuous and oppressive taxation of those who build the national wealth will result, according to an astute and popular idiom, in “killing the goose that lays the golden egg”. Therefore, a pertinent combination of measures is, in my belief, required so that a decent standard of living is ensured, without, however, compromising economic growth. I am aware of the fact that this is a difficult undertaking, just like Social Justice itself, especially in times of distress, when extreme political views and populism may be developed and distort the balance which is necessary for obtaining the optimal result. However, the objective of Social Justice is worth pursuing, all the more because this is the only way, in my opinion, to nowadays achieve, in this currently competitive world, a more humane and socially fair society.

### **By Way of Conclusion**

44. To conclude, the vision of a society focused on goals such as combating socio-economic disparities and providing substantial opportunities to all members of society can be, especially in this period of crisis and distress, a primary objective, worthy of captivating us. Perhaps, indeed, the new target for Criminal Policy, in addition to that of Restorative Justice, should now be that of Social Justice and, in fact, with a double project and aim: First for a fairer, meritocratic distribution of social goods and, also, for greater solidarity towards the weaker members of society. We are referring here to all the socially marginalized and often impoverished groups of people, who are scientifically characterized as “weak” or “vulnerable” or

“socially excluded” and who try, with great courage, to survive without surmounting the threshold of criminal law, although, according to various researches, the situation is not always encouraging. In particular, it seems that for example in the U.K. “crime increased dramatically during the same period that rates of relative poverty escalated” (Garside, 2006, 46<sup>14</sup>).

45. Similarly, there is need to assist all these crime victims, who suffer from the consequences of an illegal, punishable behavior against them and who are sometimes unable, due to their financial condition, to participate in a process and claim the restoration of their damage. Apart from securing to these persons a legal aid, so that they can present their claims before the court, a further idea which could be helpful to them is that the State restore the damages (also the moral ones!) of such poor victims via a fund which would be financed by a part of the fines that the convicts pay by court decision to the State for their offenses.

46. In any case, if Criminal Policy actually aims to provide solutions to the problems of crime, it should not solely be limited to facilitate the repairing of damage and the conciliation of victim and perpetrator, but it should also strike against the causative factors of crime and the primarily socio-economic inequalities and other forms of injustice which trigger, according to *Aristotle* in his “Politics” (V. 1301 b 27, 1301 a 32 ff., 1266 b 40), social reactions, attitudes and – I would add – a sequence of serious criminal acts. In other words, another kind of Justice is required in addition to Restorative one, so that it may become the mission of our Criminal Policy to eliminate the injustices and inequalities that lead to crime.

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## **The Max Planck Institute for Foreign and International Criminal Law and the Greek Penal Sciences – Past and Future Cooperation**

Ladies and gentlemen, we have one more item on the agenda. So, before closing today's event that was as always successfully organized by Ms. Straka with the great help of Dr. Rinceanu, I would like to make a brief reference to some important aspects of the relationship between MPI and Greek penal sciences.

First off, I would like to point out the following: I started working here in Freiburg in 2010. And yet, since 2010, this is the very first scientific event with focus on Greece and Greek legal research at the Institute. This is thanks to Prof. Courakis, whose personality and professional accomplishments in the field exceed by far the geographical limits of his country of origin, and thanks to Prof. Sieber for initiating and organizing this event.

Obviously, I myself may be the first to blame for the lack of earlier events on Greek law and legal issues. Nevertheless, I do believe that during my time here, with my mentors, Prof. Sieber and Dr. Konnie Jarvers, we not only managed to achieve a number of important projects in the "tiny" Greek section of the Institute, but also to continue the ongoing as well as to create new affiliations with researchers from Greece.

In the last 50 years, more than 60 Greeks have visited and worked at the Max Planck Institute for Criminal Law as guest researchers, doctoral candidates or long-term academic staff members. Upon their return to Greece, many of them were called to participate in the research, teaching and law-drafting activities of Greek universities and legal-policy institutions. The very first Greeks at the Institute were Professors Aleksandros Katsantonis, Tilemachos Philippides, Georgios Mangkakis, Nikolaos Androulakis, Anna Benaki and, of course, Nestor Courakis. All these Greek scholars went on to play prominent roles in shaping basic Greek laws and in developing the field of criminal justice in general. And there are other important pillars of contemporary Greek penal science and legal policy who had the opportunity to study and work at the Institute in the departments of criminal law and criminology thanks to the hospitality and support of Prof. Jescheck, Prof. Kaiser, Prof. Eser, Prof. Albrecht and Prof. Sieber. Scientifically renowned Greek students and collaborators of the directors of the MPI include Professors Dionisios Spinellis,

Nikos Livos, Anthozwi Chaidou, Aggeliki Pitsela, Effi Lambropoulou and Nikos Passas, as well as doctors Stefanos Kareklas, Irini Kiriakaki and Athanasios Chouliaras. Many of these people have represented Greece and Greek law in many significant projects of the Institute, for example, the *Strafrecht in Reaktion auf Systemunrecht*, or, later on, the incest-project. Unfortunately, due to time constraints, I cannot refer to all these activities and projects in detail. Next I am only going to focus on the past 7 years that I have been working at the Institute.

Let me start out with a sector that I think we did well during this time, that is the MPI-library and the update of its Greek catalogue. This is owed particularly to the superb assistance of and smooth cooperation with the library staff, whose job is definitely not easy since they have to understand and transcribe all these ‘weird’ Greek letters each time a book is ordered and catalogued. But even in this area there has been an innovation: In the OPAC, book titles may now be searched in the Greek alphabet, not just in transliteration. This was done by the library staff precisely to facilitate the work of our Greek colleagues. From 2010 to 2016, orders of Greek books and magazines increased enormously compared to the period between 2004 and 2009. Today, the library owns more than 2,000 volumes affiliated with the Greek law section, a number higher than in some Greek libraries in the field of criminal law.

Moving on to the major Institute projects, the very first challenge has been the flagship project of the Max Planck Institute, the International Max Planck Information System for Comparative Criminal Law. This Information System provides comprehensive coverage of Greek criminal law both in book format as well as in an online database. The main influences on the modern Greek criminal justice system are steeped in the continental legal tradition, especially the French and German legal orders. Because criminal law traditions and legal concepts are so diverse – and because the project was designed to include legal orders from all over the world – we (the authors) engaged at times in extensive, and to my mind, highly productive discussions with the editors of the project both at the level of substance and of terminology.

A second challenge, a second difficult project was the translation of the Greek Penal Code into English, accomplished in cooperation with my colleague Dr. Chalkiadaki, Vasiliki. Initially, this project met with some hesitation, especially due to the long-established tradition of the Max Planck Institute in publishing German, not English, translations of foreign penal laws. Still, with the tremendous support by Prof. Sieber right from the start and with the support of several amazing colleagues here at the Institute as well as external collaborators, we managed to publish this book in what I believe is record time for its kind. I really hope that the faith and trust Prof. Sieber invested in his young collaborators has been proven to be justified. As far as I have heard, the publication has been pretty successful so far for the Max Planck Institute. And there are already some positive book reviews in international and Greek legal journals, and we also received many positive letters

and feedback from legal scholars, judges, practitioners and politicians, both from Greece and abroad.

Furthermore, the meaningful academic exchange, especially in the form of guest lectures or the joint organization of workshops and conferences, has always been an important aspect of the relationship between MPI and Greek penal science. One notable example is the lecture of Prof. Mylonopoulos, the director of the criminal law department of the School of Law of the Athens University, during the Jescheck Colloquium in 2011. Another example is the keynote speech of Prof. Ulrich Sieber on the *Rechtliche Ordnung in einer globalen Welt*, a speech delivered in Athens in 2011 during the ceremony at which the National and Kapodistrian University of Athens awarded Prof. Sieber with an honorary doctorate.

Another proof of successful co-operation is, of course, the present Festschrift in honour of Prof. Courakis. And one further successful example of international co-operation was the international conference in Athens in June of 2016 on contemporary challenges of criminal law, attended by many prestigious international legal scholars in this field. At this conference with more than 600 participants, an official co-operation between MPI and the Athens Institute for European and International Criminal Law was officially announced. The MPI was not only represented by Prof. Sieber who, along with Prof. Roxin and Prof. Neumann, delivered the keynote speeches, but also by the active presence of the doctoral students of its Research School for Comparative Criminal Law.

And last but not least, there have been also some exciting new developments in terms of international scientific co-operations. I am pleased to be in the position to announce the international conference on “Alternative, informal and transitional types of criminal justice and the legitimacy of new sanction models in the global risk society”, which is set to take place in London in January of 2018. This conference is co-organized by the QMUL, the MPI and the Athens Institute for European and International Criminal Law. The goal is to bring together international legal scholars, judges and practitioners to discuss important issues for the future of criminal law and procedure. Characteristically, three of the five members of the scientific and organizing committee of the conference are Greeks, the other two committee members are Germans from the MPI. Actually, the entire project started out with an idea that we had together with my friend and valuable colleague, Dr. Nandor Knust, who managed to endure my, let’s say, Greek temperament, and I thank him for this. The success of this project is of course owed to the leadership of Prof. Sieber and the smooth cooperation with a team of distinguished and deeply engaged Greek professors.

Finally, what about the future of the section of Greek law at the MPI? The tides of change are coming to the Institute itself. What are the implications for the representation and the position of the Greek penal sciences within the institute? I am not sure. I myself will also be changing roles and responsibilities at the MPI and

abroad, and I may not always be able to deal with all the issues facing the Greek section. But all indications for an ongoing development are positive, judging by the interest the new generation of Greek researchers is taking in studying criminal law in Freiburg, and, most importantly, by the highly active, former and current, doctoral students of the Research School, with four of us, Dr. Chalkiadaki, Ms. Samaritaki, Ms. Tsilimpari and myself, being here today to honour Prof. Courakis.

So I really expect that this great scientific dialogue between the MPI and Greece will continue, and that the most interesting and productive years are yet to come. The deeply rooted humanistic and academic traditions that unite Greece and Germany will be our guiding light. It is a win-win situation: The Max Planck Institute has only to gain from the uninterrupted presence and contributions of Greek researchers in Freiburg. And Greeks, on their part, are very well aware of the amazing research possibilities the unique library of the MPI provides and of the considerable experiences to be gained as an active member of the international academic environment of the Institute, especially in these times of crisis.

In this spirit, I would like to close my presentation with words by Prof. Anna Benaki, one of the first Greek criminal law scientists in Freiburg and the former President of the Greek Parliament, in her official letter on the occasion of the publication of the Greek Penal Code in English language:

“Dear Mr. Billis,

I thank you deeply for informing me about the excellent new initiative by the Max Planck Institute to update its historical series of translations of non-German laws into German by introducing the first translation into English. Thank you also for presenting me with this outstanding book. It is a great honour that the Greek Penal Code was chosen to start off this new publication experiment, something that was undoubtedly mainly due to your own initiative and paradigmatic work. For better or for worse, the English language has become the lingua franca in Europe, even with respect to legal texts originally rooted in the German tradition. Congratulations once again on this very handy resource.

Anna Benaki”

Thank you very much for your attention and for attending this wonderful ceremony.

*Emmanouil Billis*