

**Sänger, R. (2017). "The overcoming of injustice regimes through the rule of law in Germany", en: Castro, J. y Rodríguez, D. (Ed.) Towards a new private law. A proposal in constitutional, historical and comparative key. Bogotá: Universidad Nacional de Colombia. Pp. 253 – 281.**

To compare the ways of confronting injustice regimes after 1945 and 1989 in Germany, beyond the a priori comparability of their regulatory systems, taking into account the distinctions between the two injustice regimes.

It reviews the criminal liability of perpetrators of crimes in injustice regimes; rehabilitation and restitution; property compensation; the law on compensation and indemnification; and some conclusions.

Reconciling and overcoming regimes of injustice requires a critical confrontation with the past. Tasks such as awareness raising, forgiveness and reconciliation have a particular meaning. Legal treatment is only one aspect, the effect and significance of which in the analysis of the issue should not be overestimated.

Dealing with National Socialist and GDR injustice regimes together requires an explanation. The crimes and inhumanity of the socialist regime are not equal to or even similar in dimension to the crimes of the National Socialist regime. The usual confrontation of mountains of corpses from the Third Reich against mountains of protocol acts of state security in the GDR trivialises the suffering of many people who were behind these acts, and even more so those who paid with their lives for trying to exercise their fundamental rights.

The socialist regime was less inhumane and had fewer contradictions with the current order of the rule of law than the National Socialist regime, but it lasted longer. Overcoming National Socialist injustice was largely done by the allies. To this extent, the problem of compatibility with German constitutional law, for example, with the principles of protection of trust or property, did not arise in any way.

In part, socialist injustice was confronted more carefully than National Socialist injustice. Thus, for example, overly proactive judges have been held accountable, which did not happen after 1945. This also explains why the second confrontation with state injustice could be built on the experiences of the first. This means that lessons were learned from mistakes and failures.

The challenge of critically confronting the past is complex and multifaceted. Tasks such as awareness raising, forgiveness and reconciliation have particular significance. There are several legal areas in which the rule of law must be used to overcome the past. Three levels can be distinguished: criminal liability of perpetrators in injustice regimes; rehabilitation and restitution of victims; restitution and compensation for illegal expropriations and similar losses of property rights.