
**Studies in International and
European Criminal Law and Procedure**

Volume 26

Visions of Justice

**Liber Amicorum
Mirjan Damaška**

Edited by

**Bruce Ackerman, Kai Ambos
and Hrvoje Sikirić**



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Prof. Dr. Dr. h.c. Kai Ambos, Judge at the District Court, Göttingen

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Introduction

Hrvoje Sikirić*

I met Professor Mirjan Damaška in person for the first time in the summer of 2013 when he came to the Faculty of Law and informed us of his late wife Marija's and his own wish to establish a foundation with the Faculty. A year later, the Marija and Mirjan Damaška Foundation was established. As the then Dean, I had a privilege of acting as its administrator.

The main purpose of the Marija and Mirjan Damaška Foundation is to enhance cooperation in the field of higher education and research between the Zagreb Faculty of Law and foreign law schools and scientific institutions, especially those of the United States of America. The aim of the Foundation is to finance postgraduate studies and postdoctoral research projects of young legal scholars, dissemination of results of their scientific work and international scientific colloquia. The Faculty of Law is of the opinion that the establishment of Damaška's Foundation will considerably increase the Faculty's visibility and its international profile.

At a broader social level, especially at the level of the University of Zagreb, the Foundation is also an unparalleled example of an act of academic philanthropy in Croatia which I sincerely hope will not remain an isolated example and will soon be followed by similar initiatives by Croatian scientists living abroad.

As an immediate act of gratitude to Professor Damaška, the Faculty of Law of the University of Zagreb, together with the Foundation, organised an international conference in his honour entitled *The Administration of Justice – Past Experience and Challenges for the Future*, held in Cavtat, Croatia, from 29 to 30 May 2015. This Conference was the third expression of recognition and appreciation by this Faculty, Professor Damaška's first academic home, of everything this outstanding scholar and human being has done. In 2006, on the occasion of its 230th Anniversary, an international meeting entitled *Global Legal Trends – Comparative Perspective* was organised as part of the programme in honour of Professor Damaška.¹ In 2012, on the pro-

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¹ Five conferences had been organised in honour of Professor Damaška before the Conference in Cavtat: in Bielefeld (1987), Siena (1988), San Francisco (1988), Zagreb (2006) and New Haven (2008).

posal of the Faculty's Council, the Senate of the University of Zagreb awarded Professor Damaška the title of doctor honoris.²

The Administration of Justice – Past Experience and Challenges for the Future, *Liber Amicorum* in Honour of Professor Mirjan Damaška, the book you are holding, is a collection of essays presented at the Cavtat International Conference and subsequently prepared for publication.³

We are particularly pleased to draw attention to the fact that the year of the conference, 2015, and the year of the publication of the *Liber Amicorum*, 2016, are also the years of a few anniversaries connected with Professor Damaška's life and work.

The year 2015 was the 60th anniversary of his graduation from the University of Zagreb and the 55th anniversary of his doctoral degree received from the University of Ljubljana. In 2016, he celebrates the 60th anniversary of his comparative law diploma in Luxembourg and the 55th anniversary of his first arrival in the United States of America as a "Fellow in Criminal Law" at the University of Pennsylvania Law School, the 50th anniversary of his second stay in America as a visiting professor of comparative law at Pennsylvania Law School, and the 45th anniversary of his departure from Croatia and the beginning of a new life in the USA. This year also marks 40 years since his teaching engagement at Yale Law School and 30 years since the first edition of his book "The Faces of Justice", as well as 20 years since the date he was awarded the Sterling Professorship of Law at Yale University.

The decision to choose 'Administration of Justice' as the main topic of the conference was made for a special purpose, since this is the field of law which has played a significant role in Damaška's opus as a whole and the area of law to which both his masterpieces, *The Faces of Justice* and *State Authority: A Comparative Approach to the Legal Process*⁴ and *Evidence Law Adrift*⁵ relate. We wanted this area to be thoughtfully and imaginatively re-examined in the *Liber Amicorum* based on the topics of Damaška's work from various angles by leading scholars who are experts in common law, civil law and the Far Eastern traditions. As a result, we have an enlightening and engaging set of 21 papers representing a fitting tribute to Damaška's work and honouring his lifetime achievements.

The *Liber Amicorum* is a collection of tributes (essays) that in an original and insightful way tease out all three key areas of Damaška's monumental scholarship,

² Professor Damaška also holds an honorary degree of the University of Pavia (Italy) (2005).

³ This is the second Festschrift in honour of Professor Damaška. The first one was *John Jackson/Máximo Langer/Peter Tillers* (Eds.): *Crime, Procedure and Evidence in a Comparative and International Context: Essays in Honour of Professor Mirjan Damaška*, Hart Publishing, Oxford 2008.

⁴ *Mirjan Damaška: The Faces of Justice and State Authority: A Comparative Approach to the Legal Process*, Yale University Press, New Haven 1986.

⁵ *Mirjan Damaška: Evidence Law Adrift*, Yale University Press, 1st ed., New Haven 1997; 2nd ed., New Haven 2013.

comparative and foreign procedure, the law of evidence and international criminal law, and explore the relevance of his work to other fields of law. The diversity and the number of legal cultures of the contributors clearly show the depth, richness and far-reaching nature of Damaška's opus, transmitted in the universe like radio waves whose intellectual echo is felt across the globe. It confirms in the best possible way the brilliant appraisal given by Professor Harold Koh⁶, former Dean of Yale Law School, who said that Damaška, in all three key areas of his work, served as an "intellectual bridge" between the two legal cultures, civil and common law.⁷

This appraisal is also true of Professor Damaška's life. He has divided his life between two different legal cultures, between his native country, Croatia, and his adoptive country, the United States of America. In both countries, he has reached the top of the legal academy. In Croatia, at the Faculty of Law in Zagreb, he acquired the rank of Full Professor, and served briefly as Acting Dean. Already then, he was one of the leading scholars in his field, also known in European criminal law circles. In the United States of America, where he settled when he was 40 years old, he taught for six years at the University of Pennsylvania, before moving to Yale in 1976. He spent the rest of his academic career first as a Ford Foundation Professor of Foreign and Comparative Law and then as Sterling Professor of Law, the highest academic rank available at Yale University, awarded only to a very small number of truly outstanding faculty. In both countries, he received the most prestigious recognition for his academic achievements. He is the only lawyer elected as a Fellow of both the Croatian Academy of Sciences and Arts and the American Academy of Arts and Sciences. In Croatia, he was awarded a medal of merit, the Ruđer Bošković Award for Legal Science (Order of Danica Hrvatska with the Image of Ruđer Bošković). In the USA, he was presented with a lifetime achievement award by the American Society of Comparative Law.

The text that I am writing is not written in the way introductory texts to a Festschrift are usually done – just describing briefly the scientific contribution of the person they are dedicated to. The domains of my work and interest are private international law (conflict of laws), European private international law and international commercial arbitration. Professor Damaška did write about conflict of laws, but we know very well that the key areas of his work are comparative and foreign procedure, the law of evidence and international criminal law. Therefore, in the remaining text, I shall not write about his opus. *Opus eius ipsum loquitur.*⁸ Indeed, those inspired by his work have already said so much about it.⁹ In this book several authors have also offered fervent encomiums to his work.

⁶ Harold Hongju Koh is Sterling Professor of International Law at Yale Law School.

⁷ *Harold Hongju Koh: Mirjan Damaška: A Bridge Between Legal Cultures*, in: *Jackson/Langer/Tillers* (Eds.), *Essays in Honour of Professor Mirjan Damaška*, pp. 29–35, 30–35.

⁸ His work speaks for itself.

⁹ See e.g. *John Jackson/Máximo Langer: Introduction: Damaška and Comparative Law*, in: *Jackson/Langer/Tillers* (Eds.), *Essays in Honour of Professor Mirjan Damaška*, pp. 1–27; *Koh*, above n 7, at p. 33, n 9.