

The Spidery Monster: Inga Markovitz's Brilliant History of the GDR's Judiciary

By Michael Stolleis*

[Inga Markovits, *Gerechtigkeit in Lüritz / Wie in der DDR das Recht funktionierte*, C. H. Beck Verlag: Munich (2006), ISBN: 3406550541, Euro 19.90]

"There is no Lüritz." That's the beginning of this unusual book. However, there is a Lüritz, albeit under another name. It is a mid-sized city, located in the former Soviet zone and the later GDR. There, as towering piles of refuse paper, the author found the legacy of the judiciary from 1945 to 1989, almost complete. From this, she set about reconstructing "how it had actually been," knowing full well that such a goal must remain fundamentally unattainable, but nevertheless buoyed by the belief that, from this material, she would be able to tell a unique story.

Even if one knows that texts can conceal and lie, that judicial files allow only a skewed and clouded view of "life," that the memories of judges, interviewed in addition, have become displaced and embellished, even then it is worth it. A history of the judiciary of the GDR "from below," written by an author who has an open view of the human side and is sensitive to linguistic standards, could not be written more authentically than on such a basis.

It's astonishing, what can be unearthed, including from the people who Ms. Markovitz interviewed and protected with pseudonyms. Those interviewed justifiably trusted her, because she, a historian trained as a lawyer, proceeded like a diligent ethnologist. Internally, she kept her distance, but she definitely allowed herself to be carried by a certain warm-hearted empathy as long as she did not come across anything really immoral and abhorrent. She does not accuse the actors, but rather shows people: enthusiastic socialists of the early years, stalwart members

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of the SED and/or the Stasi, apolitical but obedient individuals, but also brave juridical servants in a role between mothering and social control.

In the years after the construction of the Berlin Wall, in a phase of inner catharsis, imperturbable bureaucrats appear. They increasingly only fret that the “new human” still will not arise, that “anti-socials” of all varieties populate the GDR, and that they will arouse sheer envy in the diligent and heavily constrained populace. Through the medium of judicial files and the story told, in the end one observes a GDR, becoming continually more tired and grey, that could not come to terms with its defects and that has long since lost its revolutionary drive. Like mildew, surveillance and reporting requirements coated the minds of the “hale judges.”

It is not easy to arrange such material. The narrative should, on the one hand, be chronological, but on the other, it should include only that which belongs together thematically. At first, the dominant theme is the need for a new beginning after the war, the everyday life of a bedraggled society regimented by an occupying power and the steadily increasingly powerful SED, but weakened by migration of the middle classes and the mistreatment of farmers and land owners through land reforms. This is followed by the judges themselves, who were initially quickly educated “folk judges”, but were gradually replaced by increasingly faceless professionals. These professionals took care in their function to judge and arbitrate, but knew however that they operated not as an independent third power, but rather as specially trained social workers.

A starting focus is property, which was initially fiercely disputed. But it lost much of its societal meaning over the course of the years, only to become virulent once again near the end, for example in relation to the purchase of much-desired cars. This is followed by the world of work, that integrated and inescapable collective, which even warmed and protected “slackers,” but could also become incredibly threatening and at worst could deny the dissenter its solidarity. Twisted by party phrases, the lack of perspective in everyday life may have been felt most strongly here. The collective, the party, and, in the background, the “safety of the state” (*Staatssicherheit*) were present, in any case in the mind.

Whether in the workplace, in a marriage, in the raising of children, in the pub, during criminal offences, and above all, during the worst act, the attempt to escape, the party is always present – either as a multitudinous spidery monster or as the highest authority of belief. The party laid out guidelines for the way to apply the law, it guided the legal process with the assistance of carefully constructed “publicity,” it supervised and rebuked, admonished and educated. Above all, the party was angered when someone did not want to accept indoctrination and sought to escape it.

This micro-history of law shows the law almost at the complete disposal of politics. The personal morality of the judges and professionalization offered only marginal protection. Everything was "political": the conflict that was to be regulated, the environment, the enacted laws (most of which was a quagmire), and even the judges and prosecutors (attorneys had only a minor role). And because politics and political economy covered up with lies the discrepancies of the actual and existing socialism, the law was full of lies too. Since there was no genuine and effective control over state action, such as through a free press or administrative courts, the system was actually only troubled by the "anti-socials." Such people denied the system, but paid the price for this. However, they were also the only ones who were free. Because of this, they reaped significant distrust, even hatred. The call for labour camps was heard again and again.

Whoever reads this book will learn a lot about the everyday life of the GDR and the way it functioned from its worst years during Stalinism, to a phase of relaxed breathing after 1961, until its renewed aggravation towards the end. Autonomy of the law could only be spoken of on the narrow fringes where the system did not develop any vital interests.

Gleaming behind the trundling machinery of the judiciary is the mentality of a society that is entirely geared towards the power of the "party," education, and control, together with its gradual transformation and its self-produced antidotes. The longer the GDR existed, the more it was internalized as a fact and the more its inner contradictions grew, which fostered mistrust, suffering from lies, and the yearning for freedom.

In the end, when all of the reserves of trust were depleted, when all of the economic wiggle room had disappeared, and when the dissatisfaction with the everyday life of the GDR had become unbearable, the country collapsed. The machinery of the judiciary also just stopped. Here, the judicial files end, and with them the moving narrative that aims neither to accuse nor justify. From the text and interviews, the author seeks her truth, with the full knowledge that there can only be approximations and plausibilities that, the more consolidated they become, certainly lead to a kind of truth.

Henceforth, the object of remembrance and comparison will be known as Lüritz. And it is certain: a "history of the East-German law" will not be written in second time in such a readable, deeply likeable form, with these different interview partners, and with such freshness and proximity to the subject.