

## Ernst Georg Heinitz

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The young German legal expert and lawyer Ernst Heinitz escaped from Nazi Germany in 1933 and fled to Italy, where he earned another degree, found a good job, and married. In 1937 he renounced his German citizenship for the Italian. From a religious point of view he had been raised as a Lutheran by his parents and subsequently converted to Catholicism. Nonetheless, the Jewish origins of his father were sufficient to make him a victim of persecution. He had considered going to The United States, but ended up in hiding. Then at the end of the war he left Italy with his family despite having chosen to live there and his children being born there.

### Family history and education

Heinitz was born in Berlin on the 1st January 1902, son of Georg Heinitz (for many years director of the orphanage school Mosse-Stift) and Elisabeth Bohm. From 1919 to 1922 he studied law at the Friedrich-Wilhelm University in Berlin and in 1926 he earned a law degree at the University of Hamburg. His thesis with the title «*Das Problem der materiellen Rechtswidrigkeit*» (The problem of material illegality) had the honour of being printed.

In 1923 Ernst Heinitz ha started working as a legal secretary (auditor) at the district court of Kammergericht. According to his CV from 1927 to 1930 he was assistant to professors Goldschmit, Kaskel, Kholrausch and Nussbaum at the University of Berlin, and from 1931 to 1933 assistant to professor Dresch. At the same time he had started a career as a judge, attaining the position of District Councilor at the Labor Court (*Amtsgerichtsrat*) in Berlin. He maintained this position up until 1st April 1933 when he was dismissed on the grounds that he was Jewish.

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Heinitz attempted to clarify his religious situation. Both his parents were Lutheran, but his father was of «Jewish origin» and his mother «Arian». He too had been brought up Lutheran and in 1934 became a Catholic<sup>1</sup>. Moreover, his sister Ruth's husband, the great classical scholar Werner Jaeger was also dismissed from his University position not for being Jewish but for his political views and for having married a Jew. They emigrated from Germany to the United States, where they were to remain<sup>2</sup>.

### The Italian period

Heinitz chose to emigrate to Italy, to Florence, where he settled in the summer of 1933. In November of the same year he applied to the Facoltà di Legge at the Università di Firenze. He requested that his German law degree be recognized in full, so that the number of exams he would have to take could be reduced to a minimum<sup>3</sup>. His University career in Florence was relatively brief because the Facoltà deliberated to enrol him with the fourth year. After passing the exams in constitutional and corporate law, he graduated on the 9th November with honours, presenting a thesis *Sulla cosa giudicata nel diritto processuale civile*<sup>4</sup> (On the res iudicata in civil procedural law).

From 1930 to 1937 he collaborated with the Istituto di studi legislativi di Roma, directed by professor Salvatore Galgano (1887-1965), and published the *Rassegne di diritto germanico, in tema di diritto corporativo sindacale e del lavoro*. While studying and publishing his law research he had to support himself. In his application to the ECADFS he declared to have been employed

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1 NYPL, MAD, ECADFS, I.B Non grantees, b.70, f.4 «Heinitz, Ernst», 1938-39. «Curriculum Vitae of Dr. Ernest Heinitz, Florence, Italy», undated, but received on the 2nd December 1938.

2 Werner Jaeger left on the 24<sup>th</sup> June 1936, then again in November of the same year, while his wife Ruth and the children of his first marriage, Otto age 16, Adelhaide aged 14 and Teresa aged 11 years left on the 14<sup>th</sup> of September 1946 with Chicago as their final destination where he had found employment. See Ellis Island Foundation, *Passenger search, ad nomen*, 1936 and ff. <<https://www.libertyellisfoundation.org/passenger>> (access recorded 4 February 2019).

3 ASUFI, AC, SS, f. «Heinitz Ernst».

4 Ivi. Various quotes in Klaus Voigt, *Il rifugio precario. Gli esuli in Italia dal 1933 al 1945*, vol. I, Florence, La Nuova Italia, 1993, pp. 42, 172, 431, 435.

in various jobs but only cited the most relevant for his Curriculum<sup>5</sup>. From 1935 to 1936 he was employed as a *lettore* (lecturer) in German at Regio Istituto superiore di magistero of the Università di Firenze (like David Diringer); in February 1937 he had started working in the Florentine legal firm of Alessandro Pekelis, a disciple of Piero Calamandrei, an Odessa Jew that had emigrated with his family to Florence. In the summer of 1938 Heinitz was admitted to the list of practicing lawyers, but the emanation of the racial laws obstructed the continuation of his career. In the same year he acquired Italian citizenship.

Heinitz had met Maria Pia Tommasi (known as Pimpi) at the house of one of her relatives. She was 21 years old, cultured, minute but with a strong character. She had grown up in Florence in a family of noble origins, had been brought up to appreciate beauty and culture, and accustomed to travelling. She had renounced her studies on account of her delicate health, but she was good at languages. She translated art books from English to Italian, in this way contributing to the family maintenance in the difficult period following the racial laws<sup>6</sup>. They were married on the 30th July 1937 in Florence and had two children, a boy and a girl. After Italy was occupied by the Wehrmacht in 1943, the couple joined the Resistance. Heinitz managed to get into the SS as an assistant in Via Ugo Foscolo and from there pass information to the CTLN, the Comitato toscano di liberazione nazionale, delivering slips of paper to the lawyer Mario Gobbo, who sometimes passed them on to the allies<sup>7</sup>. It appears they were able to help provide false documents to several Jews who were then able to escape to Switzerland. In

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5 NYPL, MAD, ECADFS, I.B, Non grantees, b. 70, f. 4, «Heinitz Ernst», 1938-39, *Curriculum Vitae*.

6 Ann Jelena Schulte, *Vor anderen Menschen hat man keine Angst*, «Tagesspiegel», 26 July 2007 <<https://www.tagesspiegel.de>> (access 28 January 2019).

7 On this direct testimony Ugo Jona, who acted as go between Heinitz and Gobbo; see Francesca Cavarocchi, *L'organizzazione degli aiuti. Le reti ecclesiastiche e la Delasem*, in Enzo Collotti (ed.), *Ebrei in Toscana. Tra occupazione tedesca e RSI*, vol. I, *Saggi*, Rome-Florence, Carocci-Regione Toscana, 2007, pp. 329-393: p. 353n. See also *Ernst Heinitz* <<https://de.wikipedia.org>> (access 31 March 2019).

this period the Heinitz family had left their home in Via Scialoja 32 in Florence and lived in hiding, with the help of relatives and friends<sup>8</sup>.

### **The intention to emigrate**

Ernst had thought of leaving Italy for the USA, where his sister and brother-in-law were living, who in 1939 he had found a position at Harvard University. This is proved by Heinitz's application to the Emergency Committee in Aid of Displaced Foreign Scholars shortly after the promulgation of the racial laws, on 22nd November 1938. The letter is in German. It is significant that for references at the Florentine University he chose the following professors with their respective addresses, Piero Calamandrei (via Della Robbia 33) and Ernesto Codignola (via delle Mantellate 8)<sup>9</sup>. In March 1939 professor David Ross of Columbia University recommended him to the ECADFS, to which the executive secretary replied that there were very few opportunities in that field of study. His name was reported along with 18 others, the majority indicated by Elias Lowe of Princeton, who was a frequent visitor of Italy<sup>10</sup>.

After the war, Ernst Heinitz was able to obtain a job as German *lettore* in the Facoltà di Lettere at the Università di Firenze, with a salary of 32.400 lire, but only for the Accademic year 1944-45, commencing from the 1<sup>st</sup> January 1945<sup>11</sup>.

### **The return to Germany**

Heinitz returned to Germany with his family in 1948. At first he accepted a job at the University of Erlangen, in Bavaria. Then in 1952 was able to return to his native city as a full professor of criminal law, procedural law, and labour law, at the Freie Universität of Berlin, where he remained until his retirement in 1970. From 1961 to 1963 he served as the tenth rector of the

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<sup>8</sup> A. J. Schulte, *Vor anderen Menchen*, cit.

<sup>9</sup> NYPL, MAD ECADFS, I.B. Non grantees, b. 70, f. 4, «Heinitz, Ernst», 1938-39.

<sup>10</sup> Ivi, *File Memorandum*, 17 March 1939, Letter from Ross, 8 March 1939.

<sup>11</sup> ASUFI, AC, *Sezione Docenti*, «Stato di servizio di Heinitz Prof. Ernesto».

University. He maintained contact with some Italian academics in his field and kept up his commitment to the judicial world. From 1953 he was an associate judge at the district court (*Landgericht*) of Berlin, from 1955 he was at the Court of Appeal (*Kammergerichtsrat*) and from 1959 to 1967 president of the senate in the Court of Appeal (*Kammergericht*)<sup>12</sup>.

### Main publications

- *Das Problem der materiellen Rechtswidrigkeit: Inaugural-Dissertation*, Breslau, Schletter, 1926.
- *I limiti oggettivi della cosa giudicata*, Padova, CEDAM, 1937.
- *Il momento consumativo nel resto di appropriazione indebita di titoli al portatore*, Padova, CEDAM, 1937.
- *Della influenza del giudicato penale sui giudizi civili successivi*, Padova, CEDAM, 1937.
- *Imparate il tedesco, Metodo pratico grammaticale*, Firenze, Nerbini, 1941.
- *Rassegna di legislazione tedesca per gli anni 1940-1941*, Roma, Istituto italiano di studi legislativi, 1943.
- *Empfiehl es sich, die Strafbarkeit der juristischen person gesetzlich vorzusehen*, Tubingen, Mohr, 1953.
- *Die individualisierung der Strafen und Massnahmen in der Reform des Strafrechts und des Strafprozesses*, Vortrag gehalten vor der Berliner Juristischen Gesellschaft am 3. Februar, Berlin, De Gruyter, 1960.

### Archival sources

- NYPL, MAD, ECADFS, I.B Non Grantees, b. 70, f. 4, «Heinitz, Ernst», 1938-39.
- ASUFi, AC, *Sezione Docenti*, «Stato di servizio di Heinitz Prof. Ernesto».
- ASUFi, AC, SS, f. «Heinitz Ernst».

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<sup>12</sup> See Walter Strauss, *Ernst Heinitz zum 70*, in *Festschrift für Ernst Heinitz zum 70. Geburtstag: am 1. Januar 1972*, hrsg. von Hans Lüttger, Berlin, De Gruyter, 1972, pp. 1-16.

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- Anne Jelena Schulte, *Vor anderen Menschen hat man keine Angst*, «Tagesspiegel», 26 July 2007 <<https://www.tagesspiegel.de>>.
- Klaus Voigt, *Il rifugio precario. Gli esuli in Italia dal 1933 al 1945*, vol. I, Florence, La Nuova Italia, 1993 (orig. ed. *Zuflucht auf Widerruf*, 1989).

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