

Justus Haucap, Düsseldorf

Heike Schweitzer – in memoriam [English Version]

Prof. Dr. Justus Haucap is Director of the DICE at Heinrich Heine University Düsseldorf.

Suggested Citation: *Haucap, DKartJ* 2024, 33-34

In the early hours of June 11, 2024, Heike Schweitzer died far too early at the age of just 56. It is a shock for the German and European antitrust community. Justus Haucap remembers an important colleague and good friend.

Heike Schweitzer was something like the German voice in European competition law. With her death, we have lost a thinker of great intellect and, for many, a friend. Heike will be greatly missed. Werner Mussler writes today in the German daily FAZ that Heike was probably the leading competition lawyer of her generation and an influential political advisor.¹ Hardly anyone would disagree with this, as Heike did indeed have an enormous influence on the further development of competition law in Germany and the EU, and ultimately also worldwide thanks to the influence of European competition law.

Heike came from the school of Ernst-Joachim Mestmäcker, who also died recently, and she always saw herself in the tradition of ordoliberal founding father Franz Böhm. His remark that competition is the greatest and most ingenious instrument of disempowerment was one of her favorite quotes. Like Franz Böhm, Heike was not only critical of private accumulations of power, but also of state power – a position that I myself deeply sympathize with. In her 2020 Franz Böhm Lecture, for example, Heike looked at the particularities of private power in the digital age and

compared these with the power positions that have been in the foreground up to now.² Building on this, she developed the thesis that the mechanism of decentralized coordination itself is changing due to these peculiarities. This, in turn, led to the development of a market organization with new rules. Nevertheless, Heike was also critical of the Digital Markets Act (DMA), which she felt went too far in some areas. How private power can be contained in practice without allowing state power to get out of hand was a recurring theme in the many discussions I had with her.

Heike studied law in Freiburg (with a prestigious scholarship). After her first (1994) and second (1996) state examinations, she worked until 2006, first as a doctoral student (doctorate in 2001) and then as a post-doc at the Max Planck Institute in Hamburg under Ernst-Joachim Mestmäcker, with whom she also wrote an influential book on European competition law as of 2004. In 2006, she moved to the European University Institute in Florence as a professor, from where she moved to the University of Mannheim in 2010. We must have met in person at some point during her time in Mannheim. In any case, when we tried to lure Heike to Heinrich Heine University in 2013, we were already on a first-name basis (which is a thing in German). Unfortunately, it became apparent at the same time that she would also be offered a position as the successor of Franz-Jürgen Säcker at the FU Berlin (from where she moved to the Humboldt University Berlin in 2018). She turned down the offer from Düsseldorf, but at the same time expressed her great regret that we could not now work together more intensively.

Fortunately, we were able to cure the latter, as Heike was accepted into the Kronberger Kreis, the scientific

¹ FAZ (only in German), Heike Schweitzer ist gestorben, 2024, <https://www.faz.net/aktuell/wirtschaft/unternehmen/heike-schweitzer-gestorben-die-fuehrende-kartell-juristin-ihrer-generation-19786712.html> (last accessed 21.6.2024).

² Walter Eucken Institut (only in German), 3. Franz-Böhm-Vorlesung mit Verleihung der Walter-Eucken-Medaille, 2020, <https://www.eucken.de/veranstaltung/3-franz-boehm-vorlesung-mit-verleihung-der-walter-eucken-medaille/> (last accessed 21.6.2024).

advisory board of the Stiftung Marktwirtschaft, a market economy-oriented foundation, at the beginning of 2014, and in 2019 we appointed her to the advisory board of our DICE (Düsseldorf Institute for Competition Economics).³ In the Kronberger Kreis, we immediately worked very intensively together on a study on energy policies for which I was the lead author. Other studies on which I was able to cooperate closely with Heike concerned the banking union, bans on discrimination in the digital world – Heike had in the meantime worked on the topic of net neutrality -, the Green Deal and competition, hospitals and, most recently, the future of public broadcasting. At the March meeting of the Kronberger Kreis, we toasted her 10-year membership and considered whether the topic of agriculture might be interesting for a future study. I am heartbroken that we now have to do this without Heike's keen intellect.

I also had the intellectual and personal pleasure of collaborating with Heike on many small projects, be it with regard to considerations on the reform of anti-trust damages, which we were able to present at the unofficial farewell of Chief Justice Peter Meier-Beck at the Federal Court of Justice (our two resulting essays were later published in the ZWeR)⁴ or on small essay projects. The Federal Ministry of Economics had commissioned a study in the run-up to the 10th amendment of the German competition act. Heike and I worked with Wolfgang Kerber, the economist from Marburg, and Robert Welker, a PhD student of hers at the time.⁵

In general, Heike has always enjoyed working with economists, also for policy consulting. Her role as

special advisor (1 April 2018 – 31 March 2019) to EU Commissioner Margrethe Vestager on digitalization and competition policy (see “Competition policy for the digital era”)⁶ and as co-chair (with Martin Schallbruch and Achim Wambach) of the expert commission “Competition Law 4.0” (Sept. 2018 – Sept. 2019) set up by the German Ministry of Economics was very influential.⁷ Heike has also repeatedly worked closely with other economists such as Wolfgang Kerber, Knut Blind and Martin Peitz – this level of interdisciplinarity and exchange between disciplines is far too rare. This is another reason why Heike will be missed.

As an economist, I can hardly adequately appreciate what she meant for the development of European competition law, but Pablo Ibáñez Colomo summarized this beautifully for Chillin Competition.⁸ Her former doctoral student Kai Woeste has written down in moving words what Heike meant for young academics in a LinkedIn post.⁹ For the German and European competition law community as well as for us competition economists, Heike's death is difficult to cope with, she was basically irreplaceable. Personally, I have lost a good friend. You are missed. RIP, dear Heike.

³ Kronberger Kreis - Scientific Council, <https://www.stiftung-marktwirtschaft.de/en/inhalte/kronberger-kreis/> (last accessed 21.6.2024).

⁴ The two articles (only in German): *Schweitzer/Woeste*, ZWeR 2022, 46; *Haucap/Heimeshoff*, ZWeR 2022, 80.

⁵ *Schweitzer/Haucap/Kerber/Welker* (only in German), Modernisierung der Missbrauchsaufsicht für marktmächtige Unternehmen, Projekt im Auftrag des Bundesministeriums für Wirtschaft und Energie, 2018, <https://www.bmwk.de/Redaktion/DE/Publikationen/Wirtschaft/modernisierung-der-missbrauchsaufsicht-fuer-marktmaechtige-unternehmen.pdf> (last accessed 21.6.2024).

⁶ *Crémer/de Montjoye/Schweitzer*, Competition policy for the digital era, 2019, <https://op.europa.eu/en/publication-detail/->

</publication/21dc175c-7b76-11e9-9f05-01aa75ed71a1/language-en> (last accessed 21.6.2024).

⁷ Bundesministerium für Wirtschaft und Klimaschutz (only in German), Kommission Wettbewerbsrecht 4.0, <https://www.bmwk.de/Redaktion/DE/Artikel/Wirtschaft/kommission-wettbewerbsrecht-4-0.html> (last accessed 21.6.2024).

⁸ *Ibáñez Colomo*, <https://chillingcompetition.com/2024/06/12/heike-schweitzer-1968-2024/> (last accessed 21.6.2024).

⁹ *Woeste*, (only in German), <https://www.linkedin.com/feed/update/urn:li:activity:7206998829936652290/> (last accessed 21.6.2024).