

# WHAT TO EXPECT WHEN STUDYING LAW IN GERMANY

Points to Consider for Prospective International Students

## NEW COUNTRY – NEW UNIVERSITY – NEW WAYS TO TEACH & LEARN

Universities in different countries or regions of the world can have very different academic cultures. Germany especially is known for a specific understanding of teaching and learning at universities to which international students often take time to adapt. If you know what to expect, this will make the transition process much faster and easier.

## CULTURAL DIVERSITY EXTENDS TO UNIVERSITIES AS WELL

If you're considering studying Law at a German university, you should be aware that the system and methods of study might be very different from what you have become accustomed to at your *alma mater* at home. This can add greatly to your study experience; to encounter new and different things is, after all, one of the main goals – and benefits – of studying abroad in general. On the other hand, if you come unprepared, you might find yourself rather bewildered and not being able to achieve the high marks and grades you are working for.

Here's a short list of the main problems between lecturers and international students at German universities<sup>1</sup>:

- International students' works (especially so-called ‚Hausarbeiten‘ and ‚Seminararbeiten‘) often receive low overall grades because professors and lecturers deem them to be **‚unscientific‘**, while international students are unsure as to the concrete criteria of the scientific methods expected.
- Professors and lecturers give low marks for written work because of **plagiarism**, while international students feel they have simply repeated what they had been told to learn.
- Professors give low marks for classroom work because international students **do not participate enough** in discussions.
- International students feel they are not being given sufficient information about the **marking and grading criteria** beforehand.
- Professors feel they receive **too many, too long, and too personal e-mails** by international students, tasking them with subjects that are not within their responsibility.

Situations like the above can be very awkward and disagreeable for both student and professor, especially if both sides do not understand what went wrong in the first place. As an international student, please be aware that professors in Germany teach within a certain academic culture that has evolved over hundreds of years and



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<sup>1</sup> Original list found in G. G. Hiller, No Idea What the Professor Expects, in: *Forschung & Lehre* 5/17, p. 440 pp.

is generally praised throughout the world for its effectiveness. You are expected to adapt to this specific culture of teaching and learning, not vice versa.

## WHY AND HOW IS STUDYING IN GERMANY DIFFERENT?

Germany has been the cradle of the so-called ‚research university‘, meaning institutions where teaching and research are closely linked. Thus, teaching students is not merely considered a part of their education in Germany. Through being educated at a German university, students also form a part of the scientific community in their respective field of study. As such, they are expected to adhere to scientific standards, even if they have only just begun their studies.

### What does this mean for you?

- German universities seek to convey not only knowledge, but above all, **the means to attain knowledge** on your own, i.e., to think, to research, to deduce, to use logical reasoning, and so forth. Therefore, **your professors will expect you to think rather than to repeat**, to demonstrate understanding rather than perfect memorization.
- In practice, this means that in a written exam, you will usually not be expected to repeat the opinion the professor has given on a certain legal problem, but rather to **present various opinions, ponder their good and bad points, and finally give your own**, while substantiating everything with **valid legal arguments**.
- If a case study is presented which needs to be solved, it will never be exactly like the cases discussed during the lecture. Rather, the professor will shape the case so that you can work on it demonstrating a solid knowledge of the methods, techniques, legal principles etc. you have been taught in class.

## A PRACTICAL EXAMPLE: THE BOTCHED EXAM

To make the general problem easier to understand, here’s a small example taken from the area of Public International Law, such as will be taught in beginners’ classes (if the terms and concepts do not mean anything to you yet, don’t worry, that is fine).

### What happened?

In *Public International Law I*, your professor explained the principle of customary international law, which is created through the consistent, wide-spread and long standing practice of the states of the world and, in relation to this practice, the conviction of legal necessity (*opinio iuris*). The professor related that today, there is some discussion about so-called ‚instant customary law‘ which is understood by some scholars to be created through very few, perhaps even just one singular case of state practice. She voiced her opinion that she did not think this to be legally valid.

In the final test of the course, you are given a fictitious scenario in which a state (A) wants to base his legal argumentation on a singular case of suitable practice by another state (B), stating that state B had created customary international law. You write that this deduction of state A is wrong, *because it would be instant customary law, which is legally not valid*.

When you get your exam paper back, you are disappointed because the grade is not as high as you expected. In her comments, the professor notes that she feels you are not yet working scientifically enough, and that you do not seem to penetrate matters of international law far enough. You do not understand what she means, because you have given her opinion on the custom international law matter exactly as she put it in class.

## What went wrong?

It is great that you noticed the problem of ‚instant customary law‘ in the fictitious scenario, and that you knew the correct term and meaning. The professor, however, did not want you to simply repeat her personal opinion on the matter. She was expecting something similar to this exemplary text: *‚State A’s argumentation would be correct if state B’s behavior could be assessed as constituting customary international law. Customary international law consists of state practice and opinio iuris. While the element of state practice has long been consistently understood to include only continuous practice by many states over a long period of time, recently, the notion of ‚instant customary law‘ has been discussed. Here, the creation of customary law is deemed possible through only a few or one case of practice, which is backed up by an extremely strong and wide-spread opinio iuris. Some authors argue that in these cases, the international community cannot be forced to wait until sufficient state practice has accumulated. Others, however, strongly disagree. In their opinion, state practice may change swiftly according to political considerations, and opinio iuris alone is too easy to influence and misuse, if it is not practically demonstrated by state practice. In my opinion, in the given case, a singular instance of practice, by one state alone, cannot be sufficient to constitute customary international law ... etc.‘*

The difference is that that professor expected you to give a **full account** of the problem of instant customary law, insofar as it is relevant to the given scenario, **relating all (main) scholarly views** on the matter (complete with their respective legal reasons of course), and finally **come to your own personal solution** in the given case, based on logical legal reasoning.

## WHAT TO DO

If you understand the difference between what the professor in the example above was expecting, and what you as the student had given her instead, you have already understood the main point. **Keeping these specific expectations in mind**, with a little practice, you should have no difficulty adapting to the German academic style.

To help you even further along, you should **attend any available lectures on general German law** in a language you understand, as some other important features of legal reasoning in Germany (especially the notorious ‚Gutachtenstil‘) will probably be explained there.

**Read!** You should always accompany your lectures with appropriate literature. Professors will perhaps give an overview of a certain area of study, but they might well concentrate on specific details and expect you to learn the rest in self-study.

Also, **talk to your fellow German students!** Most of them understand English well enough and will be happy to help you.

If you don’t understand the **German academic grading system**, especially in Law, you can refer to this very helpful link: [https://www.uni-frankfurt.de/38295891/02Jura\\_grades.pdf](https://www.uni-frankfurt.de/38295891/02Jura_grades.pdf)

One last word of advice: Professors will often extend the deadline for a paper if you ask them to because you were ill, or even because you were overworked and could simply not complete it in time. They will not, however, help you with organizing your time table, planning your homework, etc. As they have many different responsibilities in German universities, and a lot of students to teach, they expect you to take care of your own matters and behave like the true, albeit very young, scholar they understand you to be. Rise to it! You will be surprised how much you can achieve.

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