

INTRODUCTION TO SCIENTIFIC LEGAL RESEARCH
- a practical and methodological instruction
for doctoral students, master's students and young researchers -

§ 1 The doctoral thesis in legal science

I. What is a scientific thesis?

1) *Basic ideas and principles of scientific work*

- a) Fighting for progress
 - scientific research as an instrument to improve the world
 - scientific legal research as an instrument to avoid, minimize and solve conflicts
 - scientific legal research as an instrument to modernize and stabilize state, economy and society
 - in particular: to implement the many programmatic principles in the Vietnamese Constitution
 - in particular: to implement the concept of a *socialist rule of law* in Vietnam
 - in particular: to allow a *sustainable* development of a *socialist-oriented market economy* in Vietnam
 - scientific progress as the primary purpose of scientific work
- b) Searching for new discoveries and a deeper understanding
 - no successful scientific work without new scientific findings!
- c) Using reliable scientific methods
 - complying with - or developing - the established methodological rules
 - no scientific thesis in the field of law without a deeper understanding of legal methodology!
 - note the methodological differences between continental and common law systems
 - in particular: complying with the general rules of logic and reason
 - enabling others to fully understand the process and to verify the results
- d) Considering comprehensively facts and ideas, aspects and problems
- e) Sharing the findings with the scientific community and the public

2) *The scientific thesis in the spectrum of specialist literature*

- a) The difficult but essential delimitation between scientific and non-scientific specialist literature
- b) In particular: scientific legal literature and non-scientific legal literature
- c) The scientific thesis in the spectrum of scientific literature in the field of law
- d) Doctoral thesis and habilitation thesis

3) *Specific characteristics of a scientific thesis in the field of law*

- can there be a "scientific" thesis in the field of law?
- descriptive, argumentative, "creative" and elaborative parts in a scientific thesis in the field of law
- the significance of literature and jurisprudence for a scientific thesis in the field of law
- the subjective factor in legal science, its legitimacy and its due limits

II. Why should I write a scientific thesis?

- 1) *The thesis as a personal contribution to the progress of science*
 - the satisfaction of a large intellectual project with a concrete and useful result
 - the necessity of scientific idealism
- 2) *The thesis as an important step guaranteeing a successful professional career?*
 - the sometimes overestimated direct advantages of the doctor's title in professional life (outside university)
 - the limited opportunities to find a lucrative job in the field of one's doctoral thesis
- 3) *The making of a thesis as the most effective way towards a deeper professional understanding and advanced professional skills*
 - the challenge of science - getting to the limits of one's intellectual abilities
 - the pleasure of science - enjoying the satisfaction of pure intellectual work in an area of intellectual consistency and coherence (→ something very rare for a lawyer!)
 - the making of a thesis as the most effective professional training: it provides experience, a wider, scientific horizon, a deeper understanding of law and legal methodology, the skill in spontaneously developing consistent and convincing legal argumentations, the sensitivity for the weak points in the legal argumentation of others and the skill in presenting and formulating professionally legal facts, opinions and arguments

III. What are the costs and dangers of a thesis project?

- 1) *The often underestimated costs of a thesis project*
 - a) Costs in time
 - be realistic: at least 2- 3 years!
 - b) Costs in money
 - working hard for no money...
 - costs of technical equipment, software, literature
 - costs for travelling abroad to consult foreign experts, visit conferences and study in foreign university libraries (e.g. the Max-Planck-Institutes in Hamburg and Heidelberg)
 - c) Costs in work and energy
 - the risk of burn-out and deep exhaustion
 - side effects on family life and personal relationships
- 2) *The often ignored traps and dangers in a thesis project*
 - having an exaggerated opinion of one's skills and abilities
 - the risk of taking science too easy and working superficially
 - a *doctoral student is not yet a scientist - he wants to become one* during the long and arduous doctoral process
 - having insufficient confidence in one's skills and abilities
 - choosing an overly broad or difficult subject and therefore losing years in an unnecessarily demanding project (a dangerous trap especially for high qualified, intelligent and serious researchers)
 - missing important information and therefore being obliged to review and update the whole thesis
 - in particular: missing important theories published in literature in English language
 - ignoring or underestimating new trends and developments and therefore being obliged to review and update the whole thesis
 - ignoring the importance of fundamental decisions setting the direction and therefore being obliged to review big parts of the thesis
 - starting writing down too early and therefore being obliged to reformulate big parts of the thesis
 - do not write hundreds of pages for the trash bin!

- ignoring the scientific opinions and basic attitudes of one's supervisor, co-supervisor or examiners and therefore provoking them without the security of profound and thorough argumentation at crucial points
- trying to combine approaches and theories that are incompatible and therefore ending with an inconsistent result
- browsing through the world of science without setting priorities and therefore losing time (not necessarily a problem, if you want to stay at university and have to familiarize with these subjects anyway - or if you have fun!)

3) *How to minimize the costs and to avoid the traps and dangers in a thesis project*

- determining the subject extremely carefully
- looking for financial aids in form of grants and scholarships
- looking for a job with main emphasis in the same field of law
- planning the project realistically and updating the plans permanently
- waiting with the writing down of the thesis until all reflections have been done
- learning of the experiences of previous doctoral students
- regularly exchanging experiences with other local doctoral students
- regularly exchanging views and ideas with other young experts in one's field of law
- presenting and discussing one's ideas (and thereby self-assessing one's progress) in an regular informal doctoral meeting

More information on this course at www.thomas-schmitz-hanoi.vn For any questions, suggestions and criticism please contact me in my office (room A.603) or via e-mail at tschmit1@gwdg.de.