

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

§ 2 The steps and stages of a thesis project

I. Project planning and determination of the subject

1) *Realistic assessment of the workload*

- in particular of the various fields of law and of the foreign law you have to familiarize with
- in particular of the amount of essential scientific works which must be studied and discussed thoroughly

2) *Realistic time scheduling*

- allowing sufficient time for thinking: scientific ideas mature slowly...
- allowing sufficient time for travelling abroad to study in foreign libraries and to consult foreign experts
- reserving long coherent time blocks for uninterrupted scientific working in order to avoid time losses for re-acclimatisation
- the often-underestimated problem of reconciling scientific work and the care for little children
- save time by carefully limiting the subject of the thesis, taking employment in the same field of law, maintaining intellectual discipline, using a well-organised software environment and using reliable internet sources (instead of print media) where possible

3) *Realistic financial planning*

- including reserves for unforeseen problems

4) *Careful determination of the subject*

- a) Preparatory honest examination of one's personal motives to write a thesis
- b) Preliminary decision about the ambition of the thesis
- c) Preliminary decision about the sort of thesis
 - solving practical problems, collecting, processing and presenting knowledge, bringing in foreign innovations, providing for a deeper understanding, developing a new fundamental concept for a special field of law, searching for a totally consistent theory, scientific "cleaning up"?
 - more descriptive, comparing, argumentative, developing or "creative"?
- d) Decision about the field (or fields) of the thesis
 - theses concerning several fields of law are more interesting but also more demanding
 - subjects at the interfaces of different fields of law are most fascinating and most demanding
- e) Provisional decision about the subject of the thesis
 - note that an official (final) determination of the precise subject at the beginning is the biggest mistake that you can make and bears a high risk of failure of your thesis project!
- f) Continuous review of the decision about the subject of the thesis
 - a clear idea of the subject can only develop as the project progresses
 - a final determination and delimitation of the subject will only make sense in an advanced stage of the project

II. Familiarization with the subject and the relevant law

- an essential step that must precede the gathering of materials and the going into details
 - a prerequisite for a well-balanced, multi-perspective approach
- 1) *Familiarization with the core subject*
 - in particular with its connections to other important subjects, fields of law and legal disciplines
 - 2) *Familiarization with all relevant fields of law and of legal science*
 - in particular with constitutional law (→ fundamental rights, fundamental principles) and its standards for civil, criminal and administrative law
 - in particular with legal history and legal philosophy
 - 3) *Familiarization with relevant international and (if existing) supranational law*
 - in particular with WTO law and - in the future - the law of the ASEAN Economic Community and its standards for national law
 - 4) *Familiarization with relevant foreign law*
 - usually very useful (to find new ideas, arguments, perspectives), often essential (in particular if an advanced modern legal system is still in the making) but not an end in itself
 - familiarize with relevant law in common law systems too, but make sure that you adapt any concepts before transferring them to a continental legal system!

III. Gathering and management of information and materials

- 1) *The importance of gathering and managing information and materials for scientific work*
 - the scientific standard of comprehensive consideration of all relevant jurisprudence and literature (see infra, § 3 II.)
 - the importance of a complete idea of the relevant facts, opinions and discussions for the development of a comprehensive multi-perspective approach
 - the gathered opinions and arguments as source of inspiration
 - limits for the gathering of information and materials in Vietnam
- 2) *The gathering and management of relevant literature*
 - a) Access through specialised literature
 - in particular articles in law journals (and online law journals), working papers, monographies
 - b) Access through general literature on the relevant field of law
 - textbooks, commentaries, works of reference, specialised encyclopaedias, handbooks, expert websites etc.
 - c) Access through public databases and library catalogues
 - see the *overview on information on legal literature in the internet*
 - d) The management of the gathered literature
 - aa) The importance of an advanced literature management for a thesis project in the 21st century
 - managing information about hundreds of books and articles...
 - bb) The necessity to have one's own sophisticated personalized literature database for an advanced literature management
 - allowing a thorough exploration of the gathered literature and a constant overview of the various touched aspects
 - the database must be adapted to one's personal working method and to the special features of the subject (adapted structure, special fields, personal system of categories, key words, abbreviations, notes, comments etc.)

- 3) *The gathering and management of relevant jurisprudence*
 - in continental legal systems, jurisprudence is not a source of law - but still an important resource for scientific legal research
 - a) Access through specialised and general literature
 - b) Access through the official law reports
 - c) Access through public data bases and casebooks
 - d) Inclusion of important judgements in the literature database
- 4) *The gathering and management of other relevant information and materials*
 - note the *important role of the internet*: easy access to useful (and often reliable) information on the websites of courts and political institutions, universities and research institutes, political and professional organisations and individual experts; see in particular *expert sites* with professional analyses and background information
 - note: In the 21st century, an *advanced management of a great number of bookmarks/favourites with direct links* is essential for scientific work. By this, the internet provides for equal opportunities for researchers from developed and developing countries
 - in order to ensure that the information does not get lost, it should be noted immediately at the relevant place in the draft outline of the thesis

IV. Thorough scientific reflection and outline of the thesis

- 1) *The outline of the thesis*
 - a) The importance of the outline
 - aa) The importance of the structure of the thesis for its quality
 - the structure indicates the degree of scientific reflection in the thesis
 - bb) The importance of the outline of the thesis for achieving a consistent and dogmatically correct structure
 - cc) The importance of the outline of the thesis for avoiding unnecessary work
 - do not solve problems that do not appear in the outline of your thesis (because it is not necessary...)
 - b) The elaboration of a draft outline
 - c) The continuous review and completion of the outline
 - at any stage of the project, the intellectual progress of your research should be reflected in the outline of your thesis
- 2) *The process of scientific reflection*
 - a) The importance of a thorough scientific reflection for the quality of the thesis
 - b) The importance of a completion of the reflection process prior to the writing down of the thesis
 - avoid the risk of re-writing considerable parts of your thesis!
 - c) The role of the outline of the thesis in the reflection process
 - d) The role of friends, colleagues and supervisors in the reflection process
 - the harder they criticise the better you will reason at the end...

V. Writing down of the thesis

- 1) *The organisation of the process of writing down*
 - in particular: the reservation of *huge coherent time blocks* in order to keep the writing process going

- 2) *Techniques, tricks and means to facilitate the writing of the thesis*
- 3) *The problem of writing inhibition*

VI. Final review of the thesis

- the final review as a last chance to ensure a high quality of the thesis
- the final review as a last chance to ensure the comprehensive consideration of all relevant facts, opinions and arguments
- the final review as a last chance to take into account the latest developments

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.