TRUNG TÂM PHÁP LUẬT ĐỨC / GERMAN LAW CENTRE
Prof. Dr. Thomas Schmitz

Semester 1, 2013/14

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

# § 4 Formal standards for a scientific thesis

## I. Introduction

- Note: Regarding the formal standards, there are no differences between the different types of scientific theses (classical doctoral thesis, advanced doctoral thesis, habilitation thesis). However, sometimes there are binding rules of individual faculties or universities for certain types of thesis. They can present a problem if they are incompatible with internationally recognized standards of scientific work.

*1) The reasons for formal standards in scientific work*

- not an end in itself but required by the principles of intellectual honesty, accuracy and precision

*2) The principles guiding the formal standards in scientific work*

- allowing easy *orientation*, avoiding misunderstandings
- providing quick and easy *access* to available information
- allowing quick and easy *verification* of the correct understanding and use of information
- presenting the positions of others in any context as *accurate* as possible

*3) Variations in formal standards depending on the scientific discipline and the national scientific culture*

a) The existence of variations in formal scientific standards

b) The need to justify variations in formal scientific standards
- universality or relativity of scientific standards?
- scientific standards as part of cultural heritage?

c) The necessary limits to variations in scientific standards
- unprecise or unaccurate quoting is unscientific - in any discipline, country or langauge...

*4) How to meet formal standards easily*

- in particular: learning and meeting the standards *from the beginning*
- in particular: using carefully preformulated templates and text blocks (e.g. for the accurate quoting of court decisions)

## II. The formal structure of the thesis

*1) The general structure of the thesis*

- in particular: outline table of contents, table of contents, comprehensive bibliography, list of abbreviations, *multi-lingual summary* (at least in English)
  - note that the headlines mentioned in the table of contents must correspond exactly to those in the text
  - note that the bibliography should only include legal or (other) scientific literature; other appropriate sources (e.g. materials from the legislative process) may be displayed separatedly at its end; for more detailed information see my "Introduction to legal case-solving", part B (from this course)

- very helpful: *appendix* with materials difficult to access (foreign statutes and judgements, translations of important legal terminology, drafts, statistics, diagrams etc.)
- more and more essential: the ***index***
  - an often underestimated, important orientation guide that may attract readers
  - an expedient and consistent system of entries at two or three levels, following both a systematic and an associative concept
  - can be made semi-automatically with the help of the word processor
  - recommended: seperated indexes for quoted jurisprudence (table of cases) and important legal norms (table of statutes, table of treaties etc.)

*2) Formal standards for structuring*

- see also the (intellectual) standards presented above (§ 3 II.2)
- in particular: well-balanced structuring
  - not too many subdivisions (→ makes the reading of the text difficult)
  - no long sections without subdivisions (→ makes an easy orientation impossible)

## III. The scientific style of writing

*1) An objective and precise style of writing*

- in particular: neutral formulations without subjective elements
- in particular: precise and exact formulations, exact linking of thoughts by carefully chosen prepositions, conjunctions (or corresponding grammatical means in the Vietnamese language) or other logical connections

*2) A structured, purposeful style of writing*

- following the concept of structured scientific research in every detail: outlining the problem, unfolding the possible solutions, presenting the views in jurisprudence and literature, presenting one's own decision, giving reasons for one's own decision and recapitulating
- discussing theories and presenting the views of others always in the context and from the perspective of the own specific questions (a scientific thesis is not a textbook!)

*3) A concise style of writing*

- a scientific thesis is not an essay! In Europe, scientific textes are expected to be short, compact and concentrated
- recommended: frequent review of the text in order to shorten it without loosing substance

*4) But nonetheless a fluent and gripping style of writing*

- as far as possible with regard to one's own qualities as a writer...
- trying to use a simple terminology and to avoid complicated involved sentences (a risk in some languages only)
- trying to apply active voice instead of passive voice (→ more precise)

## IV. The art of scientific quoting

- see also my "Introduction to legal case-solving", part B.II.4 (from this course)

*1) The importance of scientific quoting*

*2) Precision and accuracy as guiding principles of scientific quoting*

- *Where* exactly do I find the information? How can I get access to it?
  - *No scientific quoting without* ***exact page reference*** and/or reference to the marginal number, paragraph, recital, footnote etc. When quoting articles in journals, specify both the page where the article begins and the page with the quoted passage. If a publication uses *margin numbers*, refer to them and not to the page numbers because this will be more precise. When quoting

judgements, refer preferably to official margin numbers because they are independent from the place of publication (internet, law journal, official reports etc.).
- when quoting internet sources, provide *deep links*, not just links to the home page

- *What* exactly is the information? What is its essence in the conrete context of your specific question?
- Besides the content, the exact place of a footnote can be decisive for correct quoting (behind the paragraph, sentence, part of the sentence, a single word?).
- Verify all quotations that you find in legal literature because they often are not correct or the quoted statement will not fit into the specific context of your text.
- Note: It is normal if the correct formulation of a footnote takes a long time.

*3) Scientific quoting of jurisprudence and literature*

- in particular: no quoting of long passages in direct speech without a special, justifying reason
  - but in exceptional cases, if there is such reason, it can be legitimate
  - no quoting of passages in direct speech without quotation marks and special formatting!
- in particular: specifying, if necessary, the exact sense in the given context with a special linking phrase like "see", "see also", "with the same conclusion", "aptly", "who is right in so far as..." etc.
- in particular: identifying the "prevailing opinion" when referring to different posisitions in the scientific literature
- in particular: indicating when a cited passage in a judgement is an "obiter dictum"

*4) Scientific quoting of other sources*

- in particular: *most precise specification of the relevant part of the norm* (article, section, subsection, phrase, part of the phrase, number etc.)
- in particular: no copying of large excerpts of statutes, treaties or constitutions!

## V. The formatting of the scientific text

- in particular: restrained and graduated use of modern formatting options, such as bold types, italics, different font sizes and underlinings; pay particular attention to the clarity of the table of contents, since this table is the most important tool for the orientation of the reader.
- in particular: *emphasizing of important keywords* so that they are not missed and later can be found again easily
- no isolated headlines at the bottoms of the pages (indicates a lack of professionalism)

## VI. Other formal standards

More information on this course at www.thomas-schmitz-hanoi.vn For any questions, suggestions and criticism please contact me in my office (room A603) or via e-mail at tschmit1@gwdg.de.