

LAW SCHOOL IN GERMANY¹

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To be allowed to study law in Germany you first have to attend school for thirteen years.² After that (only) men have to join the armed forces for ten months. Undergraduate studies like in the United States do not exist and there is nothing like the LSAT. Most law students start their legal studies at the age of 19 or 20 years. Nearly all universities in Germany are public, and the first (and so far the only) private law school opened just two years ago. Law students do not have to pay tuitions, only a small administrative fee per semester (about \$ 100).

Generally you should spend eight semesters in law school, but the average is about ten to eleven (There is no set time limit). The government offers an incentive to law students if they manage to finish their studies early: If you take the state exam (which is the final exam) in your 8th semester, you will receive a so-called “free try” which means you still have two more attempts to pass the state exam if you fail at your first try (You have only two attempts to pass it). Roughly speaking about 35 - 45 % of all students manage to take this “free try”, but the grades have not improved: Only about 10 - 15 % of all students graduate with honors, 30 % fail and another 30 % pass with a “D”. The grades at German law schools are “A”, “B”, “C+” (yes, this is an odd thing, a “C+” is treated as a single grade), “C”, “D”, “E” and “F”. One should know that grading in German law schools is very harsh – getting an “A” is nearly impossible and the average grade is a “D” (which is the minimum grade you have to get if you want to pass an exam). If you want to work for a big law firm or like to become a judge or prosecutor you have to graduate with honors (Judges working for trial and district courts do not have to practice for some years to gain experience, so you can be a judge in your late twenties).

German law schools are on the semester system, the year is divided into a winter (October - March) and a summer semester (April - September). There are lecture-free periods from March until mid-April and from mid-July until mid-October during which you normally have to write papers or do internships. You have to do at least two internships for a total of three months to be allowed to take the state exam.

The size of an average law school in Germany is about 2,000 - 2,500 students (the male/female ratio is about 50/50). Normally you will start your first year together with about 500 others, but at least one third will not “survive” the next years. Classes are usually just a lecture (90 minutes without a break). Students are not required to attend classes, there are no required reading assignments and (normally) the professor will not call on you. On the other hand it does not make much sense to attend a lecture without being prepared. Generally, professors will recommend two or three books which the students should read during the semester. Law books in Germany approach legal topic usually in a more systematic way: Because Germany is – like all European legal systems except for the English and Irish – a civil law country, you do not have to study cases in a casebook. After the student has a basic knowledge of the area of law, hypos are usually solved to apply and test this knowledge to cases (well, “widgets” do not exist in German hypos). Although you should know the leading cases in each area of law, they are of minor importance compared to the legal system in the United States. However, German labor law and law of torts is based to a very large extent on judge-made law. Unfortunately, it’s really hard to get a free lunch at a German law school, and there are no Lexis/Westlaw sweepstakes...

¹ Submitted to THE KING HALL ADVOCATE.

² Please keep in mind that I translated everything into English (for simplicity’s sake), although sometimes the literal meaning can be misleading (e.g. German administrative law is quite different from the American version).

Law school in Germany tends to be more formal and anonymous. Professors usually do not know your name unless you attend a seminar or talk to them quite a lot. They are willing to answer your questions in class, directly after the lecture or discuss legal problems during their office hours, but it is unlikely that they will reply to your e-mails before an exam. There is nothing like an honor code in Germany. Obviously you are not allowed to cheat, but during the exams all the things you do not really need have to be kept outside the lecture hall. At least three persons will walk around to make sure that everything is in order, checking your photo ID and your codes (for forbidden annotations).

The goal of the legal education in Germany (still) is that of a generalist, someone who has a broad knowledge of many areas of the law, being ready to become a judge. This is of course an illusion, because 90 % of all law students will be attorneys (whether they like it or not – the common view in Germany is that there are too many lawyers, but the attorney/citizen ratio is better than in the United States). Therefore, you have to know criminal law and criminal procedure, private law (contracts, torts, property law, family law, inheritance law, civil procedure, business associations, commercial law), public law (constitutional law, civil rights, constitutional procedure, administrative law, police law, construction law, municipal law, administrative procedure, European law), and so-called fundamental legal classes (legal history, Roman law, legal philosophy, legal sociology, methodology of jurisprudence). Beginning in the third year you have to elect one subject you want to specialize in (e.g. criminal law, family & inheritance law, labor law, administrative law, business law, European & international law, tax law, legal history, intellectual property). The total units a law student should have attended during the four years at law school is 170 (excluding optional classes) – but nobody cares whether you attend classes, read in the library, or study at home.

Many universities offer optional classes in economics and business management for law students as well as rhetoric seminars. Furthermore, some universities offer 2-year law and language programs for students who are interested in foreign legal systems. At the University of Trier (where I studied law) these programs include Anglo-American, French, Spanish, Italian, and Japanese law taught by native speakers (usually foreign professors or attorneys, many work for the European Court of Justice in Luxembourg).

The grades you will get for your legal studies are not really important, because you just have to get a certain amount of “certificates” to be allowed to take the state exam. There is no GPA, these certificates are only important if you apply for a summer job. The state exam (that’s what really counts for your future career) consists of eight five-hour exams within twelve days (three in private law, two in criminal law, two in public law and one in the area of law you specialized in) and is offered in March and August. You are only allowed to use the codes (without annotations) to solve the hypos. Law students start to study especially for the state exam about one year in advance, ca. 90 % attend bar review courses organized by private companies charging about \$ 1,200 for a 1-year course. There are no multiple-choice or open-book exams in Germany (That’s true only for the state exam. You have to pass “normal” essay exams to get the mentioned certificates you have to pass “normal” essay exams and take-home exams/papers). As the name “state exam” indicates, the exams are not administered by the law schools themselves. All law students studying in the same state will get the same exams, sometimes these will be even the same in several states. After you have passed the written part, you have to wait for four months and then you have to take an oral exam (usually together with three other students, lasting for four hours), which again consists of questions about private, criminal and public law and your special area of law. Often the examiners who are judges, prosecutors, law professors or other legally educated practitioners working for the state, like to deal with current legal problems (e.g. law reforms or important cases). I have to admit that there is no graduation, usually you

celebrate with your friends and students who attended the oral exam; sometimes the examiners will join you for a glass of champagne, but you receive your final certificate by mail – that’s all.

After the (first) state exam you begin a two-year training period assisting judges, prosecutors, administrative officials and lawyers to get a detailed overview of “real” legal problems (outside law school). At the end there is a second state exam (similar to the first one, but you have to solve hypos which are presented as a file, so you have to determine the (relevant) facts which are generally undisputed in the (first) state exam. Furthermore, procedural issues get more important. Finally you can apply for a license to become an attorney - you do not have to take a special bar exam – or you can apply for a job as a judge/prosecutor/administrative agency official...

The book “An Introduction to German Law” by *Gerhard Robbers* (one of my former law professors) provides an excellent overview of German law (available at the law library: KK 147.R665 1998) – just in case you think about getting an LL.M. degree in German law...



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