

LEGAL EDUCATION – WHY BOTHER?!

Christina Brueggemann

trainee/clerk

Programa Derecho Internacional Regional y Acceso a la Justicia en América Latina (DIRAJus)

German Cooperation/GIZ

RESUMEN: El presente artículo pretende contribuir a la discusión sobre la reforma de la educación jurídica. Se realiza una descripción del sistema Alemán y se indica a su vez algunas ideas sobre el por qué el actualmente el sistema ha demostrado ser inmune a intentos de cambio. Estas consideraciones podrían ser tomadas en cuenta respecto a una reforma en el sistema de formación jurídica en Costa Rica.

PALABRAS CLAVE: Educación jurídica, Sistema alemán de educación jurídica, reforma de la educación jurídica.

ABSTRACT: The following article wants to contribute to the discussion of legal education reform by describing how the German legal education system works and give some ideas about why the existing system of legal education has again proved to be largely immune to change. These considerations might be worth thinking about with regard to a reform of legal formation in Costa Rica.

KEYWORDS: Legal education, German system of legal education, legal education reform.

Fecha de recepción: 29 de septiembre de 2015.

Fecha de aprobación: 30 de octubre de 2015

I. INTRODUCTION

At the beginning of May, the UCR organised a discussion about the necessity to reform the formation of jurists starting from a closer look on legal education systems in Costa Rica and Germany. Only one month later, the newspaper “La Nación” published an article with the title “70 % de abogados se gradúan sin dominar conocimientos básicos” and emphasized the necessity of a reform. In the article, the president of the “Colegio de Abogados”, Eduardo Calderón, called the bad quality of the legal professionals a “national emergency” as it affected court decisions, legislative decisions and, in the end, the economy, as a bad lawyer can cause a lot of costs for the state¹.

The need for reform in both the law school curriculum and in the economic model of legal education is driven by various factors. Changes in the economy, advancements in technology and the new demands of a global marketplace have changed the legal profession and professionals, and educators recognize that the way we train new lawyers can be improved not only in Costa Rica but also in Germany.

Germany, as part of the European Union, recently, has been undergoing reforms due to the so called Bologna Process. It seeks to standardize higher education across the countries of the European Union to facilitate the broader goals of free movement, commerce, and furtherance of common interests among the EU nations. Due to that, a bachelor-master-system has been introduced into German legal education. Nevertheless, the existing system of the German “*Volljurist*” (“fully qualified jurist”, those who have passed two state examinations) not only has survived but still is the prerequisite for being admitted to the Bar or to the Bench.

¹ La Nación, Martes 16 de Junio del 2015, Page 6 A.

The following article wants to contribute to the discussion of legal education reform by describing how the German legal education system works and give some ideas about why the existing system of legal education has again proved to be largely immune to change. These considerations might be worth thinking about with regard to a reform of legal formation in Costa Rica.

II. SOME VARIATIONS ABOUT THE FORMATION OF JURISTS IN CRI AND GER

In order to help the good observer to discover some of the major discrepancies between the Costa Rican and the German legal education system, first of all he has to understand Germany's state structure, as the state plays an important role in the German education system. Germany is a Federal State consisting of 16 states, the so called "*Länder*". The legislative authority is split up between the Federal State and the *Länder*. In some fields, the Federal State has the only competence; in others it is the *Länder* who are responsible solely.

1. UNIVERSITY SYSTEM

In Germany, the education in schools as well as in universities is based upon law. The Federal State gives a framework for the legal implementation, whereas the 16 *Länder* lay everything down by law in detail, as they are their own sovereign regarding culture and science, which implies education. Hence, the state has a lot of influence on the formation of the jurists and, in the end, on the skills of the future human labour.

a. Legal Fundament

The Federal Laws which define the cornerstones of the German legal education mainly consist of two laws, the "*Hochschulrahmengesetz*" ("*HRG*", meaning Framework Act for Higher Education) and the "*Deutsches Richtergesetz*" ("*DRiG*", meaning the Federal Law on Judges).

The *Hochschulrahmengesetz* regulates, among other things, the general aim of a university education, the necessity of examination regulations, the admission to the studies and the preconditions for becoming a senior or junior professor. Furthermore, it determines the legal form of the universities and how the laws of the *Länder* should be adjusted in order to establish a common legal basis.

The *Deutsches Richtergesetz* defines the qualifications a candidate has to fulfil in order to be admitted as a judge. According to § 5 of the *DRiG*, the judicial service demands at least 4 years of law studies completed with the First Legal Exam followed by 2 years of Practical Legal Training (the so called "*Referendariat*") completed with the Second State Exam. § 122 of the *DRiG* sets the same preconditions for public prosecutors by referring to § 5 of the *DRiG*, as does § 4 of the "*Bundesrechtsanwaltsverordnung*" ("*BRAO*", meaning the Federal Law on Lawyers) for lawyers. In order to guarantee that the candidates do have reasonably similar qualifications after having passed the exams, the law does also outline the approximate duration and course of the studies as well as the preparatory service, the contours of the compulsory subjects and guidelines for the final exams.

On the basis of the *HRG* and the *DRiG*, the *Länder* may adopt individual laws that outline the course of the studies and the Practical Legal Training in a more detailed way. The laws are binding. As a result, the course of the studies and the examination requirements are the same at every university within one state. The laws of the *Länder* determine, among other things, the preconditions to be admitted to the final exam, the exact amount and duration of the written exams as well as the possible objects of examination, the course of the written and oral examination and who may be admitted as examiner. They also contain the grading scale and the share that every examination part has with regard to the total result.

b. Public or private: which type of university is given pre-eminence?

In Germany, there are only two² private law schools out of 44³. The remaining 42 universities offering law studies are public, hence financed by the state, and do not demand tuition fees. One explication for this phenomenon might be the- slightly antiquated - idea that the graduates will serve the state as judges or other judicial organs after having completed the studies. Be that as it may, the system theoretically allows every student regardless of his social background to enter a Law University. This matches well the idea of law being supposed to serve everyone equally and hence, also being practiced by everyone equally. It brings together people from different backgrounds with different interests and consequently, reflects a relatively broad part of society.

c. Some thoughts about the impact of a regulated legal education system

The Federal legal framework ensures that the legal education is fairly the same throughout Germany. Even if the *Länder* can enact laws independently, the *DRiG* emphasizes that the uniformity of the examination requirements and the performance rating have to be guaranteed. Hence, the laws of the individual states differ only slightly and the degrees are mutually recognized. Consequently, every German law student has to go through the same legal career before being admitted as a “full-fledged jurist” (“*Volljurist*”). The legal standardization guarantees a certain quality of every graduate who passes the two state exams, as not only the course of the education is settled by law but also the examination requirements. This involves the advantage that every potential employer has a rough idea of the skills and qualities a German law student is capable of. A further aspect worth mentioning is the fact that the state can form the lawyer of his needs by anchoring legally the requirements he demands.

Another essential factor for the quality assurance is the fact that the final exams do not lie in the universities’ sphere of responsibility, but in the states’, as

² Bucerius Law School Hamburg and EBS Law School in Wiesbaden.

³ https://de.wikiversity.org/wiki/Liste_der_juristischen_Fakult%C3%A4ten_in_Deutschland

the final exams are set up by the “*Justizprüfungsämter*”, the state offices for law examinations that are part of the ministry of justice. Hence, the universities have little influence only. They are responsible for only 30 % of the first final exam, the Second State Exam is left up solely to the state. On top of that, the results are very objective since the exams are anonymous and, consequently, no one can take advantage of good relations or use other methods in order to influence the results.

2. THE AIM OF THE EDUCATION: “EINHEITSJURIST” VS. “ABOGADO”

The aim of the German legal education is the so called “*Einheitsjurist*”, meaning a “universal” jurist that is able to work in each of the classical professional branches such as judge, public prosecutor, civil servant, a company employee (syndic) or lawyer. A specialization on a certain profession does not occur until the Second State Exam has been passed. This approach is unique not only in Europe, but probably in the world. Though not being free of criticism, it has proved itself for many decades until today.

a. Historical Background

Historically, the figure of the *Einheitsjurist* goes back to the 18th century. An obligatory state-run preparatory service combined with state examinations was introduced in the Germanic country of Prussia in 1750. The necessity of this combination derived from the realization that the graduates from university often did not have any practical skills. This is why the two-stage education (university and Practical Legal Training) was introduced. Another reason was the following: at the beginning of the 18th century Prussia was only a collective term for a group of territories. The multitude of scattered areas was held together by only the common

monarch. The idea of a universally applicable jurist served the purpose of overcoming the geographic and cultural fragmentation⁴.

b. Some reasons for maintaining the concept of “*Einheitsjurist*”

A law student who finished his studies upon the principle of the *Einheitsjurist* is equipped with a broad base of knowledge in different fields of law. Theoretically, he or she can work in any of the classical professions. One could argue that a jurist who specializes on only one field is more professional than someone who knows a little bit about everything. A German jurist, however, would reply that any specialization requires an overview and a basic understanding of the whole legal system in order to orientate oneself in a special branch. Furthermore, the broad horizon offers more possibilities on the often unpredictable job market.

The principle of the *Einheitsjurist* also leads to a better understanding of each other's' working method and a better communication among all parties. For instance, a lawyer knows what kind of information a judge needs in order to render a judgement. He does also know how the judgement should be structured and how it should be justified. Therefore, a lawyer can make out mistakes more easily and decide whether and how a judgment is contestable. On the other side, the judge is aware of a lawyer's working method and can give judicial advice if the lawyer should have overlooked something. Besides, this might also contribute to a faster legal proceeding as all parties can work in a very effective manner if they know what the other part is in need of.

3. Teaching method

The law studies in Germany are designed to form a universal and independent jurist. From the first day on the students have to learn to organize

⁴ The *Einheitsjurist*: A German Phenomenon by Annette Keilmann, German Law Journal (Vol. 07 No. 03 2006) p.308; https://www.germanlawjournal.com/pdfs/Vol07No03/PDF_Vol_07_No_03_293-312_Developments_Keilmann.pdf.

themselves and to take over responsibility. In the year 2013, 19.291 students started to study law in Germany⁵. That means an approximate average of 440 per university. Hence, the tuition by the university is rather superficial. The students are usually left to their own and have to orientate themselves right from the beginning. The university offers a timetable of lectures and a suggestion of how to structure the studies. However, these suggestions are not compulsory.

Universities intend to prepare students for the first state exam, a precondition for the practical legal training called “*Vorbereitungsdienst*” (preparatory service). The exam covers nearly all the subjects that were taught during the course. Therefore, the students have to force themselves to work constantly. In order to remember all the content of the lectures, the curriculum permanently provides units of revision. Also, the knowledge builds upon one another, meaning that the second year is based upon the knowledge of the first year and so on. Hence, revision also takes place implicitly. The same applies to the exams: they are never limited to the content of one certain lecture or topic but cover the whole range of subjects that had been taught so far in one field of law, e.g. Civil Law. The student learns to combine existing with new knowledge and to use the existing knowledge in a new context.

Thus, to be successful, students must construct their own curriculum, and the ones who have pushed through this system and are part of the best will be highly acknowledged by the Bar, Bench, administration and business.

III. THE GERMAN SYSTEM IN DETAIL

1. EDUCATION STRUCTURE

The German legal education system consists of two parts, the first part being a – at least – 4-year university education that ends with the First Legal Exam, the second part being a 2-year Practical Legal Training that ends with the

⁵ Statistics published by the Federal Office of Statistics, p.458. (https://www.destatis.de/DE/Publikationen/Thematisch/BildungForschungKultur/Hochschulen/KennzahlenNichtmonetaer2110431137004.pdf?__blob=publicationFile)

Second State Exam. In total, the legal education in Germany usually takes 7 years. Though the *DRiG* suggests an average duration of 6 years (four years at university and two years preparatory service), nearly nobody makes in that short amount of time. In the following, the course of the education will be outlined in more detail.

a. University

In average, German law students spend 5 years at university⁶. The academic year is split up in two semesters. The first 4 semesters form the basic studies. The subjects are similar to Costa Rica, comprising the basics of Civil Law and Law of Obligations, Fundamental Rights and State Organization Law, the basics of Criminal Law and more general subjects like History of Law, Philosophy of Law or General Theory of the States. In the first two years, the students have to pass at least 3 out of 6 exams, one in each subject (Civil Law, Public Law, Criminal Law). The exams are accompanied by homework assignments that have to be written during the semester breaks. Both, exams and assignments, consist of cases, however, the assignments are way more extensive. Students spend 3-4 weeks solving the case. Once the students passed the exams as well as the homework assignments, they have automatically achieved the intermediate exam.

The intermediate exam is necessary to be admitted to the main studies. These usually consist of another 3 exams and 3 homework assignments (not in all states though), covering subjects such as Law of Property, Family Law, Law of Inheritance, Labor Law, Commercial Law, Administrative Law and deeper knowledge in Criminal Law as well the basics of procedure law. Furthermore, the Universities now have to offer courses on so-called “*Schlüsselqualifikationen*” (general studies/“key qualifications”), for example, on mediation, legal debate, or negotiation which aims to better adapt legal training to the practice of law.

⁶https://www.bundesjustizamt.de/DE/SharedDocs/Publikationen/Justizstatistik/Juristenausbildung_2013.pdf?__blob=publicationFile&v=2

On top of that, the students can choose a field of specialization. The so called “*Schwerpunkt*” consists of several smaller exams and a seminar paper. At some universities an oral exam is obligatory as well. The *Schwerpunkt* is part of the final exam and counts 30 %. It is the only part of the two state exams that is administered by the university itself and goes back to a reform in 2002 that was introduced after criticism got loud that the students were not sufficiently prepared for practical work and the perspective of a lawyer was neglected⁷. This is the reason why the first exam is not called “First State Exam” any more but “First Legal Exam”. The different specializations vary from Commercial Law, Media Law, Intellectual Property Law and Foreclosure Law over European Law, International Law and Environmental Law to History of Law and Criminology.

Once the main studies are finished, the students can ask to be admitted to the state exam. Apart from a total of 6 exams and 6 homework assignments, the students have to show 12 months of practical experience (internships) that had to be completed during vacation time (like the homework assignments). In order to prepare for the final exams (state exam, 70 %), the students usually take at least one year off in order to revise all the subjects.

b. “Practical Legal Training” (=Referendariat or Vorbereitungsdienst)

Once the First Legal Exam is passed, the graduates can apply for the Practical Legal Training. Without the Practical Legal Training in combination with the Second State Exam a German law student is not allowed to work as a lawyer or judge or in any other classical profession. He or she may work as an assistant, but may not appear in front of court or as a freelance lawyer.

The applications have to be addressed to the Courts of Appeals of the different states, as the candidates will be employed (and payed) by the respective state. In some districts, it is easier to get in; in others good results in the First Legal Exams are required. However, as § 6 of the *DRiG* points out, a candidate may not

⁷ <http://www.juraforum.de/juraexamen/jurastudium/jura-studieren>

be rejected to the face that he has passed his First Legal Exam in one of the other *Länder*. The degrees have to be recognized equally in every state.

The Practical Legal Training takes two years in which different stages have to be run through. Usually, the trainees (or clerks) start to work as a law clerk in a civil court for 5 months, continue working for a public prosecutor for 3 months followed by other 3 months in an administrative office. The biggest part comprises a 10 months-stage in a law firm. This stage can also be split up into two parts. A maximum of 3 months can be spent in the legal department of a company. At the end of these 10 months, the trainees take off several weeks in order to prepare for the Second State Exam. After the written exams, the trainees proceed to their last stage which takes another 3 months and is of free choice. The last stage implies the opportunity to work in a law firm, a company or administrative office in the hope of being taken over by the employer. Others use the stage to find out more about hitherto unknown working fields.

The different stages are accompanied by tutorials that take place once a week and are run by practitioners of the respective professions. Similar to lectures, they aim to make the trainees familiar with the working methods of a judge, a district attorney and a lawyer in theory. Besides, the trainees get to know the principles of procedure law all in all of the three main legal spheres.

Furthermore, every trainee has a supervisor whom he or she works for. The trainees have to write judgements, attend court sessions and appear as a public prosecutor or lawyer in front of court. In other words, they have to slip into the role of each profession entirely. This way, they learn once more how to apply the theoretical knowledge, but to real life cases.

This system could not exist without the active support and participation of the state including both funding of the law schools and the trainee program as well as administering the trainee program and examinations in order to offer an education of high quality that is accessible for everyone. As could be seen above, German universities are usually public and free of tuition fees. During the practical legal training, the trainees receive a modest wage from the state (an average of 1200 USD gross).

2. TEACHING METHODS

The teaching methods in university and in the preparatory service are different as they pursue different goals. However, they do have in common the attempt of combining theoretical knowledge with practical application.

a. University

The emphasis of the university education lies on gaining the juridical methodology. The students learn to solve cases with the help of several particular methods. The aim is not to find “the one” solution for a case; instead, the students have to examine the case in all directions possible and then come to a conclusion. Even if they know that a certain approach will not lead to success, they have to examine it and then must explain why it had to fail.

One of the most important methods is the so called “*Gutachtenstil*”, a distinct style that is designed to ensure that the student considers the case under every possible legal aspect, that he explores every conceivable argument and that, in the process, he avoids touching upon any issue that is not strictly relevant. The method contains 3 working steps and is written in conditional clauses. The first step implies finding an introductory sentence that describes the object of examination by summarizing what happened and naming the paragraph that might be affected by the action (the so called “*Obersatz*”). In Criminal Law, for instance, the *Obersatz* would be: “XY could be guilty of murder by having stabbed AB to death out of jealousy. According to § 211 of the German Penal Code a murderer is someone who kills another person out of inferior motives.” In a second step, one has to define what “inferior motives” are. Most of the definitions have to be learnt by heart as they do not appear in the text of the laws. They derive from the reasons the legislator has given when introducing the law as well as from the jurisprudence of the courts. In the third step the students have to subsume the facts of the case

to the definition. Has the offender fulfilled the elements of the offense with his behavior?

Another very important method the students learn to solve a case is the interpretation of the law. It is necessary when the law is too vague and its applicability on the case is in question. There are four different ways of interpretation: the interpretation of the wording, the systematic interpretation, the teleological interpretation and the historical interpretation. The interpretation of the wording concentrates, as the name already suggests, on the formulation of the paragraph. In what sense does one have to understand the key words? What meaning do they have considering the formulation of the whole paragraph? If the interpretation of the wording does not lead to success, one has to consult the systematic interpretation. It focuses on the position of the paragraph in question within the law – in which chapter is it? What do the paragraphs before and after contain? The systematic position of the paragraph can give evidence about its meaning and its intention. The teleological interpretation looks for the meaning and purpose of the law. Who or what is the law supposed to protect? Who shall benefit from it and who shall not? What is the intention of the law? Why was it introduced? Last but not least, there is the option of a historical interpretation which takes the historical background of the paragraph into account – in which social, cultural and economic context was it introduced? What was the legislative's intention?

If the paragraph does not capture a case, neither directly nor indirectly by interpretation, the students have to examine whether it can be applied in analogy. It is necessary when the paragraph of a law shall be applied to a case that it is not regulated by law as it had not been foreseeable when the law was introduced. Three preconditions have to be fulfilled: there has to be a regulatory gap that is accidental and interests of the parties must be comparable to the already regulated case.

By these methods, the students learn to apply and interpret the law in familiar as well as in unfamiliar contexts. The emphasis does not lie on learning anything by heart, but on understanding the system and functioning of laws. The

methodology becomes second nature to the students as they have to apply it again and again to every case they try to solve from the first semester onwards.

b. “Practical Legal Training”

The training in the preparatory service is more practically oriented. The trainees also learn to solve cases, but on a higher level since they have to solve the cases from different points of view. The angle changes from an advisory perspective to the respective profession’s perspective. The trainees learn how to write a judgement, a charge or a written pleading. The knowledge and methods they adopted during their studies are still applicable and relevant; however, the approach to a case is different as the cases have to be solved in a different context. The trainees shall once more build upon the already existent abilities.

The core skill that is demanded is to be able to familiarize oneself with the different professional branches and to adopt the working method of each of them. The trainees have to get used to new writing styles and formulation requirements. They must learn how to structure a judgement, a charge or a written pleading and have to decide which information is relevant for each of them.

As the Practical Legal Training is comparatively short, the new skills are mostly gained via learning by doing. The trainees are supposed to work independently and in fields they are not familiar to until then. Besides, they shall get used to the legal situation in practice and reflect upon social, economic and political aspects.

3. Exams

The most important exams throughout a German judicial career are the First Legal Exam and the Second State Exam. The results of both of them are very important as they are the entrance ticket to the job market. The civil service in particular demands good grades. The graduates have to achieve 8-9 out of 18

points in order to apply for a job such as a judge or district attorney. The important law firms presuppose similar results. At first sight, getting 9 out of 18 points does not appear too difficult. However, the marking of the exams is very strict and statistically, only 13,2 % achieve 9 points in the state part of the First Legal Exam. 30 % do not pass at all⁸. Together with the university part, 25 % of the graduates get 9 points⁹. In the Second State Exam a total of 16,9 % achieves 9 points. This reflects the high level of difficulty that is supposed to guarantee a high quality. Among the students, however, it often leads to a high level of frustration as not everyone succeeds despite hard work and a lot of preparation.

a. “First Legal Exam” (= “1. Juristische Prüfung”)

The First Legal Exam, still called first state exam in common language usage, consists of a university part and a state part. As already mentioned, the university part counts 30 % whereas the state part contributes 70 % to the final results. In this chapter only the latter will be presented.

The *Justizprüfungsämter* (state offices for law examinations) of the different states are in charge of the complete examination process. Most importantly, they draw up the cases for the exams on the basis of drafts that were handed in by professors and practitioners. Also, they appoint the examiners for the written and the oral exams and hand out the certificates at the end. Often, the *Justizprüfungsämter* cooperate by swapping exams that had been written in the respective state. This contributes to a more uniform examination throughout Germany as well.

The final state exam comprises 6 written exams with a duration of 5 hours each. The exams have to be written throughout two weeks. An oral examination follows at the end. The written exams are divided up into subjects, usually 3 exams in Civil Law, 2 exams in Public Law and 1 exam in Criminal Law. Every paper consists of a case that has to be solved. In the oral exam, each subject is

⁸ Statistics published by the Federal Office of Justice (https://www.bundesjustizamt.de/DE/SharedDocs/Publikationen/Justizstatistik/Juristenausbildung_2013.pdf?__blob=publicationFile&v=2)

⁹ See above

examined for 20 minutes. The candidates are examined in groups of 3-5. Usually, the examiners start with a short case that has to be solved and then ask several questions that fit into the context. The written exams count 60-70 % to the final result of the state part, the oral exam counts 30-40 %.

Object of examination can basically be anything that had been part of the studies. This is why the students prepare themselves for at least one year in advance. The universities offer lectures of revision especially geared to the exam. In addition to that, a lot of private tutors offer courses of revision. These courses are expensive; still the majority of the students accept the offer as the courses are very structured and personal with a size of 30 students compared to the lectures at university. Apart from these revision options, the students prepare themselves independently. They have to work in a much disciplined way and must learn to organize themselves in order to cover all the subjects. Often they get together in small working groups with fellow students and solve cases together or test each other.

The exams are anonymously. The candidates receive a number that serves as identification. The papers will be marked by two examiners independently. They receive a solution sketch that had been drawn up by the *Justizprüfungsamt* and serves as a guideline for the marking. If the results of the examiners should differ, they will be informed by the *Justizprüfungsamt* and have to find an agreement.

The process described above is legally anchored in the laws of the respective states so that the examination is uniform and free of arbitrariness. With the First Legal Exam, the graduates receive the title of “*Referendar*” which allows applying for the Practical Legal Training.

b. “Second State Exam” (= ” 2. Staatsexamen”)

The Second State Exam comprises 7-10 written exams of 5 hours each and an oral exam. It is solely organized by the state; hence it is a “proper” state exam. The exams are divided up into different subjects as well and request to work out a practical decision. In Civil Law, the trainees are asked to write a judgement or a pleading draft including a suggestion with regard to the further procedural action.

They may also have to draft a contract and justify their approach. In Public Law, they have to write a judgement or a pleading draft as well or they have to draft an administrative decision. In Criminal Law, the task can consist of writing a judgement, a charge or an appeal. Hence, the range of possibilities is broad and the trainees again have to be well prepared. Apart from the technical knowledge in each of the subjects, the candidates have to apply the formulation requirements and the style of writing as well. The idea is that every written exam should have the quality of a proper practical decision that could be sent out to the addressee straight away. Hence, one of the most important, but most challenging tasks is to finish on time within the 5 hours. Otherwise, the work is considered useless and inappropriate with the unwelcome result of a rather “useless” mark!

The oral exam is similar to the one in the First Legal Exam. It comprises a mixture of cases and questions and takes 30 minutes per person in total. In some states, the candidates additionally have to present a case that is published one hour ahead. The presentation may not be longer than 12 minutes, the examinee will be interrupted then and the information presented from then onward will not be considered in the marking.

By passing the Second State Exam, the trainee is called a *Volljurist* or “Assesor”, a fully qualified jurist, and is allowed to work as a lawyer, judge, district attorney or other legal profession.

c. On-the-job Training

As a proper specialization had not taken place during the education, many jurists deepen their skills during work life. Especially lawyers have the opportunity to specialize in a field of their choice and be a “certified specialist” in the respective branch. The specialization is popular since the number of lawyers in Germany is very high and one tries to stick out somehow. Hence, 25 % of all German lawyers specialize in at least one field¹⁰.

¹⁰ Statistics published by the Bar Association (http://www.brak.de/w/files/04_fuer_journalisten/statistiken/2014/fatitel_verteilung-zum01.01.2014.pdf)

The certificates are granted by the bar association. The preconditions are legally set in the *BRAO* (“Federal Law on Lawyers”) and the “*Fachanwaltsordnung*” (“*FAO*”, meaning Specialist Lawyer Order).

The lawyers can choose up to three out of 21 fields of specialization. In order to get the certificate, they must have worked as lawyers for at least 3 years and must show special theoretical knowledge and practical experience in the respective field. The theoretical knowledge is gained in seminars of 120 hours in total that are usually held on the weekends. Additionally, 3 written exams of 5 hours each have to be passed. The practical experience has to be proven by a certain number of cases in the respective field of law. The number of cases depends on the field, ranging from 50 cases in tax law to 160 cases in traffic law. Once the specialization is achieved, the lawyers have to attend at least one further training seminar yearly in order to keep up to date.

4. Roundup of the German legal education system

Once the students/trainees have run through the whole education and examination, they are called a “fully qualified jurist” (*Volljurist*) that is capable of understanding complex cases and presenting a suitable solution in a short period of time. They are able to distinguish relevant from irrelevant information and can decide at an early stage whether a case has a realistic chance of success. As the students should have understood the basics of a law’s structure and its application, they are able to become acquainted with unfamiliar fields of law as well.

On top of that, the German *Volljurist* should have learnt to work on his own and to get along in the world of practice. He has gained an insight into the working method of a court, an administration and a legal adviser within a democratic state founded on the rule of law and should have developed a certain understanding of the society, economy and legal policy.

IV. INSTEAD OF A CONCLUSION

As with any educational system, there are both positive and negative aspects of the German method of educating jurists. However, the German system does provide German jurists with an excellent grounding in legal theory and practical skills and they emerge from their training without debt. Whether or not the discussion of legal education reform in Costa Rica borrows concepts from beyond Costa-Rican borders, we hope that this article establishes an opportunity to look broadly and think innovatively with regard to a reform.

Having said that, we do acknowledge that, almost by necessity, the cultural and institutional features of legal education differ from one system to the next. Like law itself, they are a product of history. Law is singular in that it is both a profession and an intellectual tradition. Whatever the exact relationship between theory and practice, legal education necessarily needs to strike an adequate balance between both taking the economic costs of the education especially for the student into account. Furthermore, the prospect of genuine innovation requires us to turn to questions and issues that matter in an increasingly globalized world. It also requires us to take seriously globalizing tendencies within law and the legal profession itself. In order to make sense of legal phenomena in the 21st century we need to take account of the theoretical and philosophical foundations of law as well as of the cultural and historical trajectory of the various societies in which it operates.

Although it is not realistic to duplicate the economic model that sustains the German system of legal education, some aspects can be drawn from its legal education reform discussions that may be of interests to be taken into account into the ongoing discussion about legal education reform in Costa Rica:

- *Aim of the legal education*: one of the crucial questions is what type of jurist a given country wants to have in future – a “fully qualified” or an “early specified” one? On which values and qualifications shall the emphasis be placed on? The aspired aim of the education, the “final product”, determines its content.
- *Teaching method and key qualifications*: A graduate who is supposed to work independently and practically oriented at the end of his

studies has to be educated in these skills. This implies studies in which the students have to organize themselves and have to participate actively in lectures or tutorials. Another important factor is the combination of gaining theoretical knowledge and learning how to apply it in practice afterwards. The exams should get near to the tasks the students will have to cope with in practice. This leads to the next point, the methodology. It is very important for every jurist to have a “toolbox” that helps to solve any case at least in its essentials. The methodology will be internalized by constant repetition and frequent application. In order to guarantee an equal level of qualification, legally anchored examination regulations are highly recommendable.

- *Regulation versus flexibility in legal careers:* Last but not least, it should be mentioned that the highly state-dependant system of legal education in Germany is linked to the question of whether the sovereign is responsible for forming legal professionals and guaranteeing their quality. In Germany this question is frequently answered in the affirmative, which not only results from historic reasons, but is also part of the theoretical conceptualization of the system. It is built on the principle of unanimity that basically stands for a coordination of all parts of a legal system with each other to ensure that one part does not overly contradict the other. This orientation toward a common constitutional legal system might actually be facilitated by a homogeneous legal culture.

These aspects should be understood as suggestions, nothing more, but nothing less either. As already mentioned in the introduction by citing Eduardo Calderón, a bad qualification of legal professionals does affect the society in many ways, as well as the functioning of a democratic state under the rule of law. In order to maintain the status of a just, liberal, democratic state, highly qualified legal professionals are indispensable. Hence, a good legal education cannot be valued high enough.