

*Legal note: This English translation is for your information only. The legal basis for a Course of Examination of Doctoral Candidates is the original German text (see <http://www.uni-jena.de/data/unijena/einrichtungen/aaa/PromORew.pdf>).*

# **Course of Examination for Doctoral Candidates**

## **Faculty of Jurisprudence**

### **Friedrich-Schiller-Universität Jena**

*From 13<sup>th</sup> December 2000*

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According to § 5 paragraph 1, in conjunction with § 79 paragraph 2 sentence 1 Nr. 11, 83 paragraph 2 Nr. 6, 85 of the Thuringian Higher Education Act (Thüringer Hochschulgesetz [ThürHG]) as amended on 9 June 1999 (GVBl. S 331), the Friedrich-Schiller-Universität Jena issues the following programme of doctoral study for the Faculty of Jurisprudence. This programme of study was decided by the Council of the Faculty on 13 December 2000. The Senate of the Friedrich-Schiller-Universität Jena agreed to the programme on 19 December 2000. The Thuringian Ministry for Science, Research and Art approved the programme by decree Az. H1-437/562-8- on 20 March 2001.

## **I. General terms**

### **§ 1**

The Friedrich-Schiller-Universität Jena, through the Faculty of Jurisprudence, confers the doctorate (doctor iuris, Dr. iur.) through a doctoral examination procedure (§§ 2-18) and the honorary doctorate (doctor iuris honoris causa, Dr. iur. h. c.) through procedures as outlined in § 19.

### **§ 2**

The granting of the doctorate certifies the recipient's capability to carry out intensive scientific work within the field of law (§ 29 paragraph 1 ThürHG). This certification is granted, except in the case of honorary degrees, through the presentation of a written scientific work (dissertation) as in §§ 8, 9 and the performance of an oral exam (disputation) as in §§ 10-12.

## **II. Admission to apply to a doctoral programme**

### **§ 3**

(1) The admission to apply to a doctoral programme generally requires that the applicant has successfully completed a course of study in Jurisprudence at a German university. Applicants with equivalent foreign degrees must verify that they have sufficient knowledge of the German language and legal system. This verification can be completed through the successful completion of a programme of postgraduate study (magister iuris, magister legum) at a German university, or by other means.

(2) The admission to apply requires that the applicant has passed the First or Second State Legal Examination (Juristischen Staatsprüfung) with a mark of "fully satisfactory (vollbefriedigend)" or better. In justified cases, the Faculty Council may waive this requirement for applicants who received at least a mark of "satisfactory (befriedigend)". The usual example of such a case would be one in which the applicant has shown his or her ability to do scientific work by, after having taken the state examination, completing a seminar in the Faculty with a mark of "good" or better, or if the applicant is employed as a scientific assistant (wissenschaftlicher Mitarbeiter) in a department of the Faculty.

(3) In scientifically justified decisions, and based on an outstanding Diplom, Magister, or Doctoral exam, applicants whose prior studies are in a subject area outside of the field of jurisprudence may be admitted to apply, if they have completed two advanced-level courses in the Faculty of Jurisprudence of the Friedrich-Schiller-Universität, which are required in view of the Thuringian Code for Legal Education and Examination, and submit certificates of course completion (Scheine) from these with an average mark of "satisfactory" or better. In order to show scientific qualification the applicant must also submit a certificate (Schein) with the mark of "very good (sehr gut)" from a seminar in the Faculty of Jurisprudence within the

subject area in which he or she wishes to earn a doctorate.

(4) Admission to apply to a doctoral programme requires that the applicant has studied law (Rechte) for at least two semesters at the Friedrich-Schiller-Universität Jena. In justified cases the Faculty Council may waive this requirement.

(5) As a general rule, an applicant cannot be admitted to apply if he or she has already applied to another doctoral programme in jurisprudential studies or has terminated doctoral examination procedures within that discipline unsuccessfully.

### **III. Acceptance as a doctoral candidate**

#### **§ 4**

(1) Persons who fulfil the admission requirements in § 3 and who intend to prepare a dissertation can apply to the Faculty of Jurisprudence for acceptance as doctoral candidates by submitting a prospective dissertation topic to the Dean. Certification of the completion of admissions requirements in § 3 in the form of documents and copies of the applicant's academic transcript (which must be certified in the case of external applicants) are to accompany the written application. An external applicant must also present an informal written statement from an academic instructor who is a full working member of the Faculty of Jurisprudence, in which suitable scientific contact in the intended field of doctoral study is verified.

(2) The Dean decides whether to accept the application but, in the cases given in § 3 paragraph (1) sentence 3, paragraph (2) sentence 2, paragraph (3) and paragraph (4) sentence 2, he or she must also obtain the agreement of the Faculty council.

(3) The decision to accept or reject the application is to be given to the applicant in writing. A rejection of the application must provide a reason for the rejection as well as information on legal remedies available (Rechtsbehelfsbelehrung).

(4) With the acceptance of the applicant as a doctoral candidate, the Faculty takes on the responsibility to evaluate the dissertation as a scientific work and to support the intended dissertation research. The applicant shall be assigned to a professor, assistant professor or lecturer with the understanding that this instructor will act as his or her scientific advisor (Betreuer). (§ 29 paragraph 3 ThürHG).

(5) Acceptance as a doctoral candidate can be revoked if there is no prospect of the dissertation being successfully completed within a reasonable period of time. The candidate is to be given the opportunity of a hearing before the Faculty Council prior to such a decision. The responsibility of the Faculty arising from acceptance of the applicant as in paragraph (4) expires in the case of § 7 paragraph (3) if an application to open the doctoral examination procedures (§ 5) is submitted more than three years after the applicant's advisor has left the Faculty.

## **IV. Opening of examination procedures**

### **§ 5**

(1) Once the dissertation has been completed, the applicant submits to the Dean a written application to open the doctoral examination procedures. The following documents are to accompany the application:

1. four copies of the dissertation with theses as in § 8 paragraph (5) for the examination files;
2. a CV in German which gives an overview of the applicant's scientific career;
3. a written declaration, from which it can be determined:
  - a) that the applicant is familiar with the relevant course of examination for doctoral candidates (Promotionsordnung),
  - b) that the applicant has composed and written the dissertation him or herself, and that he or she has acknowledged all additional assistance, personal communication, and sources within the work,
  - c) which persons have assisted the applicant with the choice and assessment of materials and/or supported him or her in writing the manuscript,
  - d) that the applicant has not enlisted the assistance of a doctoral consultant (Promotionsberater) and that no third parties have received either direct or indirect monetary benefits from the applicant for work connected to the content of the submitted dissertation,
  - e) that the applicant has not already submitted the dissertation as an examination paper for a state or other scientific examination,
  - f) whether the applicant has submitted the same, a substantially similar, or a different paper to another postsecondary school and, if so, with what result;
4. the notice of acceptance as a doctoral candidate as in § 4 paragraph (3) and certification of the fulfilment of any requirements or the certification of the existence of requirements as in § 3; in the latter case, certified copies of the relevant transcripts and certificates must be included;
5. in case of external candidates, a written declaration of the supervisor according to § 4 paragraph (1) sentence 2;
6. a list of scientific publications and presentations;
7. an certificate of good conduct from the police, in the case that the applicant is not in civil service;
8. the certificate of payment of tuition fees (Promotionsgebühr) in the amount stipulated by the current regulations (Gebührenordnung) of the Friedrich-Schiller-Universität.

(2) If the application documents are incomplete, the Dean issues the applicant a request to submit the missing documents by a given deadline. If the missing components are not supplied within this time period, the Dean returns the application as inadmissible along with a written notice justifying this decision.

### **§ 6**

(1) The Council of the Faculty of Jurisprudence decides whether to open the examination procedures via a majority vote of its doctorate-holding members. The

Council decides in the same manner over the composition of the doctoral committee as in § 7.

(2) The applicant receives written notice of the opening of the examination procedures from the Dean. In case of a negative decision, this is to be accompanied by a reason for the rejection as well as information on legal remedies available (Rechtsbehelfsbelehrung).

(3) The withdrawal of the application to open the doctoral examination procedures as in § 5 paragraph (1) is permissible until either the procedures have been closed due to the rejection of the dissertation or the date for the oral exam (disputation) has been fixed.

(4) The Dean advises the instructors (Hochschullehrer) of the Faculty in an appropriate manner that the examination procedures have been opened.

## **V. Doctoral committee**

### **§ 7**

(1) The conduct of the doctoral examination procedures requires a doctoral committee. The committee and its chairperson are appointed by the Faculty Council following the suggestion of the Dean at the decision to open the doctoral examination procedures. The doctoral committee is involved in all decisions during the examination procedures insofar as they are not reserved for the Dean or the Faculty Council. Decisions are to be recorded in a procedural log (Verfahrensprotokoll).

(2) The doctoral committee is composed of three professors of the Faculty. These serve as the first reviewer (referee), who is usually the advising instructor (Betreuer), and the second reviewer (co-referee) for the dissertation, as well as another professor. If both reviewers are professors in the same subject area, the third examining professor must be a member of a different subject. Lecturers (Privatdozenten) and honorary professors can be appointed as second or third reviewers. In justified cases an external professor may be appointed as the second reviewer.

(3) A professor who has left his or her former position as a member of the Faculty can also be appointed as a reviewer or a member of the doctoral committee, if he or she has been assigned as the candidate's advisor, has already given the Dean written notice at the time of leaving that he or she wishes to be a reviewer of the dissertation, and if he or she left the Faculty not more than three years prior to the opening of examination procedures.

(4) Retired professors can also be appointed as reviewers and members of the doctoral committee in accordance with § 38 paragraph (3) sentence 4 in connection with § 123 paragraph (5) ThürHG.

## VI. Dissertation and the evaluation of the dissertation

### § 8

- (1) The dissertation must have a jurisprudential topic as its subject. The dissertation must demonstrate the candidate's ability to conduct independent scientific work and the development of the discipline of jurisprudence, its theory and methods.
- (2) The dissertation must not be identical in whole or in any part with a work which has been submitted to the Friedrich-Schiller-Universität or another postsecondary institution (Hochschule) for the purpose of earning an academic grade or as part of the requirements for a state examination. The dissertation should have at least in part been completed under the supervision of a professor or lecturer (Professor, Hochschul- oder Privatdozent) of the Friedrich-Schiller-Universität.
- (3) The dissertation is to be written in German and must be printed and bound. In justified cases, the Faculty Council may permit the dissertation to be written in a different language. A German abstract must accompany every such dissertation.
- (4) The dissertation is to include a two-sided title page (see Appendix 1 of this Promotionsordnung for a prototype) as well as a short CV outlining the applicant's scientific educational background.
- (5) Theses, formulated in German, which clearly give the goal and results of the work are also to accompany the dissertation.

### § 9

- (1) The Dean hands the dissertation over to the appointed reviewers immediately upon the opening of the examination procedures with the request that they return their evaluations within an appropriate period of time which should not be longer than three months following the opening of examination procedures. For three weeks at the beginning of this period, the dissertation is laid out in the Dean's office for the instructors and members of the faculty who hold postdoctoral degrees to view and to offer their expert commentary.
- (2) The reviewers prepare written evaluations of the work and suggest its acceptance or rejection (non sufficit). Each reviewer recommending the acceptance of the dissertation assigns a mark based on the following scale:

summa cum laude	= Outstanding	Note: (0),
magna cum laude	= Excellent	(1),
cum laude	= Good	(2),
satis bene	= Satisfactory	(3),
rite	= Sufficient for average requirements	(4).

The reviewers can also make the acceptance of the dissertation dependant upon the removal of errors or require corrections.

(3) Based on the reviews as in paragraph (2) and the submitted opinions as in paragraph (1) sentence 3, the doctoral committee decides to accept, to return to the candidate for corrections, or to reject the dissertation. The final mark of the dissertation is determined from the arithmetic average of the marks assigned by the individual reviewers. Should these assigned marks vary by a number value of more than two, or should one reviewer rate the dissertation as “non sufficit”, the doctoral committee may obtain further reviews (Stichentscheid); the mark is in this case determined from the arithmetic average of all reviews. Should two reviewers rate the dissertation as “non sufficit”, it is rejected.

(4) The return of the dissertation to the candidate for corrections as in paragraph (3) is deemed proper if the reviewers have determined that the removal of errors is necessary, especially if the acceptance of the dissertation is made dependant upon this. The revised dissertation is to be resubmitted within a year and is to be re-judged based on the state of factual and scientific knowledge at the time of its resubmission. If the revised dissertation is not submitted within this one-year period, it is considered to be rejected.

(5) The Dean is to serve a written notice to the doctoral candidate regarding the acceptance or rejection of the dissertation. If the dissertation has been accepted, this notice should include an appointed date and time for the oral exam within the following 3 months (§ 11 paragraph [1]). If the dissertation has been rejected, the notice is to be accompanied by a reason for the rejection as well as information on legal remedies available (Rechtsbehelfsbelehrung).

(6) Following the acceptance of the dissertation, the work and the reviews are laid open in the Dean’s office for three weeks so that they may be viewed by the instructors and doctorate-holding members of the Faculty. Once the appointment for the oral exam has been fixed, the documents may also be viewed by the candidate.

(7) With the rejection of the dissertation the doctoral examination procedures are closed unsuccessfully (i.e., without granting a degree). The rejected dissertation remains along with all evaluations in the files of the Dean. The candidate is in this case to be allowed to inspect the files (§ 18).

(8) If the dissertation has been rejected, the candidate may attempt only once more to earn a doctorate.

## **VII. Oral exam (disputation)**

### **§ 10**

(1) The oral exam takes place as a public defence of the dissertation (disputation) before the doctoral committee. The exam should generally not last longer than 60 minutes.

(2) The subject of the oral exam is the discussion of the most important results of the dissertation and of the associated theses, which the candidate must first present in a free talk and then defend in an examining discussion (Prüfungsgespräch). The third

examiner, who is a professor in a different subject area from that of the dissertation (§ 7 paragraph (2) sentence 3), takes into consideration the candidate's demonstrated understanding of other areas of the law, insofar as they relate to the content of the dissertation.

## **§ 11**

(1) The appointment for the oral exam is generally within three months following the acceptance of the dissertation and is given in a timely manner to the candidate and the examiners.

(2) Should the candidate miss the appointment for the oral exam without an adequate excuse (in the case of sickness via a doctor's certificate), the exam is counted as failed. The same applies if the candidate terminates the exam without sufficient reason.

## **§ 12**

(1) The chairperson of the doctoral committee keeps a written record of the oral exam (see Appendix 2 for a prototype) from which can be determined the examination questions, the general course and the result of the exam as well as the extent to which the candidate has shown him or herself to be scientifically capable. The record is signed by all examiners.

(2) The mark for the oral exam is determined by the examiners in a closed meeting based on the scale given in § 9 paragraph (2).

(3) The chairperson of the doctoral committee informs the candidate of the mark given the oral exam immediately following the exam.

(4) The candidate may apply to re-take a failed oral exam (non sufficit) at a date between two and twelve months following the first attempt. If the candidate fails this second exam as well, the doctoral examination procedures are closed unsuccessfully.

(5) In the case of a failed oral exam, the candidate receives a written notice from the Dean with information on the possibility of re-taking the exam as in paragraph (4).

## **VIII. Final mark of the dissertation and of the doctorate**

### **§ 13**

(1) The mark of the dissertation is the arithmetic average of the marks suggested by the individual reviewers as in § 9 paragraph (2).

(2) The final mark of the doctorate is derived from the final marks of the dissertation as in paragraph (1) and of the oral exam (§ 12 paragraph [2]). The dissertation final mark is weighted with a factor of two in determining the final mark of the doctorate. The final mark is assigned based on the scale in § 9 paragraph (2).

(3) The one exception to the determination of the final mark as in paragraph (2) is that the mark of the doctorate may not be better than the best mark recommended for the dissertation by a reviewer.

(4) All marks are to be recorded in the procedural log (Verfahrensprotokoll).

## **IX. Granting of the doctorate and certification**

### **§ 14**

(1) Immediately following the successful disputation, the doctoral committee determines the mark of the dissertation and the final mark for the doctorate and resolves to grant the candidate the academic degree of “Dr. iur.”. This resolution is to be recorded.

(2) The doctoral committee can, at the suggestion of the reviewers, issue requirements for the publishing of the dissertation. It is incumbent upon the Dean to assess the fulfilment of these requirements. The Dean can delegate this responsibility to the candidate’s advisor. Validation of the fulfilment of these requirements should take place within three months. This period is not counted as part of the time limit given in § 15 paragraph (2).

### **§ 15**

(1) The Dean shares the decision of the Faculty Council with the doctoral candidate, in writing, and, in the case of the decision to grant the candidate an academic degree, advises him or her as to the obligation to publish the dissertation [paragraph (2)] as well as to the full terms and benefits of the doctorate (§ 16).

(2) After the successful close of the examination procedures, the candidate is obligated, within one year following the day of the oral exam, to publish the dissertation and to provide the Faculty with copies (Pflichtexemplare) as described in paragraph (3). The candidate may apply to the Dean to extend the period allowed for delivery of the documents.

(3) The obligation to publish the dissertation is satisfied when, in addition to the four copies for the examination files [§ 5 paragraph (1) sentence 2 number 1], the following copies of the dissertation are supplied to the Thüringer Universitäts- und Landesbibliothek [Thuringian University and State Library (ThULB)]:

- a. either 10 printed copies, on archival quality, wood- and acid-free paper and durably bound, or
- b. six printed copies, if the entire dissertation has been published in a journal or scientific written series, or
- c. six printed copies, if a commercial publisher will distribute the dissertation as a book, of which at least 150 copies can be demonstrated, and this publishing is announced on the back of the title page of the dissertation, or

- d. six printed copies and a copy-compatible, archival quality microfiche, or
- e. six printed copies and an electronic version in a data format and medium which is according to parameters set by the ThULB.

In cases a., d., and e., the doctoral candidate transfers to the university the right to make and distribute further copies of the dissertation.

## **§ 16**

(1) As soon as the conditions in § 14 paragraph (2) are fulfilled and the obligation to publish the dissertation as in § 15 is satisfied, the doctorate is officially granted through the handing over of a certificate (Urkunde) signed by the Rector and the Dean (see Appendix 3 for a prototype).

(2) The right of the doctoral candidate to use the title of Doctor and to display the associated degree begins strictly with the handing over of this certificate. The day of the performance of the oral exam is given as the granting date for the degree.

(3) As an exception to paragraph (2), the candidate may be granted a provisional right to assume the doctoral degree and title before the handing over of the certificate if the fulfilment of all outstanding requirements has been demonstrated. This decision is issued by the Dean.

## **X. Fraud, divestment and denial of the doctorate**

### **§ 17**

(1) The granting of the doctorate is to be revoked if the applicant has lied or cheated in the verification of admission requirements or in any of the activities involved in the earning of the doctorate, or if anything should come to light which would have disqualified the candidate from being granted a degree. The decision to revoke the doctorate is made by a majority vote of the doctorate-holding members of the Faculty Council, after the holder of the degree has been afforded a hearing before the council.

(2) If the requirements for admission to a doctoral programme were not fulfilled, and the applicant did not attempt to lie or cheat about their fulfilment, and if this first becomes known after the handing over of the doctoral certificate, these deficiencies will be considered remedied through the successful completion of the dissertation and oral exam.

(3) In addition to the above conditions, the revoking of a doctorate is subject to the Law in general.

## **XI. Right of Inspection**

### **§ 18**

(1) Following the closure of the examination procedures the candidate has the right to inspect the entire examination files including the reviews and opinions given the dissertation as well as the copies of the dissertation which were reviewed and commented on. The reviews can be seen as soon as the appointment for the disputation has been fixed [§ 9 paragraph (6) sentence 2].

(2) The inspection of the examination files occurs in the offices of the Dean. It includes the right to make transcripts or copies of the documents.

## **XII. Honorary degrees**

### **§ 19**

(1) In the recognition of excellent scientific achievement or other special merits, the Friedrich-Schiller-Universität can issue honorary degrees. Honorary degrees (doctor iuris honoris causa, Dr. iur. h.c.) may be granted through the Faculty of Jurisprudence for any of the fields that it represents.

(2) For the granting of an honorary degree, an application must be submitted to the Dean along with two external evaluations. Based on the submitted opinions, the Faculty Council may decide through the approval of three quarters of its doctorate-holding members to grant the honorary doctorate. Before the Faculty Council reaches a decision, the Senate is also to be given the opportunity to offer an opinion.

(3) The Rector and the Dean normally grant honorary degrees in an event to which the members of the Faculty Council and Senate and of the Faculty are invited. The degree is granted through the presentation of a certificate signed by the Rector and the Dean, in which the achievements of the honoured personage are recognised.

## **XIII. Scope, and provisions during transition, and coming into effect of this course of examination (Promotionsordnung)**

### **§ 20**

(1) For any applicant who has been accepted as a doctoral candidate at another postsecondary institution, but whose advisor has accepted a position with this Faculty, the requirements for admission to apply to a doctoral programme at the other institution apply. The further examination procedures in such cases will be conducted according to this document.

(2) Applicants who were accepted and have begun their dissertations before the coming into effect of this document, and for whom the oral examinations would be conducted during the effective period of this document, have the right to choose between this and the previous course of examination. This right extends until the end

of the semester in which this document comes into effect.

## **§ 21**

Designators of function or status within this document (i.e., pronouns and other identifiers) are presumed to refer to both the masculine and the feminine forms.

## **§ 22**

This course of examination comes into effect on the first day of the month following its release in the common official journal of the Thuringian Ministry of Culture (Thüringer Kultusministeriums) and the Thuringian Ministry for Science, Research and the Arts (Thüringer Ministeriums für Wissenschaft, Forschung und Kunst).

Prof. Dr. Karl-Ulrich Meyn  
The Rector

Prof. Dr. Elisabeth Koch  
The Dean