

Interview

Which is the purpose of legal education in Germany?

A young lawyer should know our very complicated legal system, especially the case law. This includes that he or she is able to understand and interpret new laws and new court decisions. The most important quality is to apply the legal rules to concrete cases. During the 1970ies, this was criticized of being too arrow-minded: The lawyer should include the social consequences when applying the law. He or she should do it in the spirit of a democratic and social state. Some professors advocated interpreting for instance labour and constitutional law in an alternative way, that means in the interest of the workers. Nowadays, the legal education has returned more or less to the principles of the 1960ies: The law as such defines the limit of thinking.

Which is the structure of the legal education in Germany?

If somebody has passed the exam at the end of the high school, he or she is entitled to go to the university and chose a subject-matter: Only in a few fields like medicine there is a lack of places for students at the universities.

Students study four or five years, some of them even six or seven years. You need “credits” like in the CESL, but the main point is the so-called state exam at the end of the university studies. You have to solve 8 cases, five hours for each case. They are even more complicated that decisions federal courts of the last instance have to take. You normally need some good ideas to come to a convincing solution; in most of the cases it is not sufficient just to know what the courts have decided.

After the exam, there are two years of internships – at different courts, at a law firm, at the administration. You learn how to act in practice and further develop your qualities – the university does not always teach what a lawyer needs. In a law firm you should be able to draft a contract and be perhaps a good mediator between two parties; knowing only case decisions you would not be able to perform such a work. At the end of the internships, there is a second so-called state examination. It is concentrated on cases, too. If you pass it, you are entitled to be a lawyer in a law firm and you can be nominated to be a judge.

Where are differences and similarities in China?

Well, I do not think that you are in China so much concentrated on the solution of cases. You learn more about society as such and the position of the law in it. I find it good, to have e.g. a course on “legal ethics”. But I would not be surprised if you had bigger difficulties in dealing with concrete cases. The one does not exclude and should not exclude the other, of course.

Do Chinese students work more than their German counterparts?

Yes, they do. I have e. g. course times on Monday afternoon and on Friday afternoon and everybody comes. In Germany, on Friday afternoon, you will have perhaps 10 to 15 percents of the students. Before the memorial days, I had a course on a Saturday afternoon – no German student would come; at the CESL, just the contrary.

That does not mean that German students are lazy. Many of them have a job; only 15 percent receive a scholarship. Among law students, there is also a curious thing professors normally do not like to mention: A high percentage of students does not participate in many courses. They get their knowledge to solve cases in private courses whose organizers have higher didactical qualities than most of the university professors. The students pay for the private courses whereas the university is free. My impression is that you take things more seriously if you had to pay before. But this system makes it even more difficult to have a look behind the frontiers of law.

Another factor is that Chinese students live on the campus. If everybody around you is working, you do not like to be the exception. In Germany, you normally live in town and you are integrated into the normal life.

Is there any impact of globalisation on legal education?

Yes, it is. But it takes a long time before a law faculty changes its programmes. Only since 2001 the law requires some knowledge of English from young lawyers, but that is not taken very seriously. It can easily happen that you offer a speech in English but no student will come. On the other hand, there are good programmes like “Erasmus” sponsored by the EU

which permit to spend a semester in another EU Member State. Some of the students do it because it gives an additional qualification useful when you apply for a job in a firm. On the other hand, I have got some colleagues who never left the German speaking territory – even not as tourists. To have a look into other legal systems and other cultures is always a matter of a relatively small minority. My impression is that in this field we could learn a lot from Chinese professors and students.