Informal Translation of the Governing German Original

Guidelines of the Faculty of Law Concerning the Requirements for the Scope and Form of Problem Sets

of August 16, 2012 (current as of April 30, 2020)

The Faculty of Law of the University of Bern,

based on Article 15(4) of the Regulations Concerning the Bachelor's and Master's Degree Programs and Evaluations of Students' Work at the Faculty of Law of the University of Bern of June 21, 2007, with amendments through May 22, 2014 (Study Regulations RW [RSL RW]),

resolves:

I. **Objective and Relevance of the Guidelines**

    The core feature required for a quality legal thesis is its substantive discussion of the legal questions which have to be answered. The substantive discussion and the line of argument must be formally correctly structured, formulated, and presented; therefore, the interrelation between form and content, and the linguistic expression in the legal arguments are evaluated as well.[1] A scientific work is a primarily precise – intellectual, linguistic, and textual – work; it is, therefore, an indication of the substantive quality of a written work, that the formal quality criteria have been observed. The present guidelines define the formal requirements for written works, which are decisive for evaluating the substantive quality of the work. The guidelines are based on the content that is taught in the course "Introduction to Technical Basics of Legal Work" and the teaching materials[2] used in that course. Provisions and subject-specific instructions of the departments and chairs that deviate or go beyond these guidelines are reserved.

II. **Scope, Formatting, and Sub-Headers**

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[1] For the structure and composition of legal theses, *see* MARTIN WYSS/FRANZ KUMMER/ RAFAEL HÄCKI, Suchen – Finden – Überzeugen. Arbeitstechniken im juristischen Alltag, 2. Aufl., Bern 2013, S. 172 ff.; PETER FORSTMOSER/REGINA OGOREK/BENJAMIN SCHINDLER, Juristisches Arbeiten. Eine Anleitung für Studierende, 5. Aufl., Zürich u.a. 2014, S. 54 ff. (basic principles), 71 ff. (problem sets) and 130 ff. (papers on legal issues). On legal language and argument, *see* WYSS/KUMMER/HÄCKI, S. 185 ff.; FORSTMOSER/OGOREK/SCHINDLER, S. 11 ff. and 15 ff.

[2] WYSS/KUMMER/HÄCKI (footnote 1).

Generally, the written work is comprised of 10 to 15 pages, not including the cover page and the tables and indices (font size in the text 12 points; line spacing 1.5; margins: left 2.5 cm, right 4 cm, top/bottom 2.5 cm each). In the German-speaking regions, there is never only one sub-section in an outline level: if there is a section 1.1, there must also be a section 1.2. For written works with up to three outline levels (e.g. "1.4.2") a decimal outline is possible; if there are more than three outline levels, usually an alphanumeric outline will be used for clarity reasons (e.g. "A.I.1.a.aa").

References to literature and court decisions, as well as their citation (discussed directly below) in footnotes, can be based on the citation rules of the Swiss Federal Supreme Court.[3]

III. Composition

1. Cover Page

The cover page contains all essential information about the thesis (title, legal field, and date of submission), about the supervising lecturer, and the author (name, address, matriculation number, and e-mail). The cover page does not have page numbering.

2. Tables and Indices

The tables and indices of the thesis are placed before the main text and are paginated with Roman numerals (I, II, III,…). Generally, each part of the tables and indices starts on a new page.

a. *Table of Contents*

In the table of contents, all entries and headings of the hierarchically structured written work are listed with page numbers. Headings, outline, and page numbers in the table of contents must match the text part.

b. *Bibliography*

The bibliography contains all legal literature which is cited in the written work (commentaries, anthologies and edited volumes, textbooks and handbooks, monographs, and journals). Generally, decrees (texts or codes of law), jurisprudence (court decisions), official documents (such as explanatory statements), and lecture scripts are not considered to be "literature". The bibliography is arranged alphabetically

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[3] Zitierregeln des Bundesgerichts, Fassung von Mai 2013 und Januar 2021

by the last name of the author/editor; academic or other titles should not be mentioned in the bibliography.

Possible citation of some types of literature (in German)[4]:

Textbooks and monographs:	KUNZ KARL-LUDWIG/MONA MARTINO: Rechtsphilosophie, Rechtstheorie, Rechtssoziologie. Eine Einführung in die theoretischen Grundlagen der Rechtswissenschaft, 2. Aufl., Bern 2015.
Essays in a journal:	MÜLLER MARKUS: Individuelle Selbstbestimmung und staatliche Fürsorge, ZSR 131/2012 I, S. 63-86.
Anthologies and commentaries:	EMMENEGGER SUSAN/TSCHENTSCHER AXEL: Art. 1, in: Heinz Hausheer/Hans Peter Walter (Hrsg.) Berner Kommentar. Kommentar zum schweizerischen Zivilgesetzbuch, Bd. I Einleitung und Personenrecht, 1. Abteilung Einleitung Artikel 1-9 ZGB, Bern 2012, S. 131-431.

c. List of Legislative Materials

Usually, a separate list of legislative materials is not necessary. However, if official documents are repeatedly used in a problem set or in a written work, it is recommended to list them in a separate list of legislative materials. These official documents include, for example, documents from the preliminary legislative procedure (expert and consultation drafts) or from the parliamentary debate, expert opinions or statements from the public administration, or position and other technical papers (documents from professional associations, guidelines of expert committees, statements in consultations, etc.). The documents must be listed with their full titles and references. They may be provided with a short title for easier handling, under which they are cited in the main text.

Examples (in German):

Botschaft vom 8. Juni 2012 zur Änderung des Bundegesetzes über die Zusammenarbeit mit den internationalen Gerichten zur Verfolg schwerwiegender Verletzung des humanitären Völkerrechts, BBl 2012 6663 (nachfolgend zitiert: Botschaft internationale Gerichte).

Eidgenössisches Justiz- und Polizeidepartement, Erläuternder Bericht zur Verordnung über Kaltwasserzähler, 3. Mai 2012.

Empfehlungen der Schweizerischen Akademie der Medizinischen Wissenschaften (SAMW) vom 29. Mai 2012 betreffend die ethische Unterstützung in der Medizin (http://www.samw.ch).

Bundesamt für Justiz, Zutrittskontrollen in Stadien: Durchsuchungen im Intimbereich, Gutachten vom 3. Februar 2011, VPB 2012.2 S. 18-27.

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[4] For further citation suggestions, *see* WYSS/KUMMER/HÄCKI (footnote 1), pp. 115 et seq.; FORSTMOSER/OGOREK/SCHINDLER, (footnote 1) pp. 348 et seq.

d.   List of Abbreviations

Commonly used abbreviations of everyday language (such as: etc., e.g.) may be assumed to be known and do not have to be included in the list of abbreviations. For German language legal abbreviations, those forms must be used which are listed by the Swiss Federal Supreme Court in each annual volume. Federal and cantonal legislation must be listed in the list of abbreviations with their official titles, the respective official abbreviations, and the reference in the systematic collections.

Examples (in German):

PAG   Bundesgesetz vom 20. März 2009 über die Patentanwältinnen und Patentanwälte (Patentanwaltsgesetz, SR 935.62).

EBV   [Bernische] Verordnung vom 24. März 2010 über die Erziehungsberatung, (BSG 431.13).

3.   Main Text

The Arabic paginated text of the written work (1, 2, 3, …) contains the actual main text with references in the form of footnotes:

a.   Main Text of a Solution to a Problem Set

The subject of the problem set results either from the case itself or from the question that follows the facts of the case. The sub-heading usually depends on the questions in the case and on the legal norms which have to be examined.[5]

b.   Main Text of a Seminar Paper

The subject of a seminar paper, written about a legal issue, is the academic processing of a problem or a question. Generally, the main text of a seminar paper includes an introduction (introduction to the topic/problem and definition of the objectives), a main section (discussion of the question/problem), and a conclusion (taking up the objectives of the introduction, summarizing the central arguments, and concluding).[6]

4.   Declaration of Independent Work

The written work must end with a declaration of independent work according to Article 42(2) RSL RW, which must be dated and which must contain an original signature. If the work is not written in German in accordance with Article 42(1) RSL RW, the chairs may provide a translation of the declaration of independent work. During the preparation time, students are

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[5] For legal case solution in general and problem sets in particular, *see* FORSTMOSER/OGOREK/ SCHINDLER, (footnote 1) pp. 71 et seq.
[6] For papers about a legal issue, see FORSTMOSER/OGOREK/SCHINDLER, (footnote 1) pp. 130 et seq.

not allowed to work on their problem sets together or to share their solutions and drafts, either as a whole or in part. Doing otherwise constitutes a violation of the declaration of independent work.

IV. Citation

Literal quotations must be marked with quotation marks. Longer literal quotations in the text (rule of thumb: > 100 words) are indented by 1 cm on the left and right (block quote). All passages, whose wording or meaning was taken from any sources, must all be cited and distinctly noted as such. The source must always be indicated in a footnote (font size 10). Contrary to the list of abbreviations, in the footnote, all literature sources are cited in an abbreviated form, which includes only the last names and the exact reference (page / margin number). Each footnote must start with a capital letter and must end with a punctuation mark (usually a period).

Examples of citation of Swiss Court Decisions (in German):

Decisions of the Swiss Federal Supreme Court published in the BGer Official Reporter (BGE):	BGE 133 II 292 E. 3.2 S. 296.
Decisions of the Swiss Federal Supreme Court not published in the BGer Official Reporter:	Urteil des Bundesgerichts 6B_214/2007 vom 13. November 2007, E. 5.10.3.
Decisions of the Swiss Federal Administrative Court published in the Official Reporter:	BVGE 2011/22 E. 3.1 S. 453.
Other Decisions of the Swiss Federal Administrative Court:	Urteil des Bundesverwaltungsgerichts D-6 869/2010 vom 16. August 2012, E. 5.1.
Decisions of the Swiss Federal Criminal Court published in the Official Reporter:	TPF 2005 127 E. 10.3.3 S. 134.
Other Decisions of the Swiss Federal Criminal Court:	Urteil des Bundesstrafgerichts BG.2007.13 vom 15. Juni 2007 E. 2.2.

Examples of citation from the legislative consultation of the Swiss United Federal Assembly (in German):

Voten Müller und Perrin, AB 2005 N 1145 f.

Antrag Ständerat Küchler, AB 1993 S 90 ff., 96 f.

V. Submission

The solution to the problem set must be submitted in electronic form as a searchable PDF/A-file[7], either by e-mail to the supervisor or by uploading it to the ILIAS platform. Upon request of the supervisor, the written work must also be submitted as a Word file or as a printed version and uploaded by the students to a platform for plagiarism checking (e.g. Ephorus). The written work must be dated and must include a signed declaration of independent work according to Article 42(2) RSL RW. In case of electronic submission, a scanned signature is sufficient.

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[7] The PDF file must be submitted in PDF/A format for archival reasons. To create a PDF/A file in MS Word (Windows) go to "File" and select the menu item "Save As". After specifying the location where you want to save the file, select "PDF" as the file type. Finally, click on "Options…", check the box next to "PDF/A compliant", and then save the file. On Mac (OpenOffice) go to "File" and select "Export as PDF…", check the box next to "PDF/A", and then click on "Export". Specify the location where you want to save the file and confirm with "Save". Using the search terms "Create PDF/A", you will also find other illustrated short instructions on the internet (for Mac and Windows).