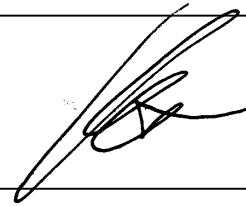


Germar Scheerer,
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September 7, 2001
Doc. 94, transl.



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TRANSLATION OF ARTICLE FROM
JURISTISCHE ZEITSCHRIFT, 1981, p. 661

JZ (Juristische Zeitschrift = Juridical Journal) 1981
Constitutional and Administrative Law, pp. 661-664

GfaG §4 (*Gesetz zur Führung akademischer Grade*, Law for Conferring Academic Titles), UG §54
(*Universitätsgesetz*, University Law)

1. An applicant who has met all requirements for admission to candidacy has a right to admission as a doctoral student or candidate for the PhD examination. Prior to the admission decision, provided that admission policies allow exceptions from normal procedure or prescribe an alternative procedure, the doctoral committee or faculty conference has some latitude in assessing the candidate.
2. From Art. 4, paragraph 1b and c GfaG (Law for the Conferment of Academic Degrees), according to which a conferred academic degree can be withdrawn due to initial or subsequent moral turpitude on the part of the holder of this degree, it follows that the merit of the applicant is a prerequisite for admittance to the PhD program and/or final examination.
3. Merit is an undefined term which is subject to interpretation by the judge. It permits a wide range of interpretation under existing law. It must conform to the prevailing consensus regarding personal integrity for holders of academic degrees.
4. The concept of merit is determined by the nature and significance of an academic degree. In the eyes of the public, there is a tendency for the doctoral degree to be perceived less as a conferred honor in itself, and more (when it has not turned into the kind of professional designation, such as physicians) as proof of achievement of scholarly research. On account of this changed perception, the original role which merit played – that of protecting the degree itself and the public from unworthy bearers of the degree – has been lost.
5. Merit is withheld only in case the PhD applicant has intentionally committed a heinous crime which is detrimental to the general public, or which is directed against an individual in a manner which is abhorrent to the public. Such a crime is detrimental to the perpetrator's reputation, leading to a judgment of unworthiness which exceeds that of most other crimes. It causes extensive damage to the reputation of the perpetrator.
6. Merit which has been lost is regained only after withdrawal of the designation of "lost merit," according to § 49 BZRG (*Bundeszentralregistergesetz*, Law of the Federal Central Register (German Police Records)). Merit is restored only when relevant verdicts are expunged from the individual's police record according to §§ 31, 32, 37 BZRG.



VGH (Verwaltungsgerichtshof = Administrative Court of Law) Mannheim, Verdict of March 18, 1981
– Ref. IX 1496/79 (VG (Administrative Court) Karlsruhe)

In 1971, the plaintiff had been sentenced to incarceration and a fine for ongoing drug trafficking and repeated theft.

In 1978, the plaintiff, who had in the meantime finished his PhD thesis, applied to the defendants (members of a university faculty) for admission to the comprehensive PhD examination. His application was denied. The rector then referred the conflict to a committee of the entire faculty. When the committee upheld the decision to deny, the rector rejected the request for admission.

The Constitutional Court [Karlsruhe Verfassungsgericht] rejected plaintiff's complaint of denial of permission to take the examination as well as plaintiff's request that it overrule the denial. An appeal by the plaintiff was successful, however.

The court's reasons:

[...]

TRANSLATOR'S AFFIDAVIT:

**I CERTIFY THAT I POSSESS EXPERT COMPREHENSION OF BOTH
THE ENGLISH AND GERMAN LANGUAGES AND THAT THE
ABOVE IS A TRUE AND ACCURATE TRANSLATION.**


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August 27, 2001