



Report on internal legal case
Röthig vs. Jähne

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Purpose of this report

- Tasked by extraordinary general assembly of DNagB to report about case results
- What happened on 7th Nov. 2010
- Events after Feb. 2011 (exchange with board of ENF)
- To clean the stain from the name of DNagB
- Prevention of future repetitions by awareness
- Case study for fellow board members

Not about quality of exam or examiners!

Gravity of the case to DNagB

From Nature
03/03/2011

- Perpetrator a member of DNagB
- Perpetrator an instructor in Germany
- Incident took place at ENC (100 people, 10 countries) -> extremely shameful condition
- Perpetrator involved unrelated international organizations (INF, USNF)
- First such case in Europe (world?) to our knowl.

Heightened awareness of misconduct, public cases:

- K.-T. zu Guttenberg, Ph. D. thesis
- L. Armstrong, Tour de France



German plagiarism

Germany's defence minister, Karl-Theodor zu Guttenberg (pictured), has resigned after a row over plagiarism in his PhD thesis. The University of Bayreuth withdrew Guttenberg's doctoral thesis in law last week, confirming that large parts of the document, written in 2006, were plagiarised. German chancellor Angela Merkel initially argued that academic wrongdoings didn't diminish Guttenberg's political merits, but public pressure forced his resignation on 1 March. Thousands of German academics and doctoral students had joined the outcry, signing an online letter complaining that Merkel was trivializing academic plagiarism.

Chronology, part 1

- ENC 2010 & exams in Mainz:
Observations of dan exam candidate with notes on
arm/hand 07.11.2010
- Begin of investigation by exam secretary and board
20.11.2010
- Questions by exam secretary & reply by F. Jähne
16.12.2010
- Verdict by exam sec.: Guilty of cheating attempt
18.03.2011
- Retraction of grade acknowledgment by exam secretary

DNagB and its organs

- General assembly (GA)
 - Highest institution within the federation
- Board – 3 people, elected by GA
 - Operations, treasury -> statutes
- Exam secretary – 1 person, elected by GA
 - Organizes kyû exams, **acknowledges** exams by other fed.
(control function) -> exam reg.
- Legal committee (LC) – 3 people, elected by GA
 - Runs legal cases between members and/or organs
 - Can deal punishment
 - Separation of powers -> legal reg.

The legal process within DNagB

- Members/organs can launch a legal case at the LC
- LC sights evidence and testimonies
- LC decides about guilt and punishment (if applic.)
- Process copied from DKenB, 40 years of experience

Appeal:

- Defendant can ask for an appeal after LC verdict
- Extraordinary GA decides about appeal
- Every member gets all information and can judge

Chronology, part 2

- Call-up of legal committee by exam secretary, case 1: damages to the federation
21.04.2011
- Call-up of legal committee by exam secretary, case 2: cheating attempt
06.05.2011
- Verdict 1: Not guilty of damages to the federation
30.05.2012
- Verdict 2: Guilty of cheating attempt
30.05.2012
- Request for appeal by defendant
02.07.2012
- Appeal granted by 1st extraordinary GA on 08.09.2012

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Definition of cheating in an exam

According to German legal standards:

- Cheating: anything that destroys equal opportunity
- Possession of exam relevant information during exam qualifies already as cheating
(Wrongful intention turned into action)
- Actual use of said information irrelevant
- Theoretical possibility of use sufficient
- Level of intelligence of method irrelevant
- Level of success at exam irrelevant

Evidence and testimonies

- Statement by defendant:
 - I did carry information on my body
 - I forgot what it was about
 - I need glasses to read
- Testimonies (from Germany and abroad)
 - 5 witnesses: candidate was badly prepared for exam
 - Motivation (4x observations, 1x reported oral confession)
 - 3 witnesses: saw writings on body during/right after exam
 - 3 witnesses: read naginata relevant information on body
 - Kamae and first strikes of Shikake Ôji forms 6-8, 1x rep. oral confession
- Other evidence: Photos
- With latest testimonies, more and more contradictions by defendant appeared

2nd extraordinary GA (Oct. 20)

- Lawer acted as a chairman and moderator
- 50+ documents collected by LC made available in advance to all members
- Lasted 8 hours

- Students of perpetrator present
- Very constructive and harmonic meeting
- Grass roots democracy

Verdict of GA

- Attempt of cheating & acknowledgement: Guilty
 - Lifelong ban from exams
 - unless* repetition of nidan exam (min. after 6 years)
 - Ban from tournament participation in the name of DNagB for 8 years
- Damages against the federation: Guilty
 - Reprimanded

Conclusion

- DNagB takes cheating seriously, exam no joke
- DNagB undertook a great effort to come to a solid verdict
- All members educated on correct behaviour (Budô Charter)
- Perpetrator not representative for naginata in Germany

10. Development and inclusion of a rule set for handling cheating at ENF exams

- ENF has no set process how to handle cheating
 - Who investigates? How?
- Different definitions of cheating seem to exist
- ENF has no list of allowed punishments vs. individuals
 - Legal measures to be defined
- Lessons for Sunday?