

Recommendation of the
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German Rectors' Conference
(HRK)
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Academic Franchising

HRK German Rectors' Conference

The Voice of the Universities

Ahrstraße 39 Tel.: +49/(0)228/887-0 post@hrk.de
D-53175 Bonn Fax: +49/(0)228/887-110 www.hrk.de
Germany

I. Preliminary remarks

With their differentiation and specialisation, university courses are increasingly being offered by a partner institution – either another university or a non-university establishment. The academic qualification is, however, awarded by the university ("course franchising").¹ This approach can sharpen the subject profile of the university, extend the range of courses on offer and reach new groups of students; however, there is also the danger that standards might fall. The increasing number of franchised courses on offer and the risks and opportunities associated with them has recently become a subject of discussion both in the academic debate² and in the media. It has been an issue for more than 15 years in the UK, where a Quality Code for Higher Education³ has been developed which defines the requirements for the universities awarding the degree. This recommendation is intended to represent an initial step towards describing the requirements regarding compliance with legal and quality standards which this development imposes on German universities as franchisors.

Only some federal state legislation on universities contains provisions on academic franchising. They concern a franchising agreement between German universities and non-university educational establishments, as well as between non-university educational establishments based in Germany and universities in other countries.⁴ Some federal state legislation regulates the cooperation between the universities awarding the degree and an external educational establishment under an "External examination" arrangement.

¹ Cf. B. Leusing "McUniversity", HM 2/2012, 53.

² Z.B. W. Hauser, "Franchising im Fachhochschul-Bereich" (Franchising at universities of applied science), zfhr (Journal of HE law and management) 2013, pp.13 ff; S. Reichert, M. Winde, V. Meyer-Guckel, "Jenseits der Fakultäten" (Beyond the faculties) 2012, pp. 70 ff; B. Leusing. "McUniversity": Innerstaatliches Academic Franchising (AF) deutscher Hochschulen – eine public-private Perspektive (in Veröffentlichung) (National academic franchising (AF) at German higher education institutions - a public-private perspective (in publication)).

³ QAA, UK Quality Code for Higher Education, 2012.

⁴ See annex, overview provided by Prof. Sandberger.

The Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK) addresses national and international franchising in its resolution of 18 September 2008⁵. However, franchising is not a substitute for graded courses and examinations which require recognition⁶. In academic franchising, franchisees provide teaching and examination services in accordance with the specifications of the degree-awarding university concerning the content, design, the qualifications of the teaching staff and quality assurance, but on their own responsibility. This distinguishes franchising from the issue of recognition of courses and examination services taken at other educational establishments. The KMK is requested to recommend appropriate clarification of the federal state legislation to its members.

The HRK approved the code for German higher education projects abroad for collaboration with foreign university partners⁷, but this only covers this special subgroup of franchising options.

⁵ KMK resolution of 18.9.2008 "Anrechnung von außerhalb des Hochschulwesens erworbenen Kenntnissen und Fähigkeiten auf das Hochschulstudium (II)" (Recognition of knowledge and skills acquired outside of the higher education system in higher education grades (II)).

⁶ In its resolution of 18.9.2008, the KMK also drew up a classification of situations of franchise courses (but incomplete and incorrectly) from the point of view of recognition.

⁷ Code for German higher education projects abroad, resolution of the 14th HRK General Meeting on 14.5.2013.

II. Guidelines

- **Only the university management can choose the franchised courses.**
- **Partners are chosen on the basis of a catalogue of criteria derived from the strategy.**
- **The rights and responsibilities of the university and the partners must be regulated comprehensively in a contract.**
- **Not only the franchisee, but also the university conferring the degree bears a high level of responsibility for the franchised courses and the students attending them. Both have a duty to provide information and ensure transparency. Both provide contact persons to whom the students can address all their concerns and, where relevant, their complaints.**
- **The franchising university is responsible at all times for compliance with academic standards and regularly gives full account of the franchise arrangement to the public.**
- **The KMK is called upon to clarify the misleading regulations on recognition of grades with the aim of ensuring nationally standard regulations and management as far as possible.**
- **The Accreditation Council is called upon to provide the accreditation agencies with unified standards and examination criteria in order to accredit franchised courses, which must, however, be sufficiently flexible to allow individual cases to be evaluated.**
- **The recommendations also apply to organisations with an international agenda, such as the German Academic Exchange Service (DAAD), which are also engaged in franchising courses.**

III. Notes

Past experience with franchised courses indicates that the following requirements are imposed on the higher education institution conferring the degree to provide legal certainty and ensure that quality standards are maintained. They supplement the federal state provisions for the award of higher education qualifications on the basis of franchised courses:

1. Strategy

There are strategic issues to be considered by the management of the university before decisions are taken on offering franchised courses. Is compatibility between these courses and the profile of the university and its own courses guaranteed? Does the university have sufficient expertise in the subject areas in which a franchised course is to be offered? Do they represent a helpful addition to the existing courses in the subject area? Is there any intention to extend the range of courses beyond the location of the university? Is the university using and uncovering resources with the franchised courses? Is the university strengthening its links to career practice with the course(s)?

When these questions have been answered and objectives set out, the availability of resources at the university must be considered.

2. Cooperation partners

The university awarding the franchise selects its partners on the basis of a careful investigation and a catalogue of criteria derived from its own mission statement and strategy. The criteria include agreement on the educational goals, the financial and organisational capability of the partner, the suitability of their infrastructure and their understanding of higher education issues and particularities.

3. Contractual rights and obligations

The rights and obligations of the higher education institutions and the cooperation partner must be set out in a contract. The contract must cover agreements on the regulation of the organisation of the course(s) and examinations, the selection and career development of teaching staff, the duration of the partnership, the conditions governing premature termination, including provisions to safeguard the ongoing

courses if the collaborative venture comes to an end, the distribution of costs and income, and the requirements of the "student contracts". Quality assurance and conflict resolution procedures must be part of the contract. The institution must provide frameworks in which student interests can be articulated and represented, and in which the courses can be discussed and marketed. "Chain franchising", where the courses are passed on again, must be excluded.

4. Students

Admission to the franchised courses is governed by the same conditions as those at the higher education institution awarding the degree. The university is responsible in the final instance for the students registered to attend the franchised courses. It informs applicants and students clearly and comprehensively about the course content and structure, the study pathway, admission requirements, examinations and recognition of the qualifications offered, as well as about any fees or other costs that might be incurred. The higher education authority awarding the degree also ensures that the legal basis of the course is transparent. The students taking the franchised courses must remain members of the university.

The franchising higher education institution and the franchisee will ensure that there are readily accessible contact persons to whom the students can address any concerns regarding the subject matter and organisation of their courses and any social issues. Furthermore, the higher education institution awarding the degree must set up an agency for questions and problems which can handle the students' complaints.

5. Quality assurance

The franchising university is responsible at all times for the maintenance of academic standards, particularly those applying to the content of the course, the teaching and development in line with learning targets, delivery of the content and for structuring and scheduling it in accordance with the relevant study and examination directives. It will review the quality assurance system at the franchisee's operation regularly.

The teaching staff involved in the franchised courses must meet the same requirements for academic qualifications as the equivalent teaching staff at the higher education institution. The same applies to

the franchisee's academic staff who are involved in examinations⁸. The franchisee is responsible for the regular career development of the teaching staff.

The higher education institution awarding the degree will regularly give public account of its franchised courses, with annual disclosure of the partnerships and the results of the evaluation or accreditation of the course(s). As part of monitoring the franchised courses, it will collect and publish data pertaining to applications, admissions, the study pathway, examinations and the staff employed, including their qualifications. Complaints made about these courses should also be reported. Finally, income and expenditure must be disclosed.

Franchised courses must meet the same standards of quality as the other courses provided by the higher education institution. The university's quality management system must allow for special arrangements for franchised courses. Franchised courses must also be accredited if the university undergoes a quality audit. The Accreditation Council is asked to define the accreditation rules more precisely. The franchisee must be measured against the same quality benchmarks as the franchisor. To foster a fruitful partnership with the franchisee, a joint steering committee should be set up under the leadership of the university, in which the university management and the departments/faculties are involved and the franchisee are represented.

⁸ The personnel structure should be equivalent to the structure of the personnel giving the courses at the higher education institution, with the same number of staff incapable of working.

Topic	BW	BY	BE	BB	BR	HH	HE	MVP	NI	NRW	RPF	Saar	SA	SN	SH	TH
Collaboration universities with non-university establishments general legal basis	Sec. 6	art. 16	Sec. 4 IV	Sec. 3	Sec. 12	Sec. 3III		Sec. 8, 28 III	Sec. 4	Sec. 77	Sec. 10	Sec. 2 I	Sec. 57	Sec. 5 II no. 4	Sec. 3III	Sec.5 IV
Recognition of grades as per KMK 2008 (equivalence, limits)	Sec. 36a	art. 63	Sec. 23a	Sec. 22	Sec. 56	Legal provisions			Sec. 6 III Sec. 27 III	Sec. 33	Sec. 25III	Sec. 60	Sec. 18	Sec. 34	Sec. 51	Sec. 48 V
Franchising/ external examination	Sec. 33			Sec. 81 IV				Sec. 37	Sec. 64a	Sec.s 66 V, 62 II				Sec. 106 VI Sec. 37	Sec. 52	Sec. 48 XI
Recognition of branches of foreign universities and educational establishments	Sec. 70 I s 4	art 86	Sec. 24a	Sec. 81 III	Sec. 112 II		Sec. 91 III	Sec. 108 III	Sec. 64 II	Sec. 75 II	Sec. 117 I		Sec. 105 III, IV	Sec. 106 VI	Sec. 80	
Recognition of foreign qualifications	Sec. 37	art. 68	Sec. 34a, b	Sec. 28	Sec. 64b	Sec. 69	Sec. 22	Sec. 42	Sec. 10	Sec. 69II	Sec. 31 III	Sec. 63	Sec. 19	Sec. 44	Sec. 57	Sec. 53

G. Sandberger: Zusammenarbeit Hochschulen, außerhochschulische Bildungseinrichtungen bei Gradverleihung (Collaboration of universities, non-university educational establishments on awarding degrees)

Synopse der Hochschulgesetze (Synopsis of the university legislation), version dated 10/2013.

References for federal state legislation

Higher Education Act for Baden-Württemberg (Landeshochschulgesetz (Federal state HE law) - LHG), 1 January 2005 (GBl. (Law Gazette) p. 1) most recently amended by Art. 2 Verfasste-StudierendenschaftsG (law on the establishment of student legislatures), 10. 7. 2012 (GBl. (Law Gazette) p 457);

Bavarian Higher Education Act (BayHSchG), 23 May 2006 (Law and Official Gazette (GVBl.) p. 245) most recently amended by Section 2 Amendment Act 9. 7. 2012 (GVBl. (Law and Official Gazette I) p. 339);

Higher Education Berlin Act (Berliner Hochschulgesetz - BerlGH) version dated 26 July 2011 (GVBl (Law and Official Gazette I) p. 378);

Brandenburg Higher Education Act (Brandenburgisches Hochschulgesetz - BbgHG) 18 December 2008 (GVBl. I (Law and Official Gazette I) p. 318), most recently amended with Art. 1 Amendment Act (ÄndG) 26. 10. 2010 (GVBl. (Law and Official Gazette) I no. 35 p. 1);

Bremen Higher Education Act 9 May 2007 (Brem.GBl. (Bremen Law Gazette) p. 339), most recently amended with no. 2.1 in connection with appendix 1 Amendment Announcement (ÄndBek) 24 1. 2012 (Brem.GBl. (Bremen Law Gazette) p. 24);

Hamburg Higher Education Act (HmbHG) 18 July 2001(HmbGVBl. (Hamburg Law and Official Gazette) 2001, p. 171), most recently amended with article 6 of Act dated 4 December 2012 (HmbGVBl. (Hamburg Law and Official Gazette) p. 510, 518);

Hessen Higher Education Act (Hessisches Hochschulgesetz), 14 December 2009 (GVBl. I ((Law and Official Gazette I) p. 666), most recently amended with art. 1 G Hess. HochschulG and other laws, 26 6. 2012 (GVBl. I (Hessen Law and Official Gazette I) p. 227);

Higher Education Act for Mecklenburg-Western Pomerania (Landeshochschulgesetz - LHG M-V) version dated 25 January 2011 (GVOBl. M-V (Mecklenburg-Western Pomerania Law and Official Gazette) p. 18), most recently amended with art. 6 HaushaltsbegleitG (German Budget Supplement Act) 2012/2013, 22 6. 2012 (GVOBl. M-V (Mecklenburg-Western Pomerania Law and Official Gazette) p. 208);

Lower Saxony Higher Education Act (NHGG), version dated 26 February 2007 (Nds.GVBl. (Lower Saxony Law and Official Gazette) p. 69), most recently amended with art. 7 G on improving the identification and recognition of professional qualifications acquired abroad, 12. 12. 2012 (Nds. GVBl. (Lower Saxony Law and Official Gazette) p. 591);

North Rhine-Westphalia Higher Education Act (Hochschulgesetz - HG) 31 October 2006 (GV. NRW (North Rhine-Westphalia Law and Official Gazette) p. 474), most recently amended with Art. 1 Amendment Act (ÄndG) 18. 12. 2012 (GV. NRW (North Rhine-Westphalia Law and Official Gazette) p. 672);

Rhineland Palatinate Higher Education Act (HochSchG), 19.11.2010 (GVBl. (Rhineland Palatinate Law and Official Gazette) 2010, pp. 463 ff.), most recently amended with the act dated 20.12.2011 (GVBl. (Rhineland Palatinate Law and Official Gazette) 2011, pp. 455 ff.);

Higher Education Act for Saarland (Universitätsgesetz (University Act - UG) 23 June 2004 (Amtsbl. (Official Gazette) p. 1782), most recently amended with art. 1 G zur Beendigung der Erhebung allgemeiner Studiengebühren an saarländischen Hochschulen (Act to end collection of general study fees at universities in Saarland), 10. 2. 2010 (Amtsbl. (Official Gazette) p. 28);

Higher Education in the Free State of Saxony Act (Sächsisches Hochschulgesetz - SächsHG) 10.12.2008 (GVBl. (Saxony Law and Official Gazette) 2008,19, pp. 900 ff.), most recently amended with the Act of 18.10.2012 (GVBl. (Saxony Law and Official Gazette) 2012,15, p. 568 ff.);

Saxony-Anhalt Higher Education Act (HSG LSA) as announced on 1 December 2010 (GVBl. (Saxony-Anhalt Law and Official Gazette) p. 600, ber. 2011 p. 561), most recently amended by Section 2

Fourth act to amend the university admission act of 21. 12. 2011 (GVBl. (Saxony-Anhalt Law and Official Gazette) p. 876);

Act governing the universities and the University Hospital Schleswig-Holstein (Hochschulgesetz - HSG) vom 28 February 2007 (GVOBl. Schl.-H.(Schleswig-Holstein Law and Official Gazette) p. 184), most recently amended by art. 1 Amendment Act (ÄndG), of 4. 2. 2011 (GVBl. Schl.-H. (Schleswig-Holstein Law and Official Gazette) p. 34, ber. p. 67);

Higher Education Act for Thuringia (ThürHG) of 21 December 2006 (GVBl. (Law and Official Gazette) p. 601) most recently amended by Art. 16 Thuringia Accompanying Budget Law 2012 of 21. 12. 2011 (GVBl. (Law and Official Gazette) p. 531);