

UNIVERSITY EXAMINATION ISSUES OF DISABLED STUDENTS DURING THE COVID-19 PANDEMIC

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Abstract

The Covid-19 pandemic forced universities to offer distance learning and off-site examinations to reduce the risk of infection for students and staff. Due to the distance regulations and hygienic requirements, alternative examination types and the adaption of examination procedures have become necessary.

For disabled students, studying is quite challenging enough in normal times. Under the pandemic, the changed examination conditions, for them are expected to be much more demanding. With this paper, the authors analyze if disabled students really have disadvantages in the current examination situation.

Universities normally offer compensation of disadvantages in examination procedures to disabled students. Compensation may result in individualized test situations or offering alternative examination types, such as computer aided examinations instead of hand written tests or distance to other examination candidates by using separate examination rooms. That measures shall guarantee an equal treatment of all examinees. In Germany, pandemic-based distance regulations and hygienic requirements resulted in a replace of on-site examinations by online tests and unsupervised examinations such as “take-home exams”. These changes in the universities’ examination process let the question arise whether general principles of compensation of disadvantages can be applied in pandemic situations without any modification.

The paper gives an overview about the general principles of compensation of disadvantages in university examinations. The authors analyze the current pandemic situation and its influence on examination procedures. They examine whether compensation principles are applicable to alternative and innovative examinations and the current examination situation at universities. Conclusion is that universities, in every individual case, have to check carefully if the previous compensation measures still ensure an equal treatment of all examinees under the pandemic conditions.

Keywords: university examinations, disabled students, Covid-19 pandemic

1. INTRODUCTION AND METHODOLOGY

Since the last 20 years, German universities have been made numerous and considerable efforts to enable students with health impairments equal participation in academic education. To reduce physical or psychological disadvantages of disabled or chronic ill students during their studies, universities offer assistance and use various measures such as technical aids or individualized examination procedures. Due to the Covid-19 pandemic and the resulting distance and hygienic requirements, comprehensive adaptations in the study and examination process were unavoidable in higher education institutions worldwide.

On the first sight, it appears as if students with disabilities or chronic illnesses are more affected by these changes. But, while having a closer look at the adapted study and examination conditions, the changes may have a more positive than negative effect on students with health impairments. That requires an investigation if the existing principles of compensation of disadvantages should continue to apply under the adapted examination procedures or if universities’ examination authorities need to develop new criteria.

As a basic research, the authors reviewed legal regulations of European and German Law regarding the general principles of university examinations, under special consideration of the rights of disadvantaged

examinees. Further, the authors used survey data of health impaired students to analyze the reasons why students applied for compensation of disadvantages. The focus of the investigation is on the most often applied compensation measures before the pandemic due to the lack of resilient data about changes in the students' application behavior for compensation of disadvantages. From the results the authors conclude whether disabled and chronic ill students in reality face disadvantages resulting from changes in the examination types and reorganization of the examination procedures.

2. BASIC PRINCIPLES OF GERMAN EXAMINATION PROCEDURES AND COMPENSATION OF DISADVANTAGES

2.1. German examination procedures

Article 15 of the EU Charter of Fundamental Rights guarantees all people in Europe the right to engage in work and to pursue a freely chosen or accepted occupation (European Union 2000). The German constitution secures the right, freely to choose an occupation or profession (occupational freedom) guaranteed in Art. 12(1) of the Basic Law for the Federal Republic of Germany (Federal Republic of Germany 2020).

University examinations affect the occupational freedom in the way that in most of the German study programs examination attempts are limited (Quapp and Holschemacher 2021). If students fail finally, they are excluded from further examination attempts at universities in whole Germany, which means in fact that they will never be able to reach the needed educational goal for the desired profession. That limitation of fundamental rights has to be legitimated by law, specifically by the Higher Education Acts of the 16 German Federal States. On their basis, German higher education institutions have to lay down examination rules and regulations to conduct tests and examinations which must be in compliance with prior-ranking law.

The limitation of fundamental rights of students is the reason why university examinations must be organized on the basis and in compliance with examination regulations and prior-ranking law. Guiding principle of higher education examination in Germany is the equal treatment of all examinees while the examination procedure, which results from the fundamental right of equality before the law, Art. 3(1) of the Basic Law for the Federal Republic of Germany (Federal Republic of Germany 2020).

2.2. Compensation of disadvantages

However, for disabled or chronic ill students, equal treatment in the examination process may result in disadvantages (Federal Constitutional Court of Germany 2011). If students prove health impairments which do not affect the performance that shall be examined but complicate its demonstration, the examination committee is obligated to compensate the student's disadvantage by allowing special examination conditions (Bavarian Administrative Court 2014). That not only follows from the German Constitution (Federal Republic of Germany 2020) and the Act on Equal Opportunities for Persons with Disabilities (Federal Republic of Germany 2018) but also from Article 24(5) of the United Nations' Convention on the Rights of Persons with Disabilities which ensures that "persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others" (United Nations 2006).

In Germany, currently, 11% of the students have physical or psychological impairments which negatively influence them in their study and examination performance (Middendorff et al. 2017). To allow handicapped students to show their best performance in university examinations it can be necessary to allow them a compensation of their handicap with suitable measures.

In the case that an examination candidate applies for compensation of disadvantages, the proof of disability or chronic illness is necessary, normally by disabled person's pass or medical certificate (Quapp 2018). It is not unusual that students have more than one impairment. Nevertheless, only these types of disability can be compensated which make it harder for students to proof their knowledge and skills (Niehues, Fischer, Jeremias 2018). For handicaps which are significant for the competences to examine, compensation must not be offered.

Students with longer-lasting health impairments, limiting them to proof their knowledge and skills, can apply for individual compensation arrangements at the examination committee. Universities normally offer a wide range of compensation measures and the examination committee decides about the appropriate measure depending on the student's personal disadvantage. In any case, the responsible authorities have to avoid unjustified advantages for disabled or chronic ill students compared with not handicapped students which would violate the principle of equal treatment among the examinees.

All examination conditions, including the requirements for compensation of disadvantages, are laid down in the universities' examination regulations and must be met in the whole examination process. However, these regulations were implemented for regular study times and normal examination conditions. In the current Covid-19 pandemic the question arose, how this special situation influences the examination process in general and examination conditions of students with impairments in particular.

3. INFLUENCE OF THE PANDEMIC ON EXAMINATIONS PROCEDURES

3.1. Innovative examination types

Before the Covid-19 pandemic, German universities mainly used traditional examination types for evaluating knowledge and skills of students. These examinations can be distinguished in proctored and non-proctored tests, open-book and closed-book examinations as well as written, oral or practical performance. Thus, the examination portfolio at German universities primarily included proctored written test, practical tests and lab exercises, or oral examinations in the rooms of the university. As take-home examinations universities used project/seminar papers, degree theses, and other homework.

In the last years, higher education institutions worldwide opened for alternative and innovative examination types, but the Covid-19 pandemic and resulting hygienic and distance requirements forced universities to increase the speed at which they implement new examination types and procedures.

Currently, universities in Germany offer the following alternative and innovative examination types (non-exhaustive list):

- Online written exam (proctored or non-proctored)
- Digital written homework
- Digital project or seminar paper
- Oral or practical examination via video conference
- Computer-aided tests.

Nevertheless, it has to be mentioned that names of examinations nationwide are not legally defined (except in centralized state examinations such as for physicians, lawyers or pharmacist), which makes it difficult to differentiate and compare the various kinds of offered tests. Normally, the examination regulations of each course of study list the types of examinations and explain their character.

3.2. Changes in the examination procedure

Not only examinations types had to be changed but also examination procedures. At nearly all universities, keeping distance, disinfection measures and wearing mouth-nose-covers have become daily routine. These organizational modifications in examination procedures cannot be seen as an alteration of the examination type if the character of the respective examination remains unchanged.

In Germany, requirements for examination procedures are laid down in the Higher Education Acts of the German Federal States and the examination regulations for each course of studies. Due to the current pandemic situation, in addition to the Federal States' and universities' regulations, the Corona Prevention Regulations of the German Federal States are applicable (see as an example the Corona Prevention Regulation of the [Federal State of Saxony 2021]).

Examination conditions, also in the current pandemic situation with the resulting hygienic and distance requirements, have to be appropriate. They must not be unsuitable, unnecessary and unacceptable in kind, scope and extent (Administrative Court Cologne 2020b). Uncomfortable temperatures or a high noise level (Federal Administrative Court of Germany 1993) can be seen as inappropriate examination conditions with the obligation of the examination committee to by re-establishing normal test conditions or to repeat the examination. The appropriateness of the conditions has to be determined on the basis of the perception of a normal sensitive student and an average examinee (Federal Administrative Court of Germany 1993).

In examinations requiring personal attendance, ventilation of examination rooms by open windows or doors, with the aim to reduce contamination with aerosols of the corona virus, could result inappropriate examination conditions. Furthermore, the obligation to wear a mouth-nose-cover raises the question if the examination conditions are still appropriate.

The examination committee has to guarantee equal treatment of all examinees by securing organizationally identical examination conditions (Federal Constitutional Court of Germany 1991). That means that students must be given the chance to proof their knowledge and skills without any external disturbance (Niehues, Fischer, Jeremias 2018). Whether the examination conditions resulting from the Covid-19 pandemic requirements are appropriate has to be evaluated in the individual situation on the basis of the infection dynamic and the latest scientific knowledge. Regarding the obligation to wear a mouth-nose-cover, German courts meanwhile decided that students have to wear masks while an examination in the university rooms, in the interest of the health of other examinees and university staff (Administrative Court Cologne 2020a) (Administrative Court Cologne 2020b). Depending on the type of mouth-nose-cover, breaks during the examination must be allowed to ensure appropriate examination conditions, e.g. in the case of obligation to wear FFP2 masks. FFP2-masks have been used since years in dusty working situations. That is why several recommendations exist regarding the wearing period of FFP2 masks and the duration of breaks, e.g. for FFP2 masks without exhalation valve breaks: 30 minutes every 75 minutes (Deutsche Gesetzliche Unfallversicherung 2011).

4. POTENTIAL DISADVANTAGES OF STUDENTS WITH HEALTH IMPAIRMENTS

Since more than one year, the Covid-19 pandemic has been affected universities all over the world. Students and university staff adjusted to the new situation with high distance and hygiene requirements. In that situation concerns are justified whether students with impairments face more disadvantages resulting from the current study situation. Especially, changes in the examination process could negatively affect the performance of students with impairments. The authors evaluated if that is really right.

4.1. Categories of health impairments

The most frequently occurring health impairments among students, which have negative effects on the study performance, can be divided in four groups:

- Psychological disorders,
- Chronic-somatic illnesses,
- Mobility impairments and
- Partial performance disorders.

In Germany, the majority of students with health impairments suffer from psychological disorders (53%) and chronic-somatic illnesses (20%) (Poskowsky et al. 2018). Around one third of the students with psychological disorders say that they have problems with examination duration and examination type. Students with chronic-somatic illnesses mostly ask for breaks while the examination. 4% of the impaired students suffer from mobility impairments or partial performance disorders such as a specific learning disabilities (e.g. dyslexia) (Poskowsky et al. 2018). Examinees with mobility disadvantages see

the length of the examination as problematic, whereas the half of the students with partial performance disorders have difficulties with examination type and length of examination (Poskowsky et al. 2018).

4.2. Compensation measures

The most agreed compensation measures for students with disabilities or chronic illnesses are extension of the examination duration or submission time (29%), the allowance to repeat or postpone tests (20%), the adjustment of the examination environment (18%), and the use of alternative examination types (15%) (Poskowsky et al. 2018).

After analyzing the health impairments of examinees and the most agreed compensation measures before the pandemic, the authors conclude that, by implementation of innovative examination types as well as by adaption of examination procedures, some of the disadvantages of health impaired students have already been compensated. That fact is important to be considered because universities, in any case, have to avoid an overcompensation of disadvantages for the benefit of disabled students.

For example, on-site examinations in university rooms may cause problems for students with reduced mobility, chronic-somatic illnesses or psychological impairments. Thus, online or take-home examinations provide facilitation for that group of students. Due to the possibility for impaired examinees to individualize their examination environment, providing separated examination rooms by the examination committee (for example in the case that students need music to be played [Administrative Court Baden-Wuerttemberg 2015] or if a high noise level by medical devices will be expected from the impaired examinee) is no longer necessary. Furthermore, ergonomic or other seating arrangements do not need to be provided by the university and social contact disorders also will not affect impaired examinees in online or take-home examinations.

If universities evaluate skills and knowledge of students with computer-aided examinations instead of written or oral tests, visually impaired students are able to use the wide range of computer technique to optimize the appearance of the examination tasks, for example by adaption of the computer screen and usage of Braille line, screen magnifier, and other visual aids.

In the event of oral examinations or presentations in video conference, students with hearing impairments are able to adjust their microphone volume level. If all these technical aids are sufficient to compensate the disadvantages of the respective examinee, or if further compensation is necessary, the examination committee has to evaluate in every individual case.

Examination types and examination conditions with distance requirements and less social contact can be advantageous especially for students with social contact disorders. Reducing contact with other examinees by smaller examinee groups, separated examination rooms or take-home exams reduce mental problems in social interaction of students with psychological disorders.

For some of the impaired examinees, the grant of extended examination time or breaks during the examination will be necessary also in innovative examination types with time limitation or under adapted examination conditions. Disadvantages which nevertheless exist while using innovative examination types or adjusting examination conditions have to be compensated as in the past. This means that currently universities have to examine all applications for compensation of disadvantages in the individual case and under special consideration of the adjustments resulting from the Covid-19 pandemic.

5. CONCLUSIONS

The Covid-19 pandemic poses huge challenges for universities and students. Beside the modification of the teaching format from on-site to digital, examination procedures required a fundamental reorganization as well. The question was if disabled and chronic ill students are particularly strongly affected by the Covid-19 pandemic or if they even benefit from the newly implemented hygienic and distance requirements, innovative examination types and a modified examination procedure.

Conclusion is that some of the disadvantages of disabled and chronic ill students do not exist any longer in innovative examination types and after adaption of examination procedures. Universities, in every individual case, have to check carefully if the granted compensation measures before the Covid-19 pandemic still ensure an equal treatment of all examinees under the current pandemic conditions. For that, the examination committee should examine how the individual impairment of the respective student influences his or her performance and if innovative examination types as well as new hygienic and distance requirements still limit the student to proof his or her knowledge and skills. Some of the compensation measures which were granted in the past are no longer necessary or suitable for innovative examination types or adjusted examination procedures. An overcompensation of disadvantages for the benefit of disabled students has to be avoided in any case.

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