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LEGAL WRITING / LEGAL WRITING AND LANGUAGE /
Contribution to the courses from the perspective of European, in particular German legal education

INTELLECTUAL AND FORMAL STANDARDS
OF SCIENTIFIC LEGAL RESEARCH AND WRITING
Contribution to the course *Methodology of Legal Research and Legal Writing*

Plagiarism and the use of artificial intelligence in legal writing

The release of the chatbot *ChatGPT* in November 2022 has stirred up the universities, since this software, which uses a very advanced and comprehensively trained *artificial intelligence*, is able to write complete course papers or articles. While the contents of the papers is not always correct, their formal appearance and style may create the impression that they have been written by young researchers or students, and it may become difficult for lecturers to find out if a submitted paper is the authentic work of the student or generated by ai. This raises the question to what extent the use of artificial intelligence is legitimate in legal writing.

Universities, publishers and editors of scientific journals will soon pass regulations on this problem. However, the answer derives also directly from the intellectual standards of scientific work, in particular the standards of intellectual authenticity and originality:

I. It is *legitimate* to use specialised artificial intelligence *as a limited auxiliary tool* for scientific research, but the results must be verified by the user and the use of ai *must be disclosed and documented*. Already in the near future, artificial intelligence may serve to identify quickly and thoroughly all existing scientific literature or jurisprudence on a topic or to browse compendiums of laws for the related legal provisions. The standard of intellectual thoroughness may even require to do so to avoid overlooking relevant sources. Artificial intelligence could also be used to analyse the quality of the legal reasoning in publications and court decisions, e.g. to identify where and how often authors and judges try to disguise a lack of argumentation with rhetorical assertions ("without doubts", "of course" etc.) or replace legal reasoning by political, moral or religious reasoning which is irrelevant for the law. This may also lead to interesting socio-legal research. Moreover, artificial intelligence could serve to trace back the spreading of new ideas or to assess the influence of the advanced jurisprudence of some courts on the development of the law elsewhere in the world. These are just examples of what may be about to come.

II. The *user cannot be credited for the results achieved by the artificial intelligence*, since it is not him but the ai who has ascertained them. However, he can take credit for his approach to use the artificial intelligence and for using it in the right way if it has led to better results. Thus, the use of artificial intelligence will eventually lead to better papers but not make the researcher's life easier, since the expectations of the quality of the papers will increase.

III. The *use of comprehensive artificial intelligence, such as* the chatbot *ChatGPT*, which is able to perform extensive independent research and to conceive and formulate complete papers or parts of papers, is *strictly inadmissible in legal science*, since the work or the parts of it would not be the achievement of the user but of the ai. The only own input for which the user could take credit would be to define the research question and the parameters of the research. It does not make a difference, whether the plagiarist "copies & pastes" from the work of a human being or a machine.

Theoretically, the author of an article or course paper could aks ChatGPT to prepare a paper on his topic and use it just as a source of inspiration, like the article of a scholar or another student's paper on the same topic. But intellectual honesty would require him to disclose and precisely document this, he would still need to write an independent own paper with own reasoning (not just paraphrasing) and the expectations on the quality of his paper would rise strongly. Besides, caution would be required, since ChatGPT is still known for presenting wrong or outdated facts and relying, like most ai, on latent social, sexist or racist prejudices implanted by the

training with media, social media and internet sources. So the use of ChatGPT would not make honest scientific work easier but more difficult. This option, as a well-documented experiment, is rather suitable for advanced research of experienced researchers.

IV. The situation is *different for legal practitioners*, such as lawyers, judges or civil servants. They must do their work correctly but neither need to present something new, nor must their work be authentic. The texts of senior lawyers and officials are often prepared by their staff. In some legal professions, for a long time pre-formulated text modules and templates have been common, which are slightly adapted to the individual case. Using a comprehensive artificial intelligence will only continue this long-standing practice at a higher technical level. However, it is questionable if a general ai that writes texts on any topics is suitable for this task, since allegations of wrong facts or latent prejudices are not acceptable in the work of a legal practitioner. Probably, comprehensive artificial intelligence, which is especially designed and trained for certain legal professions and works more precisely on legal questions, will evolve soon. Students and researchers can use such software too but must disclose and document that, what in return rises the expectations of their research.