



Legal training during elective internship in North Rhine-Westphalia

Legal trainees („Rechtsreferendarinnen / Rechtsreferendare“) perform their preparatory service („juristischer Vorbereitungsdienst“) in a training relationship with the State of North Rhine-Westphalia under public law (Section 30(1) of the North Rhine-Westphalia Legal Training Act (*JAG NRW*) read with Section 7(1) of the North Rhine-Westphalia Civil Service Act (*LBG NRW*)). The State Government is thus their only host employer (cf Federal Social Court, judgement of 31 March - 2015 - B 12 R 1/13 R). **The President of the Higher Regional Court („Oberlandesgericht“) is therefore in charge of all training-related decisions.**

To all intents and purposes, assignment to a training position does not establish a separate employment relationship with the organisation running this position. Thus, the priority of any official duties continues to be determined by the provisions of the North Rhine-Westphalia Legal Training Act (*JAG NRW*) or the specific instructions of the Higher Regional Court's training division.

One of the primary tasks during the assignment to a training position is **the preparation of the eight 'supervised' papers in the second state examination in law**. These must be completed in the 21st month of the preparatory service, i.e. in the **first of the four months of the elective internship** (section 53 of the *JAG Act*). The supervised papers must typically be prepared in the first half of the 21st month of training. The exact dates can be found on the website of the Judicial Examination Office of the State of North Rhine-Westphalia (*Landesjustizprüfungsamt* (https://www.justiz.nrw.de/Gerichte_Behoerden/landesjustizpruefungsamt/2_jur_staatspr/klausur- ren/klausurtermine/index.php)).

Completion of the supervised papers work takes precedence over any other work. Failure to do so would result in sanctions under employment and examination rules. So if, for example, legal trainees are assigned to the elective assignment on the first day of the first month of the four-month elective internship, **they will not be available for the actual training activities until after the end of the period in which the supervised papers must be completed. Typically, they are available as from the second half of the 21st month of the preparatory service.**

During the elective internship, too, trainees are entitled to **leave**. This is stipulated in the *JAG Act*, section 32(3)(2) and the *LBG Act*, section 7(1)(3), read with the *NRW Leave of Regulation (FrUrlV NRW)* as amended.

Recreational leave must be authorised by the superior officer in line with section 32(1) of the *JAG Act*. The training instructor should always sign off the application for leave before authorisation is granted. During the elective internship, the number of authorised days off is not limited, so that more than 20 days of leave may be granted in individual circumstances.

During the elective assignment, the training objective should also be achieved by means of **self-study** (section 39(2) of the *JAG Act*). To this end, it seems appropriate

that instructors grant legal trainees one working day every fortnight for the purpose of self-study ('learning day').