



EuropaInstitut

AN DER UNIVERSITÄT ZÜRICH

RECHT BERATUNG WEITERBILDUNG

Introduction to US business law

XI Legal Education / US attorney-at-law
Repetition / Exam / Questions

FS 2026

Prof. Dr. Andreas Kellerhals

Reptition last time

- > Size matters
- > Positive trade relations
- > CH big investor in USA (6th)
- > CH as headquarters for US firms
- > Pro/cons USA
- > Trump - tariffs
- > Free trade agreement
- > Issues
 - > Banking secret
 - > Trade deficit
 - > Money laundering
 - > Agriculture

Law Schools

I. Law Schools (1)

- > Roughly 200 (recognized by ABA)
 - > First one around Revolution
 - > Connecticut
 - > After 3 years – JD
 - > Law schools and diversity
 - > Scholarships
-

I. Law Schools (2)

> Ranking

- > Disputed but important: US news & world report – some law schools stopped
 - > U.S. News currently uses 15 independent data items assembled from various data sources. These 15 data items are first combined into 7 variables:
 - > Academic reputation (1 item),
 - > retention (2 items),
 - > faculty resources (5 items),
 - > student selectivity (4 items),
 - > financial resources (2 items),
 - > Value added (1 item derived from data already included in other variables),
 - > and alumni giving rate (1 item)
-

One day at law school

> https://www.youtube.com/watch?v=risHT_ccvWM

First-Tier Law Schools (2019; ranked 2018)

Rank	School name	Tuition and fees	Enrollment (full-time)
#1	Yale University New Haven, CT	\$62,170 (full-time)	625
#2	Stanford University Stanford, CA	\$60,270 (full-time)	565
#3	Harvard University Cambridge, MA	\$62,792 (full-time)	1,757
#4	University of Chicago Chicago, IL	\$62,865 (full-time)	597
#5	Columbia University New York, NY	\$67,564 (full-time)	1,264
#6	New York University New York, NY	\$63,986 (full-time)	1,364
#7	University of Pennsylvania Philadelphia, PA	\$63,364 (full-time)	736

First-Tier Law Schools (2019; ranked 2018)

#8	University of Michigan—Ann Arbor Ann Arbor, MI	\$57,262 (in-state, full-time); \$60,508 (out-of-state, full-time)	931
#9 Tie	University of California—Berkeley Berkeley, CA	\$49,364 (in-state, full-time); \$53,315 (out-of-state, full-time)	936
#9 Tie	University of Virginia Charlottesville, VA	\$58,300 (in-state, full-time); \$61,300 (out-of-state, full-time)	912
#11 Tie	Duke University Durham, NC	\$62,247 (full-time)	666
#11 Tie	Northwestern University (Pritzker) Chicago, IL	\$62,084 (full-time)	657
#13	Cornell University Ithaca, NY	\$63,327 (full-time)	597
#14	Georgetown University Washington, DC	\$59,850 (full-time)	1,749
#15	University of Texas—Austin Austin, TX	\$35,015 (in-state, full-time); \$51,995 (out-of-state, full-time)	889
#16	University of California—Los Angeles Los Angeles, CA	\$45,657 (in-state, full-time); \$52,151 (out-of-state, full-time)	942

First-Tier Law Schools (2019; ranked 2018)

#17	Vanderbilt University Nashville, TN	\$55,083 (full-time)	557
#18	Washington University in St. Louis St. Louis, MO	\$55,423 (full-time)	677
#19	University of Southern California (Gould) Los Angeles, CA	\$62,711 (full-time)	624
#20	University of Minnesota Minneapolis, MN	\$44,066 (in-state, full-time); \$52,586 (out-of-state, full-time)	558
#21	University of California—Irvine Irvine, CA	\$45,155 (in-state, full-time); \$51,649 (out-of-state, full-time)	420
#22 Tie	Boston University Boston, MA	\$53,236 (full-time)	719
#22 Tie	Emory University Atlanta, GA	\$55,116 (full-time)	853
#24 Tie	George Washington University Washington, DC	\$58,520 (full-time)	1,296
#24 Tie	University of Notre Dame Notre Dame, IN	\$56,292 (full-time)	600

I. Curriculum Law School (1)

- > Law Schools usually offer a three-year, full-time program leading to the Juris Doctor (JD) degree.
 - > Students take 29 credit hours of required courses during the first year of the JD program.
 - > During the second and third years of the JD program, students take one 3-credit hour required course entitled Legal Profession, and design their own courses of study by selecting electives for the remaining 56 credit hours required for the degree.
-

I. Curriculum Law School (1)

Frist year mandatory courses (mostly!):

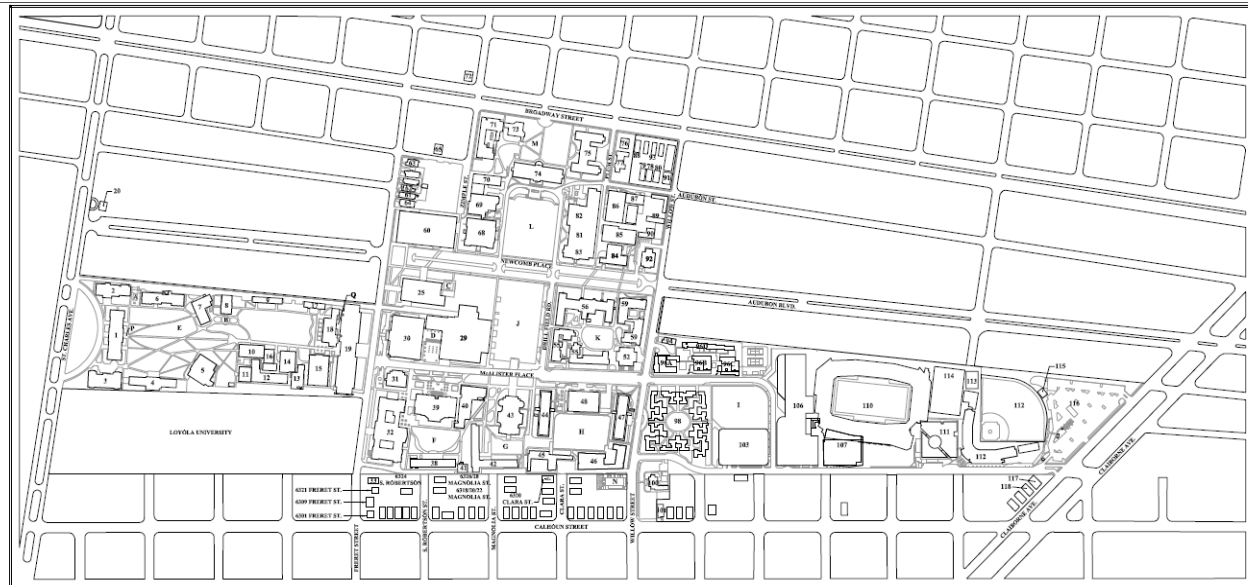
- > Civil Procedure
- > Constitutional Law I
- > Contracts I
- > Contracts II
- > Criminal Law
- > Legal Research & Writing
- > Obligations I
- > Property, Civil Law
- > Property, Common Law
- > Torts

Second and third years courses: free!

I. Life in a US law school

- > Campus Universities
 - > most
- > Lectures – studying in library – sports – party
- > Security
- > Live on a island?
- > Money!
 - > Harvard Law School tuition for the 2026–2027 academic year is **\$84,400**. When factoring in estimated living expenses, health fees, and course materials, the standard nine-month Cost of Attendance is **\$126,650**

Campus map Tulane



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| 61 • GIBSON HALL
62 • TILTON MEMORIAL HALL
63 • DOWNES HALL
64 • RICHARDSON MEMORIAL HALL
65 • RICHARDSON BUILDING
66 • NORMAN MAYER BUILDING
67 • J. EDWARD FREERIE HALL
68 • F. EDWARD FREERIE HALL
69 • SOCIAL WORK BUILDING
70 • STANLEY THOMAS HALL
71 • WALTER E. BLESSEY HALL
72 • SCIENCE AND ENGINEERING LAB
73 • COMPLEX MECHANICAL SERVICES
74 • SCIENCE AND PAUL FLOWERS HALL
75 • CHEMICAL ENGINEERING
76 • SCIENCE AND ENGINEERING LAB COMPLEX
77 • BOKER CENTER FOR ENERGY & BIOTECHNOLOGY
78 • SCIENCE AND ENGINEERING FACILITIES
79 • ALGER FORTER HALL
80 • SHERETT & SAMPSON HALL, JR.
81 • PERCYAL TERNER HALL
82 • J. EDWARD FREERIE HALL
83 • J. EDWARD FREERIE HALL
84 • AVON B. FOGELMAN ARENA IN
85 • J. EDWARD FREERIE HALL
86 • NAVY ROTC BUILDING
87 • WILSON HALL
88 • LAW ANNEX, 625 FREERIE ST
89 • MORRISON HALL
90 • GOLDING/WOLDBERG HALL II
91 • GOLDING/WOLDBERG HALL II
92 • TELECOMMUNICATIONS
93 • SHARP HALL
94 • MAULSTEN AUDITORIUM
95 • DEPT HALL
96 • PATTERSON HOUSE | 46 • LALLAGE FRATZ WALL RESIDENTIAL COLLEGE
47 • PHILIP HALL
48 • DUFFY COMINGS
49 • PHILIP HALL
50 • KATHARINE & WILLIAM MAYER RESIDENCES
51 • WARREN HOUSE
52 • WATKINS HALL
53 • WATKINS HALL
54 • HOWARD WATSON MEMORIAL LIBRARY
55 • SPONSORED PROJECTS ADMIN. & CONTROLLERS
56 • OFFICE, 100 FREERIE ST.
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89 • FACILITIES SERVICES GARAGE
90 • GORDON BLDG.
91 • 119 AUDUBON ST.
92 • STUDENT HEALTH CENTER
93 • 112 BROADWAY ST.
94 • 440 WILLOW ST.
95 • WILLOW RESIDENCES
96 • ARON RESIDENCES
97 • ALUMNI HOUSE, 510 WILLOW ST.
98 • ANNUAL FUND, 250 CALHOUN ST.
99 • SORREL COMPLEX, PARKING GARAGE
100 • KIRBY ST. STUDENT RECREATION CENTER
101 • KIRBY CENTER
102 • VULCAN STADIUM
103 • WILSON ATHLETIC CENTER
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Tulane University Uptown Campus
November, 2015



<http://tulane.edu/sites/tulane/files/-November-2015-Campus-Map.pdf>

II. Legal Carrier

- > Which law school?
 - > Grades
 - > Curves
 - > Among best 5% of class/year
 - > Law journal editor
 - > Carrier service
 - > Summer internship (2nd year)
 - > Clerkship for a federal court!
-

Bar exam in New York (1)

<http://www.nybarexam.org/>

- > Two exam dates every year
 - > July 2025 9,931 candidates
 - > Of those candidates, 6,976 passed for an overall passing rate of 70%
 - > No limits on how many attempts
 - > Lawyers with foreign law education admitted (LLM)
-

Attorney at law (1)

- > The American Bar
 - > The US have most lawyers in the world!
 - > 1 : 250 Americans
 - > Each year about 40'000 new graduates
 - > Lawyers have mixed reputation
-





Attorney at law (2)

- > Bar exam
 - > 4 years college
 - > 3 years Law School
 - > State exam
 - > Good only for one state
 - > 3 days exam
 - > Bar review course (crash courses)
 - > No internship – learning by doing!
-

Attorney at Law (3)

- > Switch between attorney at law, in-house counsel, judge
 - > Specialization important (Litigator, M&A, Banking, etc.)
 - > About half of American attorneys work solo or in small firms
 - > Also many mid-size firms (50 to 200 attorneys)
 - > since the 1970s, some law firms have merged to form giant firms with 1,000 attorneys or more
 - > Clifford Chance, Baker McKenzie, etc.
 - > Big law firms usually have 4 departments
 - > Litigation, corporate, tax, trust & estate
 - > Partners/associates
 - > 1 : 2/3
-

Attorney at Law (4)

- > Very often a whole group of lawyers is working together
 - > Costs
 - > Research in common law more tricky
 - > Litigation in USA more demanding
 - > Pre-trial discovery
 - > Outsourcing of internal legal departments
-

Attorney at Law (5)

- > Lawyer's fees
 - > Free - usually not regulated
 - > Average USA \$349
 - > Minimum fee regulation in Virginia was antitrust violation
 - > Either by the hour or contingency fee
 - > Business?
 - > Loser usually does not have to pay winner's legal fees
 - > In major law firms fees can be quite high
 - > Up to USD 1'500 – 3'000/h!!
-

Attorney at Law (6)

- > Rules of conduct
 - > Ethical rules (confidentiality, loyalty, conflicts of interests)
 - > Bar association
 - > Strict
 - > Also for inhouse lawyers
 - > Mandatory „continuing legal education“
 - > Regulation usually comes from the „Bench“ – highest state court
-

Attorney at Law (7)

- > Plaintiff lawyer – Defense (corporate) lawyer
 - > Transactional lawyers – litigators
 - > Trial – appellate attorney
 - > Big cities – country side
-

Attorney at Law (8)

- > There are currently about **1.37 million** active lawyers in the United States.
 - > Out of about 340 million people
 - > US legal system does not distinguish between lawyers who plead in court and those who do not
 - > Unlike Britain, which distinguishes between solicitors and barristers
 - > there is no delegation of routine work to notaries public
 - > Attorneys may use the post-nominal letters **Esq.**
-

Largest law firms by turnover (2026)

Rank	Firm	Revenue (US\$)	Lawyers	Revenue per lawyer (US\$)	Profit per partner (US\$) ^[2]	Country with the most lawyers
1	Kirkland & Ellis	\$10,801,740,000	3,828	\$2,200,000	\$9,253,800	US
2	Latham & Watkins	\$7,000,000,000	3,584	\$1,953,000	\$7,135,000	US
3	DLA Piper (verein)	\$4,239,832,000	4,827	\$878,000	\$3,459,000	UK US
4	A&O Shearman	\$3,706,490,000	3,105	\$1,194,000	\$2,600,000	UK
5	Skadden, Arps, Slate, Meagher & Flom	\$3,669,042,000	1,774	\$2,069,000	\$6,049,000	US
6	Gibson Dunn	\$3,557,623,000	1,940	\$1,834,000	\$7,175,000	US
7	Sidley Austin	\$3,439,646,000	1,979	\$1,738,000	\$5,157,000	US
8	Ropes & Gray	\$3,416,636,000	1,466	\$2,330,000	\$4,989,000	US
9	Baker McKenzie (verein)	\$3,394,579,000	4,595	\$739,000	\$2,103,000	US
10	White & Case					

Ranked by profit for full partner (2026)

Rank by PPEP	Firm	Equity partners	2021/22 PPEP (US\$)
1	<u>Wachtell, Lipton, Rosen & Katz</u>	91	\$8,400,000
2	<u>Kirkland & Ellis</u>	490	\$7,388,000
3	<u>Davis Polk</u>	161	\$7,010,000
4	<u>Sullivan & Cromwell</u>	165	\$6,366,000
5	<u>Paul, Weiss, Rifkind, Wharton & Garrison</u>	168	\$6,162,000
6	<u>Simpson Thacher & Bartlett</u>	203	\$5,980,000
7			

Law firm (1)

Arrangements

- > Sole proprietorship
 - > General partnership
 - > Profession corporations
 - > Limited liability company
 - > Professional association
 - > Limited liability partnership (LLP)
-

Law firm (2)

- > Typically organized around partners
 - > Making partner is very prestigious
 - > Tough competition
 - > Income
 - > Equity/non-equity partner
 - > Oldest one: Cadwalader, Wickersham & Taft (founded 1792 in NY)
 - > Of counsel
-

Legal Research

- > Case research more important than under civil law regime
 - > Shepardizing
 - > West law
 - > Lexis nexis
 - > Leading provider
-

LL.M. in the USA

- > What is this?
 - > Where to go?
 - > When?
 - > Costs?
 - > Financial aids
 - > Does it make sense?
-

General Repetition

Repetition Introduction

- > Introduction
 - > History of the USA
 - > Declaration of independence
 - > Sister republics
 - > Civil law
 - > Common Law/Civil Law
 - > Pierson v. Post
 - > 3 Cai. R. 175 (N.Y. Sup. Ct. 1805)
-

Repetition Constitutional Law

- > Declaration of Independence
 - > Founding fathers
 - > US Constitution
 - > 3 branches
 - > Checks and balances
 - > esp. Power of the Federal Courts
 - > Marbury v. Madison (1803)
 - > Impeachment (Trump)
-

Repetition Court System

- > 2 court system
 - > Federal courts (3 levels)
 - > 94 District Courts
 - > 12 Courts of Appeal
 - > Supreme Court
 - > Appointed for live
 - > State courts
 - > differences
 - > Jurisdiction
 - > Federal/state courts
-

Repetition Civil litigation (1)

- > 1938 Federal Rules of Civil Procedure
 - > Specialities
 - > Extensive pretrial discovery
 - > Heavy reliance on live testimony (jury)
 - > Aggressive pretrial motions
 - > Class actions
 - > Punitive damages
 - > Lawyers fees (no „loser pays“ rule)
 - > What is the judge/the parties doing?
-

Repetition Civil litigation (2)

4 Stages of the Trial

1. Pleading
2. Pre-Trial
3. Trial
4. Post-Trial

Forum shopping

Repetition Contracts (1)

- > State law
 - > 1942 uniform commercial code
 - > Payne v. Stalley (Florida)
 - > Offer- acceptance – consideration
 - > Expl. Prof. Banks
 - > Agreement – contract
 - > Chapell v. Nestle (Chocolat)
 - > Carbolic smoke case (value contract)
-

Repetition Contracts (2)

- Form of contract
 - Sealed contract
 - Breach of contract
 - Remedies (damage)
 - Forum shopping
 - Drafting US contracts
 - Long
-

Repetition Corporate Law (1)

- > Corporate law is basically state law
 - > Significant differences between states
 - > Players on market are free to choose
 - > Regulatory competition
 - > Dominant state jurisdiction: Delaware
 - 50% of all US companies
 - > Why Delaware?
 - > Tax, experienced courts, sometimes no juries, computerized registration system, Manager friendly approach, etc.
-

Repetition Corporate Law (2)

- > Certain harmonization
 - > National Conference of Commissioners on Uniform State Laws – NCCUSL
 - > Relevant federal legislation
 - > Securites Act of 1933
 - > Securites Exchange Act of 1934
 - > Sarbanes-Oxley Act of 2002
 - > Dodd-Frank Act 2010
-

Repetition Corporate Law (3)

- > Forms of doing business
 - > Sole Proprietorship = EF
 - > General Partnership (GP) = KG
 - > Limited Partnership (LP) = KomG
 - > Corporation (Corp.) = AG
 - > Public/closed corporations
 - > Board of Directors = VR / officers (Management)
 - > Duty of care/liability
 - > Piercing corporate veil (ex: taxi)
 - > One man corporations possible
 - > Closed corporations (family business)
 - > Limited Liability Company (LLC) – real estate / Limited Liability Partnership (LLP) insurance for law firms
-

Gesellschaftsformen des US-amerikanischen Rechts

Gesellschaftsformen	ohne eigene Rechtspersönlichkeit (vgl Personengesellschaften)			„Zwitter“	mit eigener Rechtspersönlichkeit (vgl Kapitalgesellschaften)		
	General Partnership	Limited Partnership	Limited Liability Partnership neuerer Form	Limited Liability Company neuerer Form	Business Corporation (= Stock Corp.) wichtigste Form	Unterformen der Business Corporation	
	Grundmodell					Public Corporation (= Öffentl. Körp.)	Private Corporation (= Close Corp.)
1. Gründung	- 2 oder mehr Personen - nat oder jur Personen - durch schriftl, mündl oder konkl Vertrag (partnership agreement) - keine gesetzl Mindesteinlage - nicht registrierpflichtig - keine Gründungsgebühr	- parallel zur General Partnership BESONDERHEIT: - registrierpflichtig iFv Gründungsurkunde in beschworener Form (sworn certificate) - Offenlegungspflicht: „L.P.“ - max 35 Gesellschafter	- strenge formelle Voraussetzungen - gebührenpflichtige Registrierung - jährlicher Fortführungsantrag erforderlich - Versicherungspflicht über Höhe gesetzl Mindestdeckung - Offenlegungspflicht: „L.L.P., R.L.L.P.“	- parallel zur General Partnership BESONDERHEIT: - registrierpflichtig (filing of documents) - kein Mindestkapital - Freiberufler, Einmann - Offenlegungspflicht: „L.L.C.“	- jede beliebige Einzelperson (incorporator) - corporate book - Gesellschaftssatzung 1 (articles of incorporation / certificate of incorporation) - initial meeting (initial directors) - Gesellschaftssatzung 2 (bylaws) - Wahl des board of directors unter Bestellung von executive officers - gesetzl Mindesteinlage (capital stock) je nach Bundesstaat - Offenlegungspflicht: „Corporation/Corp., Incorporation/Inc., Limited/Ltd., Company/Co.“		
2.a. Rechtsquelle (Bundesgesetze) / Rechtsnatur	⇒ Grundmodell - UPA 1997 - Gesamthandsvermögen - teilrechtsfähig ⇒ vgl OHG (105ff HGB)	- ULPA 1916 - RULPA 1985 - Gesamthandsvermögen - teilrechtsfähig ⇒ vgl KG (161ff HGB)	⇒ neue Gesellschaftsform; für Freiberufler geschaffen - UPA 1997 - Gesamthandsvermögen - teilrechtsfähig ⇒ vgl PartG (PartGG)	- ULLCA 1995 - rechtsfähig - Elemente von Personen- und Kapitalgesellschaft ⇒ vgl GmbH oder KG ohne Komplementär	⇒ wichtigste Gesellschaftsform - MBCA 1969 - RMBCA 1984 - juristische Person - rechtsfähig	- daneben BESONDERHEIT: - Publikumsgesellschaft: freie Übertragbarkeit der shareholder Anteile ⇒ Public Corp. iSv Öffentlich-rechtlicher Körperschaft	- geschlossene Gesellschaft: Gesellschaftergruppe
2.b. Kollisionsrecht	a) <i>Innenverhältnis</i> §106 UPA: Sitztheorie; es gilt das Recht am Ort der Hauptverw oder des Hauptgeschäfts ABER: §106 UPA dispositiv (nM): Vereinbarung des Rechts des Gründungsstaates möglich b) <i>Außenverhältnis</i> allgemeines Kollisionsrecht	a) <i>Innenverhältnis</i> § 901 RULPA: Recht des Gründungsstaates; str, ob dispositiv b) <i>Außenverhältnis</i> Recht am Vornahmeort der Handlung, allgemeines Kollisionsrecht	- nicht alle Staaten erkennen L.L.P. an; wenn doch: a) <i>Innenverhältnis</i> § 1101 UPA: Recht des Gründungsstaates b) <i>Außenverhältnis</i> allgemeines Kollisionsrecht	a) <i>Innenverhältnis</i> Recht des Gründungsstaates b) <i>Außenverhältnis</i> allgemeines Kollisionsrecht	a) <i>Innenverhältnis</i> Recht des Gründungsstaates (internal affairs rule) b) <i>Außenverhältnis</i> allgemeines Kollisionsrecht	dito	dito

Repetition Antitrust Law (1)

- > Antitrust = competition law
 - > US first regulation (1890)
 - > reasons
 - > Extraterritorial application
 - > International coordination? (GE/Honeywell)
-

Repetition Antitrust Law (2)

- > Federal regulations
 - > Sherman Act 1890
 - > Cartels
 - > Monopoly (abuse of dominant position)
 - > Clayton Act (1914)
 - > Merger Control
 - > Private law suits
 - > Federal Trade Commission Act (1914)
 - > Second enforcement authority
 - > Unfair competition
-

Repetition Antitrust Law (3)

- > Rule of Law vs. Per se prohibition
- > Influence by courts and by administration
- > International cooperation
- > Courts decide!
- > Private enforcement
 - > Tribble damage

Repetition Business Relations CH-USA

- > Size matters
- > Swiss-US business/trade relations good
- > significance
- > Opportunities
- > Relevance of CH as a trading partner for the US
- > Challenges
- > Free Trade Agreement?
- > Trump tariffs
- > WTO

Repetition US attorney/US law schools

- > Legal studies
- > Importance of relevant law school
- > Bar admission
- > US legal practice
- > Legal form how to organize a law firm

Trump always

> .

Exam

Exam (1)

> **Regular exam**

- > 120 min.
- > Open book
- > ppp, written notes
- > Covering all issues discussed during lectures
- > Mixture basic/“theory“ and cases

> **Exchange students**

- > Oral
- > EIZ

Questions?

Thank you very much for attending this lecture!

I hope you liked the classes!

Good luck for the exams !

All the very best!
