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Editorial

Dear Colleagues,

Please let me present to you the second issue of our electronic version of EJLE. Currently, EJLE consists predominantly of the texts presented at our last meeting in Fribourg. Although this on-line publication may seem rather modest at present, I would like to encourage all of you to see it as an opportunity to exchange your views and experiences, and thus contribute to the journal. All ELFA members should use EJLE as a platform for communication and take advantage of the flexibility that such an on-line publication offers.

A good journal is not defined by a good name but by high-quality articles and other texts. In other words, it is not created by the Editorial Board but by the authors. It is therefore you who can make it thrive or lapse into neglect and/or mediocrity. As we already mentioned when we launched the first issue of the on-line journal, EJLE will have two parts: a peer-reviewed section and a non peer-reviewed section. The first will be dedicated to a more scholarly and research-oriented examination of problems related to legal education. This part will be published once a year, if there are enough articles.

The purpose of the second, non peer-reviewed part is to accelerate the exchange of thoughts among ELFA members. Therefore, in this part of EJLE the papers will be published as originally submitted, undergoing only a formal examination by the editors. The Board intends to publish it twice a year: one month after the General Assembly and at the beginning of November. Let me encourage you to use this part of EJLE as a forum where we can exchange and discuss different challenges and problems we are facing with our work, promulgate good practices, and deliberate different solutions that are emerging worldwide. All sorts of papers related to legal education, especially to its practical applications are welcome. The Editors wish the discussion at the General Assembly to be deepened and prolonged in the EJLE.

Let me express my anticipated thanks to all those who intend to publish their papers in EJLE. Let me also express my hope that the coming New Year will be good for European Law Faculties as well as for legal education and research.

Janez Kranjc, ELFA President

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Vincenzo Ferrari, Università di Milano

Doctoral Education in an international perspective

1. So far, doctorates have fundamentally been conceived of, in Europe, as a stepping stone to academia. This datum is more or less common to all European countries, irrespective of the areas concerned, with only a few exceptions. One of these is Britain, which shows a less limited level of interaction between doctoral education and the labour market, at least as far as high ranking research-intensive universities, such as Oxford, Cambridge or Imperial College, London, are concerned. For the rest, links between doctoral education and the world outside academia are very limited. The chances that a European PhD holder has to find a job corresponding to her/his qualification in industries, commerce, banking, insurance

companies or the civil service are said to be 50% lower than those of an American or a Japanese PhD. This panorama entails a number of paradoxes. First, European industries are said to look for highly qualified personnel from the American academic system, rather than at home. Second, many good European PhDs look at the US industrial system, and obviously US academia, rather than in Europe, in order to find a reasonable job. Third, Europe produces a larger number of PhDs with respect to the United States. In brief, there are serious imbalances in the European PhD market and even more so if one thinks that the chances of European PhDs to find a permanent position in local universities are likely to shrink, rather than

widen, over coming years and even decades. Quite obviously, there are differences across Europe. The Netherlands, Sweden and Finland seem to occupy the top, whereas my country, Italy, looks close to the bottom. Nonetheless, the paradoxes which I have been referring to are evident and should be taken seriously. Is all this compatible with the ideal of Europe as a “knowledge society”, as solemnly proclaimed in Lisbon in 2000, i.e. nine years ago, as a target to be reached by 2010, i.e. next year?

Recent surveys have revealed a number of shortcomings or, if one prefers, pitfalls, which seem to affect doctoral education in Europe. One – again, this is not a paradox – is the richness of the offer. There is a fundamental difference between Europe and, again, the United States, in that American universities which offer doctoral programmes are much less numerous than their European counterparts. The American academic system is quite sharply divided between research-intensive universities, which do both education and research (which means, at the highest levels, also education through research), and universities which focus only or predominantly on education. This does not imply that the latter are poor in terms of quality: in many cases they are not. In addition, this division itself could generate objections in terms of principles. Still, such a system implies a much more fruitful concentration of research funds, rather than a high dispersion, as is the

case in most European countries. This is another problem which should by no means be neglected, especially in periods of economic crisis and consequent budgetary cuts, which also affect academic systems.

Another pitfall of the European system of doctoral education is diversity. Let me be clear: diversity in itself is richness, in principle. Cultures differ and cultural differences are perhaps the most powerful engine for scientific progress. Yet, the question is which differences are we talking about, since there are differences which turn into hindrances to international co-operation and, therefore, progress. Let us take the duration of doctoral curricula, which is three years in some European countries and four years in others. Or the labels of doctoral programmes, which range from extreme concentration to extreme atomisation, so to say. For example, we have doctorates in “Pharmacology” vs. doctorates in “Socio-environmental pharmacology and toxicology”, or, for another area, we have doctorates in “Law” or in “Laws” vs. doctorates in “Evolution and protection of human rights”. Quite obviously, there is nothing against offering or attaining a PhD in “Evolution and protection of human rights”, but such a qualification may be hard to compare with a PhD in “Law” or in “Laws”. The latter may perhaps be too general, but the former is likely to be too atomistic. How can the labour market react to such diversities? Do they really help

young PhD holders? In brief, differences may sometimes make titles less comparable and even less palatable across natural boundaries, making international co-operation less easy. Just one concrete example. I am personally involved in a Milan University PhD programme in “Law and society”, to which ten other Italian and foreign universities and research centres contribute (among them Antwerp, Lund, Carlos III de Madrid and the University of the Basque Country). This is a typically interdisciplinary project, since it connects law and sociology, as well as also being quite wide in content. Yet, despite the fact that Antwerp University is a founding partner of the network and takes an active part in all our activities – i.e. selection, seminars, tutoring, final examinations etc. – the Belgian state cannot “officially” recognise the title awarded by Milan University, since it only admits doctoral titles in “Law” or in “Sociology”, not in “Law and...” or in “Sociology of...”.

A third pitfall. Europe is an increasingly unified space and its boundaries are increasingly open (for the first time I was not asked to show my passport or my i.d. at the Swiss frontier yesterday), but those boundaries are still there. Especially linguistic boundaries. There are countries which are international by choice, or tradition, or even definition, either because they are multilingual, as is Switzerland, or because they have adopted English as a predominant communication vehicle in

science, as are the Netherlands, Germany and the Scandinavian countries. However, there are other countries which are not so, and not only for a fault of their universities, but again by reason of bureaucracy. Italy is a telling example. Giving courses in English is virtually impossible at the BA and even the MA level. Foreign students are also expected to speak Italian. This turns into a real obstacle to attracting high ranking students from abroad. Attracting good foreign students seems to be, in fact, one of the most visible weaknesses of European universities. The developing world – and not only that region – is an immense area which offers an ever-growing amount of brilliant minds, who would contribute decisively to the growth of our “knowledge society”. Again, there are imbalances here. The ex-colonial powers are better equipped than other nations. Britain, France and Spain attract young scholars from their former colonies more easily. And Britain is a pole of attraction as such in any case. Other countries are far less equipped. Mine is one of these, once again, although for more than fifty years it was a colonial power and, first and foremost, it exported millions of emigrants to America and Australia in the course of a whole century. The fact is that even the children of the Italian communities abroad choose to specialise in the US, rather than in Italy, even in fields such as law, where my country was said to have reached the top of theory and research until only a few

decades ago. What has happened meanwhile? Does this problem also affect other European countries? Do they experience, for example, the problems which arise from the somewhat capricious approach of the Italian police administration to the question of issuing visas to students from outside Europe?

2. The above-mentioned problems have at least now put in an appearance on the agenda of European inter-university co-operation.

The European University Association (EUA), which currently includes more than 800 academic institutions, has increasingly focused its attention on the doctoral question in recent years, through a number of custom-designed meetings and discussions (including a high-level Euro-American seminar held in Salzburg in September, 2006). Some documents have been produced and a "Council of doctoral education" was finally set up in Spring 2008, under the guidance of Jean Chambaz, from the Université Pierre et Marie Curie of Paris, and Mary Ritter, from Imperial College London.

For its part, the League of European Research Universities (LERU), which numbers twenty research-intensive academic institutions across our continent and has been working with doctoral programmes for nearly three years, adopted a specific position paper in May 2007, generating a "Doctoral Community", which first met in London last October and

now aims at paving the way for a closer kind of co-operation within the LERU network, as well as outside it.

I should like to recall here some of the principles which inspire the policy of the EUA and especially of LERU in this field.

(a) Although doctoral training may be conceived of as the third cycle of the "Bologna Process", it is basically different from the first two cycles, in that it is intimately tied to research processes.

(b) Training world class researchers is an essential factor in developing a powerful science base for the European knowledge economy and society.

(c) Interdisciplinarity, cultural diversity and mobility are essential factors for a successful doctoral policy with the capacity to make Europe "a magnet for the finest European and non-European minds alike" (as the LERU document reads).

(d) Excellence is the primary goal of research-driven doctoral training. Universities must be autonomous in developing the strategies, methods, commitments and organisation of their own doctoral education, but a necessary prerequisite is an environment capable of meeting the highest international standards of research quality. Co-operation among institutions (e.g. in the form of consortia) is one possible opportunity for achieving excellence and avoiding dispersion and excessive fragmentation.

(e) Doctoral training should not be overregulated and should be exempt from

the centralised European credit or accreditation system.

(f) Co-operation among research-intensive universities and scientific institutions should be enhanced through bilateral and multilateral programmes, such as joint titles, cotutelle, double titles and in any case mobility of both qualified researchers and PhD students. There are already examples of good practice, such as the joint venture between Helsinki University and the Karolinska Institutet, Stockholm, in the field of molecular biology.

(g) Master courses, though distinct from doctoral training, may also sometimes be considered as possible stepping stones.

(h) Doctoral schools, which in fact seem to be at the core of some European governments' academic policies, may be useful as meeting points for young scholars working in the same area or in comparable areas.

(i) A measure of common training for PhD students in the same field or comparable fields should be envisaged, since there is no scientific problem which can be tackled in isolation. There is no legal problem – to cite our own field – that does not have an economic, political, moral or social side. Alles ist verbunden, as the Germans would say.

(j) Yet none of this should be interpreted to the detriment of individual research and tutorship, which is the sine qua non and the spirit itself of doctoral training.

(k) There should be a large measure of community control over the quality of courses, curricula and titles.

(l) Closer links should be built up between doctoral programmes and the extra mural world, with a view to enhancing the transferability of skills. Of course universities must continue being the places in which criticism and invention are fostered, also in an unconventional way. Indeed, they are the realm of doubts and free challenge to established truths, in the Popperian spirit of “unending quest”.

However, they should not live as ivory towers, in complete isolation from society. Thus, for example, PhD students should be encouraged to undertake stages in industries and public or private agencies, such as NGOs, during their doctoral curricula.

(m) Bureaucratic hindrances that discourage co-operation must be abolished. European institutions should rather deregulate than over-regulate doctoral education, although within a network of serious rules assuring comparability and, first and foremost, excellence.

(n) There should be a more rigid selection at entrance and throughout the whole curriculum of doctoral students. Europe should not produce second-rate PhDs – indeed, I have concrete examples in mind.

(o) Financing doctoral programmes should become a specific item in the agenda of the education policies practised by both

national governments and European institutions.

(p) PhDs are to be conceived of as young researchers, entitled to a reasonable economic welfare and possibly social and health assistance.

3. Let me conclude my comments by considering some special characteristics of doctoral education in the field of law.

Law is to a large extent a special field, as is medicine – it comes as no surprise that medicine, for example, is the area in which the philosophy of doctoral education is least developed. Both law and medicine are simultaneously theoretical and practical sciences. They both need theory in order to orient practice, up to the point that practice often prevails over theory, as in the case of the common law, which may indeed be one of the keys of its success across the world. But also in countries which adopt the civil law model, retain a positivistic stance toward law and have developed sophisticated legal theory, the practical side continuously challenges theoretical thoughts by furnishing new and unforeseen cases, new judicial precedents, new contractual patterns and the like.

Maybe there are other causes, but the special nature of law helps explain why law schools are principally reluctant to accept bureaucratic innovations in their training methods. The attitude of European law faculties toward the enforcement of the “Bologna Process” is quite telling. As far as I know, a lot has remained unchanged

in a number of European law schools despite the insistence of governments and international academic organisations – especially the EUA – on the indisputable need to adopt Bologna. Italy, whose centre-left cabinet was perhaps over-enthusiastic in introducing Bologna in 1998, changed its way again quite quickly in 2002 under the centre-right coalition, which imposed a unified five-year curriculum. The result of the whole process has merely turned into an extension of an already perhaps too long curriculum of legal studies. The same might perhaps be said about doctorates, in many respects. Except for some specific subfields, such as history, philosophy or sociology of law, law and economics and, maybe, comparative law, which are less exposed to practice, I would not be surprised if, as in the medical field, law doctorates were eventually to become a second option of qualified Masters holders with respect to the legal professions and in any case just a formally or informally unavoidable step towards entering academia – in my country, doctorates have replaced what had been for many decades the so-called “libera docenza”, or freelance lectureship. Links between law doctorates and the economic system seem to be even looser in law than in other academic areas, maybe with a few exceptions, including international law. Another distinctive character of legal education at all levels, including the “third one”, is that legal studies have been

basically country-centred for almost two centuries. Leaving aside international law again (which, incidentally, has not been at the core of legal education in some places for a long time, such as in a number of second-rate US law schools even today), legal training has always focused on each national legal system. The idea that comparing systems of law should be a matter of interest for all scholars, not just for specialised comparatists, has hardly captured the minds of national law professors for a long time. As a consequence, the internationalisation of doctorates is still in its early stages in the field of law.

Yet times are changing. Globalisation is certainly a term which has been overused (and abused), but it is an undeniable fact in the legal field, too. Law sources are increasingly intertwined, national laws are supplemented year by year by an increasing number of rules stemming from elsewhere, not only from external political agencies or official institutions, such as the EU, but also from the private sector and business communities across the world. Transnational law – such as what is usually termed *lex mercatoria* – is said to be at least as important as national or international law nowadays.

Legal systems are therefore increasingly interconnected and when they are not, as in the penal field, they display a large and increasing measure of inefficiency. All this is to say that, if doctorates in law are there to help theory and practice to grow and

converge at the highest levels, a higher level of international co-operation would be most welcome.

This implies first of all – as I said before – greater mobility of both law scholars and law students. Few things have helped me to improve my understanding of legal cultures and legal thinking more than serving as a member of decision panels in doctoral programmes abroad, in such different countries as France, Sweden or Spain. Students who go abroad gain a decisive advantage from it. International scientific centres, such as the European Institute in Florence, the Collège d'Europe in Bruges, the Académie des sciences juridiques in Brussels, or the International Institute for the Sociology of Law at Oñati, in the Basque Country in Spain, play a fundamental role in their respective fields by inviting students from all over the world to live together, co-operate and compare their cultures. Ideally, there should be more centres of this kind, which are very well equipped to analyse, among other things, what is usually termed as the convergence of legal cultures in a global world and economy.

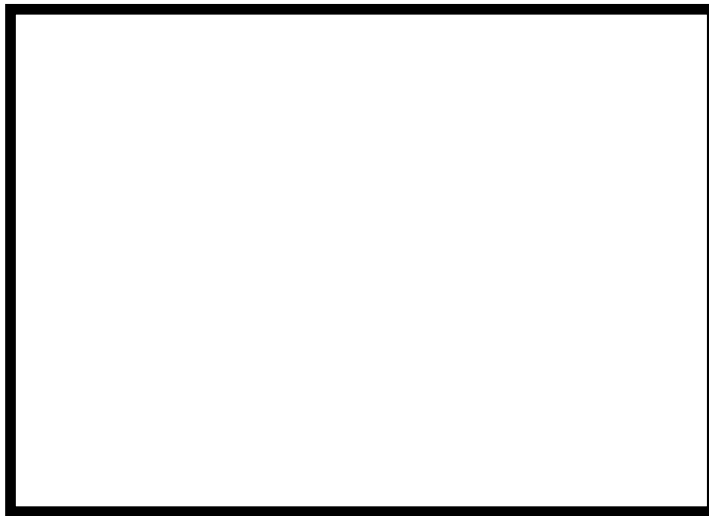
Summer schools are another tool which may prove useful in this light. The LERU doctoral community has envisaged this model as a first possible step to international co-operation. Among other examples, let me mention the Summer School in International Commercial Law which takes place in Suzhou, China, every year in July, under the aegis of the local

Kenneth Wang Law School, as well as of other Chinese universities, plus Cornell Law School, the Milan Law Faculty, the Rome-Tor Vergata Law Faculty and the Bucerius Law School in Hamburg. Fifteen days of in-depth discussions among students and experts so diverse by origin and training have proven to be very fruitful. Our students, including some prospective PhDs, have indeed profited from it.

In some way, doctoral schools may also be useful in this perspective. This model of training is not that easy to apply in the area of law. Law students have already been exposed to common training in both contents and methods during their LLB and LLM curricula. And it should be so. Once they get an LLM, they should already have learnt not only the basic concepts of the most varied legal discourses, but also how “to think as lawyers” vis-à-vis special cases and puzzling legal questions. Also, as director of the Milan Law Faculty’s Doctoral School of Legal Sciences, I realise that it is somewhat problematic to imagine a further common curriculum for PhD students of different sub-disciplines (civil, penal, constitutional, international etc.). Still, the “doctoral school” model has become a must in our university and we have to comply with it. Well, one fruitful way out is precisely internationalisation. Common training at the third level of education could well consist in the chance for students to be exposed to problems that display a universal and an interdisciplinary

character, as well as to the different international approaches to their solutions.

In conclusion, much remains to be done, but much has been done already or is ready for doing, and I think that the role of the international associations of law schools, such the ELFA or the IALS, which I am honoured to represent here today, may become increasingly relevant in view of enhancing international and transnational collaboration in the field of doctoral studies in law.



G. Pfeifer, University of Frankfurt

Efficiency, Quality and International Dimension of Doctoral Studies – International Max Planck Research School for Comparative Legal History

The following short report about the International Max Planck Research School for Comparative Legal History (IMPRS) in Frankfurt am Main refers to some structural items, such as history and organization of the school and the scholarship; the second part concerns the effect of the school on doctoral studies.

History

The IMPRS is formerly known as the Frankfurt Graduate School for Legal History (“Graduiertenkolleg Rechtsgeschichte”), sponsored by the Deutsche Forschungsgemeinschaft (DFG) from 1990 to 2002. It is the result of

merger between the Max-Planck-Institut für europäische Rechtsgeschichte and the Institut für Rechtsgeschichte of the Goethe-Universität, Frankfurt am Main. It was opened in 2002 in the first period until 2008, however in 2006 the school was evaluated, leading to an extension to 2014.

Organization

The executive board of the Research School includes Professors, Assistant Professors and Emeriti of the Institut für Rechtsgeschichte on one hand, and a Director of the Max-Planck-Institut on the other side. The school is represented by two spokesmen and in each term the

scholars elect two spokesmen as well. There is also a coordination desk for the administration of the school. Furthermore the school is supported by a group of international network-partners – of about 30 partners –, who send their scholars, contribute guest lectures, which in turn provides general publicity for the school. Of course, applications are welcome not only by scholars of the network-partners.

Scholarship

The scholarship granted by the Research School is usually for one year, but it can be (and often is) extended for a second year. Applicants are admitted twice a year. The selection is mainly based on a written outline of the applicant's project, for the board to view. The board then invites the candidates to Frankfurt for an interview, where they have the chance to present and discuss their project orally. Usually the board decides immediately after the presentation about the admission. The scholars can perform their doctoral graduation either at a university in their home countries or at Goethe-Universität in Frankfurt. Due to another cooperation of the Max-Planck-Institut, the school is also able to integrate Marie-Curie-Fellowships of the European Union into the curriculum. Scholars get a working place either at the Max-Planck-Institut or at the Goethe-Universität. They then are required staying in Frankfurt during the terms. However, in between terms the scholars are free to travel for scientific purposes, such as

visiting archives, etc. This, of course, provides a high extent of collaborations among the group of scholars.

Scholars

The scholars are graduate jurists and historians from all over the world. Usually these projects are their first attempt to a scientific qualification. In February 2009 the total number of scholars at IMPRS is 12, plus two Marie-Curie-Fellows; 50% are from Germany, 50% from abroad, that is from France, Italy, Slovakia, China and Brazil.

Studies/curriculum

The very "heart" of the Research School's curriculum is the weekly seminar, whereby the scholars and all board members participate. In each session a scholar presents his or her project to an opposing scholar. At the end of presentation, all aspects of the presented projects are discussed. Depending on the duration of the scholarship each scholar gets two or three chances to present their work and an equivalent number of oppositions. Therefore progress can be measured and also problems can be easily solved. At the beginning of the term, there is a session to review recent literature selected by the scholars, and another session with styled exercises to practice. Here the scholars can present parts of their dissertations for review and discussion to evaluate their progress. In each term at least two guest lecturers are invited. Furthermore regular

conferences on various topics are held in which the choice of the topics and the organization of the conferences alternate between the scholars and the board. Some examples of topics chosen by the scholars in the past were "Orient and Occident: conflict and coexistence of legal cultures" or "1968 as caesura in legal science and practice"; an example of topic chosen by the board was "Situation and perspectives of ancient (or medieval) legal history". After the summer term the scholars are obliged to take part in the "Sommerkurs Europäische Rechtsgeschichte" at the Max-Planck-Institut. Finally the curriculum is rounded by regular excursions. For instance, last October the IMPRS paid a visit to the International Tracing Service in Bad Arolsen. Due to this intense programme, not only does the curriculum provide both the concentration on the scholar's own project, but also the widening of the scholars' (and the board's) scientific horizon.

Characteristics

So far, one might ask, what is so special about a research school, when similar work could be done "at home", for example in a doctoral seminar. However there are several points that should be emphasized: The IMPRS tries to pay a special attention to the methodical approach to promote comparative legal history studies. (One of the current projects, for example, concerns the comparison of the Islamic Fatwa

during the 7th to 9th century and the *ius respondendi* of classical Roman law). The Research School unites both jurists and historians as scholars in working together on legal historical subjects. The school is a temporarily scientific home for scholars from different nations with their own traditions of research. The IMPRS even though entitled in English, insists that its official language is German. This takes into consideration that the main part of the literature offered to the scholars from the excellent libraries of the Max-Planck-Institut and the Institut für Rechtsgeschichte are written in German. Of course, conversation and discussion are possible at any time in English, French or Italian, for example. At the same time it is important to understand that the school is trying to maintain German as the official scientific language.

Results

Here are some past results: In November 2008 there were 22 former scholars. They all successfully completed their doctoral studies in Frankfurt or at their home universities. For those who completed their dissertations, 9 achieved "summa cum laude" or the highest marks, 6 "magna cum laude" or the second best marks. The current stand is that 10 dissertations that were partly written during the time at the IMPRS are already published, more will follow soon.

Secondary effects

There are also some secondary effects to the workload and also the mere existence of the IMPRS. The members of the board attend weekly seminars and meet regularly at the other occasions, to improve their internal cooperation. The Institut für Rechtsgeschichte was recently able to appoint two “Mercator-Gastprofessuren”, sponsored by the DFG. (During the last winter term was Marju Luts-Sootak, of Tartu/Estonia, and for the coming summer term will be Prof. Diego Quaglioni, of Trento/ Italy). Since then the visibility of legal history as an academic subject has improved, for this matter concerns the scientific landscape in Germany in general as well as the competition for resources for the faculty and the university – key-words in German discussion are “Internationalisierung”, “Interdisziplinarität” and “Drittmittel”.

Résumé

To summarize the report about the International Max Planck Research School for Comparative Legal History, I would like to point out three major points: Firstly, the IMPRS guarantees a high efficiency of material and personal resources. Secondly, a high quality management of doctoral studies is provided. The third aspect might sound less economic, but is indeed the more important: It is the inspiring atmosphere of the IMPRS which creates a network between the younger European legal historians, and that of the

forthcoming scientific generation of this subject.

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For further information on the IMPRS see
<http://www.imprs.uni-frankfurt.de/index.html>

Sofka Mateeva, South-West University "Neophyte Rilsky", Bulgaria

Topical Conditions of Doctoral Studies in the Republic of Bulgaria

During the last couple of centuries the doctoral studies strengthened their positions as main elements of the Bulgarian professional and educational system. The selection and preparation of candidates as well as the methods and procedures for doctoral preparation in Bulgaria are influenced by different educational systems. These are mainly the German, French and Russian systems, which have been broken up through the traditions and specifics of the Bulgarian educational system and cultural traditions. When we are talking about the specifics of the Bulgarian model for doctoral preparation, some basic points should be pointed out.

First, this is the explicit state regulation of the criteria and requirements for quality of doctoral preparation and quality of doctoral thesis (dissertations) that they defend in public under strictly determinate regulations:

- Universities and higher schools (colleges) place orders to The
- Ministry of Science and Education requesting the announcement of competitions for PhD researchers in scientific directions.

- The rights to place such orders and educate PhD researchers have only the universities and colleges that have been accredited by a state commission for the preparation of PhD researchers in a certain scientific direction (specialty).
- Given the accreditation (permission) to prepare PhD researchers, the universities and colleges hold competitions to select candidates. The competitions include sitting for examinations in the relevant specialty – written and oral, including foreign language examination. The right to start doctoral studies has the candidate that has the highest grade which should not be less than Very Well (5.00). Performance levels in Bulgaria are indicated by a grade from 1 to 6.

The second specific moment in the Bulgarian experience in doctoral studies concerns the possibility to take on PhD researchers who are people that have shown their particular creative qualities and abilities in a given scientific area. They

have the right and the opportunity to present an initially elaborated scientific thesis, which should be discussed by a commission of a university or college and if the evaluation is positive the candidate is taken on as a PhD researcher without sitting for competitions. From our experience this type of doctoral studies is called "independent preparation". In this case the state regulation is combined with the active and creative beginning as well as PhD researcher's initiative. Of course, the PhD researchers, taken on in that order, prepare themselves according to the general requirements and defend their thesis in the common order.

The third specific moment is that state regulated applications for a doctorate can be furthered in two forms – full-time and part-time education. Full-time education is provided for as the PhD researcher is granted scholarship by the state for the entire course of their studies which legally encompass no more than three years. The part-time education form for PhD researchers is favored by candidates who are already well employed and aspire towards a higher academic and professional standing without leaving their current occupation.

The fourth specific moment provides for the fact that all PhD researchers - regardless of their form of education- "full-time", "part-time" or "independent preparation" are obliged to be consistent with certain prerequisites during the course of their studies. They have to

pass an exam in accordance with the relevant scientific specialty in which medium the theme of their scientific thesis is elaborated and also pass an exam by means of which to ascertain the level of competence in mastering a foreign language.

The fifth specific moment regards the procedure of defense by the PhD researcher of the formerly elaborated scientific thesis. The defense is carried out in public with the "Specialized Science Council" presiding. The Specialized Science Councils are founded on basic scientific tendencies. Among the constituents of the council there can be found scientists from a wide array of universities, private colleges and representatives from The Bulgarian Academy of Science. The councils are established and sanctioned by a specialized state institution - Higher Attestation Commission. The Specialized Council and the Commission take on the charge of maintaining the adequate quality and level of the doctoral defense thesis presentation as well as the proper implementing of the regulated rules and procedures regarding the preparation of the PhD researchers and the conduct of their public defense.

The sixth specific moment is working with PhD researchers and their academic tutor or advisor. A method is adopted in the Bulgarian practice whereby each PhD researcher is assigned to a certain advisor (with PhD researchers on

independent preparation it is called - consultant). It is not obligatory for the advisor to be an employee of the academic institution where the PhD researcher is allocated. The advisor, nonetheless, has to be a specialist in the area which the PhD researcher has chosen to further their studies. In regard to this prerequisite, attention should be riveted to a substantial drawback in the Bulgarian system comprising in itself the fact that the advisor is somewhat reluctant to maintain communication with the PhD researcher on a regular basis. For the academic guidance of a PhD researcher, the advisor receives a fee tantamount to the payment for the conduct of 60 academic classes of practice. The tutoring of a foreign PhD researcher amounts to 80 academic classes of practice. Hence, PhD tutoring in Bulgaria is a matter of prestige and moral responsibility rather than material benefit. It is my strong conviction that this is a menacing drawback of our system when working with PhD researchers for scientists are people who value highly their time and intellectual labor and in this particular case they are left at a loss as to whether they should pursue the need for their own academic development or ensuing from the purely moral obligation of promoting the process of scientific reproduction - devote their time to PhD researchers.

Yet, another point worthy of notice is the specific moment in Bulgarian legislature concerning the academic

level of the defended doctoral theses is that they provide for a certain contributory qualities. PhD researchers have to exhibit not only their skills and knowledge towards systematization of a certain area of expertise but also manifest their creative abilities in their independent work.

From the propositional presentation of the Bulgarian practice in tutoring PhD researcher a couple of conclusions can be drawn.

First, PhD degrees in Bulgaria are bestowed on a basis that encompasses all universities and colleges that includes criteria and quality requirements for the preparation and skills of the PhD researchers. In this sense, for example, the diploma of "PhD in Law" of a PhD researcher educated in Sofia State University and the University I represent – The South-West University "Neophyte Rilsky", Blagoevgrad has the same value and is valid as a document verifying a certain level of scientific qualification in front of all Bulgarian scientific, administrative and agricultural bodies and institutions. This suggests a greater personnel mobility of PhD researchers and cooperates in strengthening and supporting averagely high criteria and requirements in conferring PhD degrees.

Second, from the point of view of the perspectives for unification (in one or another degree) of the requirements for quality of PhD researchers' preparation

in the framework of the European Union , the Bulgarian system in its high level of centralization will easily allow definite and new criteria and demands to be applied. Third, a certain negative element in the Bulgarian system is its bureaucracy. To fulfill the provided by law administrative procedures on the advance of documentation and realization of all administrative requirements, PhD researchers and their advisors lose a lot of time, which does not have direct attitude towards the scientific work and preparation. Depending on what direction the perfection of doctoral studies will seek in the future, there should be judged to what extent the bureaucratic rules and procedures hinder or cooperate to achieve certain utmost results in doctoral studies preparation.

Dear Colleagues,

Having made a thesis presentation of the Bulgarian system for preparation of PhD researchers, I would like to present in a nutshell the work of the Law and History Faculty of the South-West University "Neophyte Rilsky", Blagoevgrad. For the time being, there are 63 PhD researchers in our faculty. 41 of them are independent, 16 are full-time and 6 of them are part-time PhD researchers. This is, of course, dynamically changeable data because there have been recently organized a few more competitions for taking on new PhD researchers while at the same time other PhD researchers have already defended

or are about to defend their PhD theses and become doctors.

I would like to point out that except for Bulgarian citizens there are foreign PhD researchers as well. For example, in 2008 one of my PhD researchers from the Republic of Macedonia successfully defended her thesis. There are researchers from Greece, Albania and Yemen. As far as the legal systems of European Union countries are similar, having their specifics and differences, of course, the doctoral studies preparation in Law abroad causes certain difficulties in relation to the next professional realization of PhD researchers in their own countries as well as in other European Union countries outside the country they have been educated. I consider that this is one of the most important directions where ELFA could cooperate by launching ideas and recommendations to provide greater career mobility for PhD researchers in Law in the framework of the European Union. This is, of course, a topic for a long discussion which is out of my range. I think it would be a subject for a discussion in one of our meetings to come.

Originating from the educational practice of doctoral studies in Bulgaria, in particular our university, I would like to share a few considerations of mine which are connected with the possible directions to improve the work and preparation of doctoral studies.

First of all, this is the question for better combination of two basic offsets of this process. These are the theoretical preparation and the practical skills. For a jurist, no matter whether they work as lecturers or magistrates in practice, it is of vital significance for them to combine these two offsets. Unfortunately, in our experience up to now the PhD researchers get a great amount of theoretical preparation and very little experience and skills to solve particular legal cases.

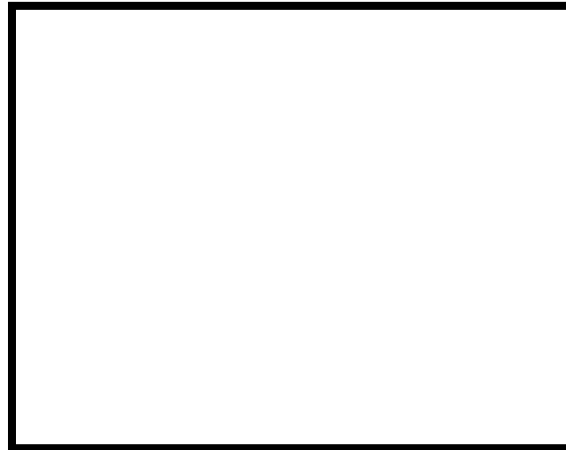
Second, it should be taken into account that Law is a regulated specialty where certain standard requirements and criteria in doctoral studies preparation should be followed. This essential demand is well thought and is consecutively followed in the Bulgarian system for doctoral preparation. However, at the same time one should not disregard the fact that in the contemporary conditions there is a great deal of social dynamics. The social reality alters so fast that very often the legislation is far behind the needs of the public practice. In this sense, who else but the future doctors in Law in the process of their preparation will pay enough attention to the issues and tasks related to the change in laws? In this relation, it would be appropriate to make reference to the fact that in the contemporary conditions great attention should be paid to the education of theoretical methods and practical

approaches of a discipline, which is unfortunately not developed enough in the syllabuses for doctoral preparation. I am talking about the Sociology of Law. The Sociology of Law is this scientific filter through which the newly arising social processes and phenomena can get their legal adaptation that can help in the formulation of new problems and demands not only for changes in the legislation, but also for the successful application of the active laws.

In conclusion, I would like to offer two suggestions that might be eventually discussed so that tangible decisions for a future cooperation in the framework of ELFA are made. First, I suggest that a syllabus for a doctoral school be elaborated in the framework of and under the patronage of ELFA. This school would provide exchange of experience in:

- the application of more effective forms of education, which can develop and stimulate the research skills of the PhD researchers;
- creation of a system comprising standards and norms to evaluate the quality of doctoral elaborations;
- elaboration of a mechanism for cooperation and exchange in organizing doctoral studies training.

Second, I suggest that regulation be created to make contracts between universities and colleges from different countries for mutual or supplementary education of PhD researchers in Law.



Vera Kalvodová, Zdenka Gregorová, Faculty of Law Masaryk University

Doctoral Degree Programme – an Important Part of Legal Education: Czech Republic Experience

I. Introduction

The postgradual education within the doctoral degree programme should be a standard component of the studies at law faculties. This programme is designed for Master's degree holders in law. The Ph.D. programme „Theoretical Legal Sciences“ is accredited at the Masaryk University Faculty of Law in a standard way. The last accreditation, involving a complex review of the study propositions, was carried out in 2008 and it will be valid till 2016. The accreditation for the possible obtainable period in accordance with the Higher Education Act can be seen as the appreciation of the high scientific and academic standard of our faculty.

II. Legal Regulation

Doctoral degree programme in the Czech Republic is regulated by the Act No. 111/1998 Coll., on Higher Education Institutions and on Amendments and Supplements to Some Other Acts (The Higher Education Act), as amended. According to Section 47 of this Act the doctoral degree programme is aimed at scientific research and independent creative activities in the area of research or development, or independent theoretical and creative activities in the area of the fine arts. The standard length of studies is no less than three and no more than four years.

Studies within the framework of doctoral degree programme are subject to individual curricula under the guidance of a supervisor. Doctoral studies are completed with a doctoral state examination and the defence of a doctoral thesis. These are intended to show the ability of the candidate to carry out independent activities in the area of research or development, or independent theoretical and creative artistic activities. The thesis must contain original as well as published results or results accepted for publication. Successful graduates are conferred the title Ph.D. or Th.D. in the field of theology.

Studies within the framework of doctoral degree programmes are monitored and evaluated by a doctoral studies board appointed in compliance with the internal regulations of a higher education institution or one of its constituent parts that offers the accredited degree programme in question.

Studies in doctoral degree programme may also be carried out in cooperation with foreign higher education institutions that offer degree programmes with related contents.

The Masaryk University Rules for Studies and Examinations provides more detailed regulation of the doctoral degree programme in accordance with the Higher Education Act.

A doctoral board is established for each programme to monitor and evaluate study and to guarantee its continuously high

level. The doctoral board members are MU academic staff or other prominent experts in the field, as appropriate.

Progress of study follows the individual study plan approved by the doctoral board drafted by the student and presented by the supervisor. The student is obliged to prove during the progress of study his/her proficiency in academic and technical English or other world-used language usual for the programme or field. The prove of proficiency may be done in any of the following ways:

- a) completion of two semester-long courses, as appropriate or
- b) course-unit credit acquired for a publication in the foreign language written for a journal or proceedings and a course-unit credit acquired for giving a lecture in the foreign language plus steering the following discussion with qualified expert forum; the course-unit credits are awarded by the supervisor or the evaluator appointed by the doctoral board.

The studies of a doctoral degree programme include research for doctoral thesis and, primarily, the following:

- a) courses to enhance and amplify knowledge in the field beyond the scope of Master's degree study,
- b) courses to amplify special knowledge,
- c) special technical seminars,
- d) preparatory work and assistance in the instructions for the bachelor's and master's degree programmes.

e) If the doctoral board decides so, the study includes preparatory work on doctoral thesis topics.¹

III. Ph.D. Studies Experience at the Masaryk university, Faculty of Law
The Faculty of Law offers the doctoral degree programme Theoretical Legal Sciences in both a full-time and combined form in 11 study fields as follows:

- History of the State and Law and Roman Law
- Legal Theory
- Constitutional Law and Theory of State
- Civil Law
- Commercial Law
- Labour Law
- Administrative Law and Environmental Law
- Financial law and Financial Science
- International and European Law
- International Private Law
- Criminal Law

With 11 fields of study mentioned above to choose from, the programme builds upon knowledge acquired in the master's programme, aiming not only at deepening the comprehension and knowledge of theory in the respective field and linking them to issues of legal practice but also at mastering research methods and developing skills necessary to perform

independent scientific work. The standard length of study is four years.

The Ph.D. studies are not open to everyone, there is an entry selection at our faculty. The applicants must undergo the scientific discussion, then the project of their dissertation thesis is reviewed, their publication work is observed and finally they must succeed in the test of language abilities.

The credit system (ECTS) is fully applied in the Ph.D. studies as well as in the Master's and Bachelor's degrees programmes. The implementation of the ECTS lasts several years and it led to the strict determination of the content of the study.

The main purpose of the Ph.D. studies is to prepare students for their research career, nevertheless students should gain deep knowledge of their chosen field of study and they also should learn teaching skills.

To fulfil these goals, the study is divided into several levels of courses. The first one are the courses which form the basic fundamentals of the study and which improve language abilities of the students and teach them basics of the research and scientific work, the ethics of the research work. Then there are special courses corresponding to the area which the students have chosen. Finally, such subjects as *recherché*, conference discussions, papers in conference proceedings or articles in journals and also leading of seminars or lectures in Master's

¹ Masaryk university Rules for Studies and Examinations, www.muni.cz.

or Bachelor's programmes are a part of the study programme. Of course, the continuous work on dissertation thesis is required.

To improve the conditions for the development of all the above mentioned skills the faculty provides a number of special scholarships programme that allow students to stay at important scientific and research organizations abroad, to participate in the international conference or in the research team. The Faculty supports also its own scientific conferences for students. The Conference for Young Lawyers (Cofola) – <http://cofola.law.muni.cz/>, is being held for the third year. This conference provides forum for meeting Ph.D. students together with young academics.

IV. Conclusions

In conclusion, I would like to sum up this paper by stating that Ph.D. study program is a very important part of the legal studies. It is mainly because it is the only type of study that can prepare further generations of lawyers for scientific and academic career. The raise of Ph.D. students as young researchers is an integral part of the work of the university professors and associated professors.

On the other hand, only a small number of Ph.D. graduates has an opportunity to become university teacher or researcher. For example The Masaryk University Faculty of Law has recently 154 students in the Ph.D. study programme. Only 51 of

those 154 are full time students, the others study and work together. Only a few graduates stay in academic environment after their studies. Therefore, other forms of continuing education are necessary.

The Masaryk University Faculty of Law concurrently offers some lifelong learning programmes. The "LLM in Corporate Law" programme targets not only the lawyers involved in the commercial area wishing to further develop their expertise, but also the middle and higher management of national and international corporations wishing to acquire additional legal skills and knowledge. The "MPA" (Master of Public Administration) study programme's aim is to offer its participants the possibility of broadening their knowledge and skills in the area of public administration, which they can apply in practice. This programme is targets public administration executives, managerial staff and professionals aspiring to those positions and also districts council members, managerial staff in non-profit organisations, universities, hospitals, police, army etc., as well as lawyers involved in public administration.² The both programmes are

² Faculty of Law, Masaryk University, MU 2008, p.18

organised in cooperation with Nottingham Trent University, Great Britain.

Besides there is a special Advanced Masters` s Procedure. Graduates of Master`s degree programme are entitled to take an advanced Master`s state examination and to defend an advanced Master`s thesis. Those who pass this exam are awarded the title JUDr.

So, if we should answer the question what positions should remain to the Ph.D. studies these days, in our view, the doctoral study programme should be a part of regular curriculum rather than unusual process but it should not be open for wide scope of students. The studies require an individual approach of supervisor and specific teaching methods and are designed for a special target group. For those who does not suppose to become academics or researchers there are or should be other forms of continuing education which provide possibilities to extend knowledge, to gain professional skills etc.



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Europeanisation of Doctoral Reform in Ukraine. Recent State of Play and Future challenges

Current system of Higher Education (HE) in Ukraine inherited its foundation from the Soviet Union. Among all fifteen Soviet republics, Soviet Ukraine had one of the most advanced industrial potential. In order to support this economic might the Soviet Ukraine generously funded the HE and research in order to train high quality academic and research cadre, which contributed significantly to the Soviet advances in space industry, nuclear energy, machinery, physics and many other areas. Students enjoyed privilege of free HE, teaching staff and researchers had moderate but sufficient standards of living.

Drastic economic downfall, which Ukraine faced immediately after its independence in 1991, implied tightening of HE and research funding. As a result the Ukrainian academia experienced a steadily growing "brain drain" and lowering of quality of teaching in higher education institutions (HEIs). In this situation the Ukrainian government had no choice but to open doors for factual self financing of the HEIs. It was done by permitting private HEIs and by allowing public HEIs to collect fees from students which were admitted beyond the governmental quota. As a result of this policy the number of HEIs in Ukraine had jumped from 140 in 1991 to 940 today. Unfortunately this reform took

place on expense of quantity and quality of HE in Ukraine and implied further deterioration of quality of teaching and research. One of the reasons for it was the lack of qualified and competent teaching and research staff able to fill in new teaching positions in newly established HEIs. To prevent further decline, the Ukrainian government started to look for possible scenarios for reform. The emerged in 1999 Bologna Process appeared to be the most suitable seed to be planted into the Ukrainian soil of HE. In a short period of time the Ukrainian government succeeded in implementing most elements of the Bologna Declaration (introducing the 2 cycle system of HE and of uniformed HE diplomas' supplements). However some elements of the Ukrainian HE remain barely changed till today. One of them is the doctoral education.

This article will focus on the phenomena of the reform of doctoral studies in Ukraine. In the first half of the article the recent system of doctoral education in Ukraine is analysed. In the second half of the article we shall look at governmental reforms in this area. Furthermore we shall look at reforms conducted by some of Ukrainian universities. In conclusion, we shall try to forecast the future of the doctoral studies reform in Ukraine.

2. Bologna Process and the Ukrainian doctoral education

The Soviet system of HE was based on the Russian tsarist system of HE which in

own turn had inherited traditions of continental higher educational system, mainly from Germany. In the core of the Soviet system of HE was the 2 cycle system. The first cycle was the fundamental graduate degree called "specialist" which usually lasted up to 5 years. The second cycle comprised two levels. The first level was called "aspirantura". It lasted up to 3 years and led to acquiring the "first doctoral degree" which is still called "candidate of science". At the end of this level, a doctoral candidate was expected to submit a doctoral thesis and to defend it publically. The final level of doctoral education was called "doctorantura" and allowed a candidate of science to obtain a "doctor nauk" degree upon publication of a doctoral monograph (closest equivalent is habilitation in today's Germany) and its public defence.

The system of HE in the Soviet Union ensured that teaching and research were separated. While the HEIs concentrated on teaching, most of research work was conducted under aegis of the National Academy of Science (NAS) which comprised hundreds of research institutions generously funded by the state. No surprise that majority of the research institutions were of science nature. Need for economic and political reform during the perestroika in 1990ies have shifted priorities of HE from science to economics, finance and law. However the major challenge of that time was to shift priorities

of the HE from scholastic teaching towards the education of independent thinkers who could think critically.

The Ukrainian government expressed great enthusiasm to join the Bologna Process from the early days of its launch. Adherence to the Bologna Process was viewed as act of open declaration of European integration ambitions of Ukraine and was in fact perceived as the most efficient way of displaying successes of domestic reforms to the outside world. Eventually Ukraine has signed the Bologna Declaration along with Armenia, Azerbaijan, Georgia and Moldova in May 2005. Since that time the Ukrainian government has achieved serious successes in HE reforms. Among them: encouragement of better students self-government; implementation of the ECTS system; establishment of the unified Bologna Declaration two-cycle system (4 years Bachelor and 1-2 years Master); issue of the Bologna Declaration style diploma supplements. One of the most significant achievements of the HE reform in Ukraine was the launch of the School Graduate Certificate which allowed school graduates to apply directly to Ukrainian universities without taking entrance exams. This system contributed tremendously towards diminishing corruption in HEIs in Ukraine.

However many other priorities of the Bologna Process have not been achieved yet by the Ukrainian government. Among them are: student mobility, university

autonomy and doctoral reform. Today's doctoral studies in Ukraine do not differ very much from the Soviet system. On completing the second cycle of HE (Master degree), a holder is regarded as having complete higher education, which entitles him/her to pursue the third cycle – 3 years doctoral study which lead to the “candidate of science” degree (almost equivalent to PhD programmes in European universities). Before completing their doctoral thesis doctorate candidates have to pass qualification exams, which usually include philosophy, foreign language and a professional exam. In addition to it doctorate candidates should follow up to 200 hours of classes annually on subjects like research methodology, professionally related disciplines, pedagogy and others.

Recent studies show that mainly domestic factors caused drawbacks in achieving the Bologna Declaration's objectives. Among them: centralised administration which imposed reforms on the Ukrainian HEI without close cooperation with them; insufficient training of the HEI administrators and academics on fundamentals and objectives of the Bologna Reform; insufficient resources of the HEI which is a consequence of poor funding from the government; attachment of the HEI administrators to the old Soviet system of education. HE elites in Ukraine expressed open distrust to the Bologna Process fearing decreased quality and loss of national HE traditions.

The reason of the slow pace of doctoral and research reform in Ukraine lays in the current system of strongly centralised state control of the HE. The head institution in this system is the Ministry of Education and Science (MES) of Ukraine which is responsible for setting up the programmes and standards of HE and awarding licenses and accreditation of the HIEs. However, the key power in area of doctorate education is concentrated in hands of the Supreme Attestation Board (SAB). This is a separate state-public administrative body that organizes and manages the Specialized Academic Councils (SAC) that are responsible for awarding research degrees in Ukraine. As a rule the SACs are attached either to the HEIs or research institutions of the NAC. SACs functions in line with very narrow specialisation fields. For example, the SACs do not cover the whole law discipline but accept thesis and conduct viva only within narrow subfields like criminal law, civil law, international law and etc. As a result applicants must write their doctoral thesis in such a way to suit requirements and specialisation of a particular SAC. As a consequence applicants are really discouraged to conduct interdisciplinary research. For instance, there is no single SAC in Ukraine in EU law. Therefore, applicants willing to prepare doctoral thesis in EU law have no choice but to prepare their thesis either in international/comparative law or within one of major national law fields. Furthermore,

decisions of the SACs are not final, but must be approved and could be overruled by the SAB. This body sets up not only procedural rules for doctoral thesis and viva but also defines the list of academic journals where articles by doctorate candidates could be published (ironically these lists do not include either of internationally recognised peer reviewed journals) and even sets up style and methodological standards of academic articles in Ukraine.

Ideally, it is envisaged that the doctoral education in Ukraine is based on close collaboration between the HEIs and research institutions. However in reality, researchers have quite limited collaboration with university staff. It happens because university staff is overloaded with teaching workload which could comprise up to 900 hours per year. Therefore, HE lecturers simply have no time to conduct high quality research outside their teaching.

The high level of centralisation of managing research and doctoral education in Ukraine has caused rather formalistic attitude towards its quality on behalf of general public. In the time being, major attraction and objective to conduct research in Ukraine is to get a research degree in order to acquire further promotions. Ironically matter of getting research degree became quite a popular undertaking among civil servants and politicians. They use administrative pressure and influence to acquire research

degrees often without personally being involved into conducting their "own" research. For example, today a majority of research degree holders work either in politics or in civil service. Therefore, the doctoral education in Ukraine faces serious structural financial and ideological crisis risk jeopardising further research activities. All attempts to reform this system have been facing obstacles from the highly centralised system of SAB.

Further steps to reform doctoral education in Ukraine

Today the Ukrainian government faces several choices to pursue the reform of doctoral education. The first choice is to preserve the inherited Soviet system of doctoral education based on centralised administration and separation between research and teaching. In this case the government has to increase funding of the HEI and research institutions. In time of global economic crisis it would be rather a difficult task to fulfil. Another option is to align the doctoral education with standards of the Bologna Declaration. In this case, the absence of really autonomous HEIs in Ukraine serves as the major impediment to this process. Since early Soviet times, the HEIs in Ukraine are not authorised to issue own style doctorate diplomas instead all HE diplomas are being uniformly issued by the SAB. In 2009, the Ukrainian government has launched a long awaited experiment. It granted autonomous status to five selected universities with long standing traditions in HE. The autonomous

status allows these universities to award undergraduate, graduate and doctoral degrees and to issue own style diplomas. On the one hand, this initiative was warmly welcomed by HEIs in Ukraine. On the other hand, this reform represents a serious challenge to the Ukrainian HEIs because none of them have strong traditions of truly autonomous academic life. In this situation, some members of the first cohort of autonomous HEIs decided to launch experiments. For instance in 2008 the Kiev Mohyla Academy has established a Doctoral School which is based on Western traditions of doctoral education. A major emphasis of this initiative is to encourage doctoral candidates to conduct world class research in line with best international standards. Doctoral candidates are encouraged to prepare articles in English for peer reviewed journals, to participate in international conferences and workshops, to follow courses on Western academic and research methodology. It is expected that other autonomous HEIs will follow this initiative and set up own doctorate schools. Acquiring truly autonomous status poses many challenges for the Ukrainian HEIs. A major of these challenges is to acquire not only domestic but also international competitiveness. Meanwhile, none of the Ukrainian HEIs is in internationally recognised university rankings. International citation index of Ukrainian academics is low. Move from centralised system of HE to the autonomous system

would imply the necessity to create a truly new academic infrastructure and system of evaluation which should be based on international standards.

Conclusions

The example of Ukraine represents a typical case of a HE reform in transition. This is the case when a country with strong HE traditions has to find new ways to substitute state funded HE and research and to make it internationally competitive. The Bologna Declaration offered a unified approach towards reform of HE in whole Europe. The Ukrainian government was ready to adopt this system looking at it as a best mean to ensure European integration of Ukraine and to enhance its quality and self sustainability. However, the Ukrainian government has to face difficult dilemmas on the road towards these targets. If the two first cycles of HE (undergraduate and postgraduate degrees) became more or less compatible with the centralised administration of HE in Ukraine, the third cycle which is doctoral education proved to be totally incompatible with it. The central administration which is in hands of the SAB could not ensure high level competitiveness of doctoral education in Ukraine. The emerging cohort of autonomous HEI will serve as a leading force to experiment with the reform of the doctoral education in Ukraine. For this purpose, considerable structural reforms

have to be conducted. Most important among them is the launch of internationally recognised peer reviewed journals, revision of requirements for doctoral degrees and enhancement of prestige of the doctoral education among academics.

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The Principles of Education at the 3rd Degree (PhD) Studies

I. General regulations

1. Doctoral studies last from 6 to 8 semesters.
2. The total number of classes included in the programme of studies should be equivalent 45-60 points of European Credit Transfer and Accumulation System.

II. Organisation and execution of the education

1. Doctoral studies should create conditions for obtaining general (specified in this document) and detailed (defined by the educational unit) competences – effects of education – through the following:

- execution of the programme of studies (participation in lectures, seminars),
- conducting research under the supervision of scientific tutor,
- participation in the life of the academic community (national and international).

2. Education at doctoral studies should include the following:

- transmission of content of basic character within the field of knowledge connected with the area of conducted research, regarding the latest achievements of science transmitted at the advanced level,

- transmission of content of detailed character reflecting the area of conducted research (scientific discipline), regarding the latest achievements of science transmitted at the advanced level,

- shaping the skills directly or indirectly connected with the methodology of conducting research,

- shaping ethical and pro-social approach in the context of the research activity and social role of the scientist.

3. Education connected with the transmission of content within the scientific field/discipline should be executed in the amount that is equivalent to at least 20 ECTS points.

The education including shaping the skills should be executed in the amount that

is equivalent to at least 10 ECTS points.

The education including shaping the (ethical and pro-social) approach should be executed in the amount that is equivalent to 5 ECTS points.

4. Education at doctoral studies should provide the preparation for the exams included in the registration and conferment procedure for a doctoral degree.
5. Practice defined in the Act may be effected at universities, scientific and research institutions, educational institutions, economic institutions, cultural and political institutions. The practice that lasts at least for as long as specified in the Act is recognised once the doctoral student has provided proof of the execution of such practice.

III. Completion of studies

1. The completion of doctoral studies and the receipt of the certificate of attendance in such studies take place once the program of studies determined by the unit/institution has been executed and once the student has been granted the PhD degree.
2. The receipt of the certificate of participation in doctoral studies also takes place following the execution of the programme of studies prearranged by the unit/institution and following the demonstration of proved research or creative achievements.

IV. Educational results – competences

1. General competences of a graduate of doctoral studies:

a) as regards knowledge, the graduate:

- is familiar with the latest terms, theories and research ideas within the field of science particular to the area of conducted research,
- is familiar with the latest terms, theories and research problems within the field of science proper for the conducted research,
- is familiar with advanced methodology of conducting research and of acquiring and using information proper for the field and scientific discipline relevant to the area of conducted research and is familiar with the principles of intellectual property protection,

b) as regards skills, the graduate:

- knows how to provide original input to the knowledge resources through research and critical analysis, evaluation and interpretation of results,
- knows how to act in an original and creative way within the field and discipline of the conducted research and how to apply pioneering and innovative solutions,
- knows how to solve scientific and/or practical problems included in the field and discipline of the conducted research,

- knows how to evaluate the input of his/her own research and expert and/or creative activity into the development of the field and discipline proper for the area of conducted research and the relevant applications,
- is able to use and improve the methods of scientific research and the methods of the acquisition and transmission of information,
- is able to plan and conduct research projects independently and to participate in team research,
- is able to plan his/her own intellectual development in an independent way,
- is able to communicate and consult the environment, co-workers, experts in his/her field and in other field and with the social environment, both in his/her native and foreign language,
- is able to communicate/transmit his/her knowledge and experience to others,

c) as regards attitudes, the graduate:

- contributes to the maintenance and improvement of scientific and/or professional community ethos,
- exhibits self-criticism in his/her creative work, acts towards its facilitation and increase efficiency,

- accepts liability for his/her work and for the work of his/her co-workers,
- shows initiative in the determination of new fields of research and/or the creation of new places of work within society based on knowledge,
- is aware of his/her social role and the significance of the his/her activity carried out towards the social development and towards shaping civic society.

2. Detailed competences of graduates of doctoral studies are determined by the unit that conducts such studies considering its mission, the concept of education at the doctoral level and the external conditions and the expectations of the environment.

Recommendations

1. The education may be conducted in accordance with an individual programme of studies or a programme covering common element.
2. Doctoral studies may be executed within a unit that carries out education at the third level or in other centres. It is recommended for the doctoral student to have the possibility of participation in and carrying out his/her research outside of the unit providing the doctoral studies for at least one semester period.
3. It is being recommended for the doctoral students to be engaged in team tasks.

Commentary

The Principles of Education are a proposal of the principles of education at doctoral studies that may be implemented following the revision of the Act on higher education, the act on scientific degrees and the title as regards the art as well as executive acts issued on the basis of those acts. This particularly concerns point II. 5 and point III that are in accordance with the binding act – Act on higher education.

The presented Principles of Education at doctoral studies have been prepared in accordance with the new approach to the creation and execution of study programmes based on the utilisation of results of education. The approach is applied within international practice with regard to the first, second and third level studies particularly where National Qualifications Structure inspired by the European Higher Education Area (EHEA) has been implemented.

The competences (educational results/effects) determined in point IV of the Principles of Education form an interpretation – as referred to the domestic conditions – of the results of education for the third level studies included in the so-called Dublin Descriptors proper for the Qualifications Structure of EHEA.

The competences (educational results/effects) determined in point IV of

the Principles of Education reflect other international regulations concerning the education of doctoral students. They have been formulated, among other points of reference, with regard to the following:

- Salzburg Postulates/Recommendations (2005),
- the description of European Qualifications for Lifelong Learning (European Commission, 2008),
- The description of the results of education reflecting the Domestic Qualifications Structure of Ireland and Scotland.

The division of education results included in point IV into those connected with “knowledge”, “skills” and “attitudes” is a symbolic one because the categories are not fully separable.

The principles of organisation and execution of the educational process specified in point II make it possible to achieve the educational results defined in point IV.

The “generic” method of defining competences (results of education) adopted in the Principles of Education provides the educational unit with significant liberty in determining the detailed effects/results of education connected with the specificity of the scientific field and discipline within which the studies take place with regard to its own notion of educating doctoral students

and with regard to other conditions. A part of educational results may be determined within the agreements in “horizontal structures” of units conducting educational activity of similar character (at the domestic/national or international level).

The principles of organisation and execution of the educational process specified in the Principles of Education provide the educational unit with significant liberty in determining the programme of studies (amount and character of didactic classes/activities) and provide full liberty as regards the determination of programme contents. The programme of the studies should be flexible enough to make it possible for the student to execute part of the activities/research work at other units – the postulate of using the European Credit Transfer and Accumulation System in defining the programme requirements.

The Principles of Education impose on the unit providing doctoral studies the duty to implement an internal system of quality assurance. The system should ensure the following:

- the appropriate quality of solutions concerning the organisation of
- education (including the programme of the studies);
- in the process of its self-evaluation the unit has to demonstrate that with the appropriate execution of

- the designed process of education the results of education defined in the Principles of Education and defined by the unit will be achieved;
- the appropriate quality of the education process; in order to achieve that the system must include a procedure
- enabling it to check whether the intended results of education have been reached (in case of particular doctoral students).

The new approach to defining the Principles of Education requires a new kind of assessment performed during the accreditation of doctoral studies (following its initiation by the accreditation institutions). The accreditation should include the following:

- checking whether the programmes of studies prepared by the unit/institution ensure that the results of education defined in the Principles of Education will be achieved,
- checking whether the prepared programmes of studies ensure the achievement of the detailed effects of education defined by the unit/institution,
- checking of the correctness of functioning of the internal quality assurance system.

Sebastian Mock

Legal education in the Arab World: current Status and Future Perspectives

In cooperation with the Qatar University the American Bar Association organised in March 2008 a conference “Legal Education in the Arab World: Current Status and Future Perspectives” at the Qatar University in Doha (www.qu.edu.qa). The list of participants included around 60 lawyers, law professors and especially law school deans from almost all Arabic countries. Due to its several projects in the Middle East and North Africa the American Bar Association Rule of Law Initiative (www.abanet.org/rol/) organized the conference in order to develop common standards among Arabic law schools to improve the legal education in the Arab world which is so far - despite the common roots of the Arabic legal systems in the Sharia – very different. Besides legal experts from the region also especially experts from American law schools (Dean Darby Dickerson [Stetson University College of Law], Dean John N. Riccardi [Boston University – School of Law], Dean Mary Kay Kane [University of California Hastings College of the Law] and Professor Lawrence Grosberg [New York Law School]) and from Europe (Dr. Sebastian Mock LL.M. [University of

Hamburg] representing the European Law Faculties Association) joined the conference giving some insight of the experiences with the legal education and its reform in the United States and Europe. In the first session the speakers stretched out the challenges for teaching common law, civil law and the Arabic legal systems. Especially the speaker from the United States and Europe gave an insight about the techniques of teaching common and civil law and referred to the traditions in both legal systems. These insights were very valuable for the following discussion due to the fact that some Arabic countries were mainly influenced by the civil law countries of continental Europe while other countries were more influenced by the common law countries. Besides the national legal education the participants also discussed the introduction of international standards for Master and post graduate programs. In this context the participants were especially interested in the development of the legal education systems in Europe and the impact of the Declaration of Bologna. Like in the discussion in several European countries also the participants of the conference

doubted that a common framework for legal education for all Arabic countries could be determined in detail because of the numerous differences in the cultural background of the legal systems. Although the legal systems in the Arabic countries all generally refer to the Sharia (to a different extent) the legal education system differ to large extent due to the different influences of civil and common law countries in the past but also in the present. For instance lawyers from the Maghreb countries are still to a large extent educated in France or Switzerland. Nevertheless the participants pointed out that common standards for law schools could improve the legal education especially in countries with a rather young legal system. In the third session the participants discussed the impact of Globalization in legal education and multi-lingual curriculum standards and assessments. The first day of the conference was closed by individual breakout sessions to all topics being discussed during the first day of the conference.

Besides the structural framework of legal education the conference also focussed on legal techniques for all stages of legal education. On the second day of the conference the participants discussed therefore techniques for legal research and writing, practical skills training, clinical programs and civic education and finally also the aspect of continuing legal education and the training for young

lawyers. In the discussion about legal research and legal writing the participants again referred to the different cultural backgrounds of their legal systems. Especially the so called case method as developed and used by the law schools in the United States was heavily criticized and doubted as a proper basis for legal education in the Arabic world. The same applied to the so called clinical programs as they are used in the United States. Although the participants agreed on the need for a more practical approach in the current legal education they doubted that legal clinics could fit in the cultural background of Arabic countries and would be accepted by the legal environment. Concerning the aspect of continuing legal education and the training for young lawyers it became clear that the majority of the Arabic countries so far neglected this aspect of legal education. Especially the fact that in the most Arabic countries the legal practitioners hardly organize themselves was criticized by the participants. Only a developed self-administration of the legal profession could provide the necessary background in order to establish a continuing legal education and stronger guidelines especially for young lawyers. At the end of the conference the participants presented the results of the breakout sessions and passed a resolution.

FRIBOURG IMPRESSIONS

About ELFA

The European Law Faculties Association (ELFA) was founded in 1995 in Leuven by more than 80 Faculties of Law located in different universities across Europe. The organisation now has over 180 members from countries within the E.U. and beyond. Currently, the most important focus of ELFA's activities is the reform of legal education in Europe. Through this website and the European Journal of Legal Education (EJLE), it provides information about the current state of legal education in Europe and an international forum for the discussion of the impact of the Sorbonne-Bologna Declaration on the study of law.

ELFA places particular emphasis on accreditation and quality assessment as a condition for the Europeanisation of the

study of law. ELFA is also active in developing new models for the use of ICT in legal education and provides information and support for its member faculties in this rapidly evolving area.

ELFA co-operates with other professional associations in the field of legal studies in order to further promote activities relating to legal education.

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