

***Teaching Law in the 21st Century European
Law Faculties Association – Annual Meeting
(Ljubljana 25th - 27th February 2010)***

***La enseñanza del Derecho en el Siglo XXI.
Asociación Europea de Facultades de Derecho
Congreso anual (Liubliana 25-27 febrero 2010)***

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Abstract

This report has two parts. The first deals about the “European Law Faculties Association” created prior to the Bologna Declaration (1995), in order to allow coordination of discussion among Law Schools and to strengthen contacts between them. It describe the objectives, activities, composition and members of the ELFA.

The second part deals with the ELFA’s annual meeting, held in Ljubljana (Slovenia) in 2010 with the aim of commemorating the tenth anniversary of the Bologna Declaration and its impact in the field of Legal Studies in different Countries.

In this Conference, the substantive part of the program contained a variety of approaches and points of view of various countries on “The Bologna process 10 years after the Bologna Declaration.” Different workshops were also held under the title “The legal education in the XXI Century”.

In that Congress were informed about the online publication of the European Journal of Legal Education, structure and parts of this Journal and also the criteria for scientific publication.

Finally we present the main conclusions adopted at the General Assembly in Ljubljana, Slovenia, 25-28 February 2010.

Key words

European Higher Education Area; European declarations and documents; joint and dual degree programmes; international legal education; description of concrete experiences; European Law Faculties Association (ELFA).

Resumen

El presente informe se compone de dos partes. La primera trata sobre la “Asociación Europea de Facultades de Derecho” creada con antelación a la Declaración de Bolonia (1995), con la finalidad de permitir una coordinación de discusión entre las facultades de Derecho, así como para fortalecer los contactos entre ellas. Se describen los objetivos, actividades, composición y miembros de la ELFA.

La segunda parte trata sobre la reunión anual de la ELFA, celebrada en Liubliana (Eslovenia) en 2010 con el objetivo de conmemorar el X aniversario de la Declaración de Bolonia y su repercusión en el ámbito de los estudios Jurídicos.

En esta conferencia, la parte sustantiva del programa contuvo una variedad de enfoques y puntos de vista de los distintos países sobre “El proceso de Bolonia 10 años después de la Declaración de Bolonia”. También se celebraron distintos talleres bajo el título “La enseñanza del Derecho en el Siglo XXI.

En dicho Congreso se informó sobre la publicación en línea de la *European Journal of Legal Education*, estructura y partes de esta Revista y también de los criterios científicos de publicación.

Finalmente se presentan las principales conclusiones adoptadas en la Asamblea General en Liubliana, Eslovenia, 25-28 de febrero de 2010.

Palabras clave

Espacio Europeo de Educación Superior; Declaraciones y documentos europeos; titulaciones conjuntas y dobles; formación jurídica transnacional; descripción de experiencias concretas.

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1. Introduction

Measured by objectives of the present Bologna reform, the earliest form of legal education in Europe was quite modern. There was a common European higher education area, the mobility of students and teachers being one of its main features. There was a common legal language, common legal sources, the same teaching method and more or less the same curriculum. A closer look reveals that there were certainly differences between individual law schools, but, by and large, one can speak of a European legal education. Since then times have changed drastically. Increasingly focused on domestic law, legal education in particular countries became more and more national with legal education carried out in the national language and, with some exceptions of general legal subjects, limited to domestic law. The result of this development meant huge differences in legal education among the European countries and sometimes even among different universities in the same country.

With the free movement of persons and services becoming a reality, and especially with an increasing quantity of common legal regulations in the European Union, these differences have become a real problem. This was aggravated by the increased international competition in the field of legal education as well as the absence of a European character in legal education. Furthermore, different and incompatible systems did not allow a clear comparison and evaluation between law schools and systems of edu-

cation. The plan to create a European Higher Education Area (EHEA) as a more comparable, compatible and coherent system of higher education endeavored to solve this problem. This was the main objective of the so-called Bologna process. It was launched with the signing of the Bologna declaration by Ministers of Education from 29 European countries in 1999.

The Bologna process, comprising currently 47 countries, is the major reform in the field of legal education of the post-war era. It affects all aspects of higher education.

The reform has been met with both resistance and enthusiasm, the former exceeding the latter. It soon became a political issue and was endorsed by governments and legislators. Despite the declaratory nature of the Bologna declaration, the reform was implemented in practically all European countries by means of law. Yet, in general, the legal regulations were not based upon a deeper insight into the real problems of legal education. As a result, the reform was limited to more or less formal and institutional aspects of legal studies (i.e. the length of each of the three cycles).

The solutions adopted by national laws were often lacking a thorough reflection on the main problems of legal studies and were not discussed sufficiently within academia. They have also shown an astonishing lack of will to contribute to a more or less coordinated European system of legal education. Consequently, despite the same rhetoric and objectives, the present situation in the field of legal education in the European countries is far from united and co-ordinated. In this respect the reform has definitely not lived up to expectations.¹

2. The Foundation of ELFA

To make the Bologna reform a success and an improvement (and not a mere change,) a thorough, coordinated reflection and discussion of legal education reform would be necessary. Apart from separate conferences² there was no permanent forum making this possible. In the early nineties of the last century, i.e. even before the Bologna declaration was signed, the idea of establishing an association of European Law Faculties emerged. Its main intention was to enable a more co-ordinated discussion among law faculties and to strengthen the contacts between them. The *spiritus agens* behind this idea was the Belgian Professor Frans Vanistendael who also became the first President of the European Law Faculties Association (ELFA). He was convinced that a European forum of law faculties was necessary. It would make a more co-ordinated approach towards changes and reforms possible and would also become a representative of Eu-

1. A very balanced evaluation of the Bologna reform was written by Frans Vanistendael. See: C 5.1-8 Bamalaw: A Decade's Assessment of Renewal in Legal Education, in: EUA Bologna Handbook, Making Bologna Work, available on the Internet site http://www.bologna-handbook.com/index.php?option=com_docman&task=doc_details&gid=264&Itemid=50.

2. There were many other conferences discussing the reform and optimization of legal studies in Europe. One example is a series of conferences organised by the Faculty of Law in Ljubljana. Between 2003 and 2006 it organised five international conferences to discuss different aspects of the Bologna reform. At the conferences representatives of faculties of law from up to 12 European countries took part, among them the former Presidents of ELFA Frans Vanistendael, Dominique Breillat and Willibald Posch, as well as Roberto Toniatti and some other prominent representatives of legal education in Europe.

European Law Faculties and promoter of their ideas in the discussions and decision making processes dealing with problems of legal education and related matters.

The European Law Faculties Association (ELFA) was founded in 1995 in Leuven, Belgium.³

It was formally incorporated as an association under Dutch law. At the founding meeting more than 80 faculties of law from different universities across Europe were present.

According to Art 5 of the Articles of Incorporation of ELFA its main objectives are the following:

- 1) Representation of faculties and schools of legal education and research and the promotion of their interests in the institutions of the European Union in all matters of culture and education in general and legal education and research in particular;
- 2) Representation of faculties of law and schools of legal education and research and the promotion of their interests in other European and international organisations in the field of legal education and research and in organisations of the legal profession and professions closely related to the legal professions;
- 3) Representation of faculties and schools of legal education and research and the promotion of their interests with organisations outside Europe;
- 4) The promotion of teaching and research in law, where this cannot be adequately achieved at a national level.

The activities of the association aimed at achieving these objectives (Art. 6 of Articles of Incorporation) are the following:

- 1) The collection and exchange of information on teaching programmes, teaching, examining and grading methods;
- 2) The gradual development of a common European dimension in the various areas of legal education and research in general and education and research in European Union law and comparative law of the Member States in particular;
- 3) The study and gradual implementation of the mutual recognition of curricula including individual courses, examining and grading methods, and various categories of law degrees;
- 4) The study and reflection on legal research and student learning with a view to achieving quality;

3. For further information on ELFA see its website <http://elfa-afde.eu/default.aspx>.

- 5) In general, to undertake any activity, including co-operation with existing institutions, organisations and networks to facilitate the achievement of the objectives of the association and all other activities ancillary to the objectives and activities mentioned above.

The European Law Faculties Association has full members, associate members and observers. ELFA's membership has grown considerably since its foundation. Currently, ELFA has over 180 full members.

ELFA is managed by a Board of Directors. The Board of Directors has extensive powers to further the objectives of the association and is responsible for preparing and implementing the actions, programmes and instructions discussed and approved by the General Assembly, except for those powers which are specifically reserved to the General Assembly (Art. 20. of the Articles of Incorporation).

The Board of Directors of ELFA consists of six members: the president, the first vice-president, the vice-president-secretary, the vice-president-treasurer and two further vice-presidents. The Board members have to be affiliated with an institution whose seat is located in a different Member State of the European Union, the European Free Trade Association, or, if applicable, in one of the Contracting States of Europe Agreements.

The members of the Board are elected for a period of four years. After the end of a term on the Board a Board member is eligible to serve again after four years have elapsed.

The president and the first vice-president of the association are elected each year from amongst the sitting members of the Board by the General Assembly. A member of the Board may be reelected once as president during the four years of his tenure as a Board member. The members of the Board determine the other functions on the Board each year (Art. 17).

The members of the current Board of Directors are Jacek Petzel (President, Poland), Manuel Bermejo Castrillo (first Vice President, Spain), Rainer Schulze (Germany), Anne Klebes-Pelessier (France), Hans van Houtte (Belgium - Treasurer) and Haluk Kabaalioglu (Turkey). ELFA has a permanent secretariat located in Bonn, Germany.

The Board of Directors meets physically two to three times per year in working sessions and more often by using the means of information technology. Its main task is to carry out the decisions of the General Assembly and to prepare its next annual meeting. In the past the annual meeting of the General Assembly has normally been organised by the outgoing President at his home university.

ELFA members convene at the annual General Assembly once a year (Art. 25). In special cases the Board can convene a special General Assembly (Art. 26). Normally the General Assembly forms a part of a broader meeting of ELFA members. Its first part is normally dedicated to one of the issues related to legal education.

ELFA annual meetings deal with different topics. After some years dedicated to pedagogical issues, more substantial legal questions have been examined in the last years.

3. The Annual Meeting of ELFA in Ljubljana

At present, the most important focus of ELFA's activities is the reform of legal education in Europe. Through its website and the European Journal of Legal Education (EJLE), published on-line; it endeavors to provide up-to-date information about the current state of legal education in Europe. Striving to become an international forum discussing important issues related to legal education it is paying special attention to the impact of the Sorbonne-Bologna Declaration on the study of law. To make its voice more audible it adopts at its annual meetings one or more resolutions on important issues related to legal education in general or to a particular problem. The resolutions are sent to the media and to the ministries as well as to other institutions in the home countries of ELFA members.

The meeting in Ljubljana took place from February the 25th to the 27th of February, 2010. It was divided into two parts. The first part was organised as a forum discussing some important problems of legal education. In the second part the General Assembly deliberated and decided on organizational questions of ELFA and, among others, elected the new president, the first vice-president and a new member of the Board of Directors.

This year's meeting was intended to mark the tenth anniversary of the Bologna declaration and its impact on legal studies. The Bologna reform can be regarded as the most important event in the field of legal education within recent times. Its implementation can be viewed as a major challenge also in the field of legal education. Thus, the Board intended to summarize the problems and challenges accompanying the Bologna reform through the topic at this year's meeting, *Teaching Law in the 21st Century*. In doing so, it hoped to initiate a creative and engaging discussion and exchange of experiences and good practices among the participants of the Annual Meeting.

After the opening addresses by the dean of the hosting law faculty, Mr. Pirnat, and the vicechancellor of the University of Ljubljana, Mr. Juhart, the meeting was addressed by the President of the Republic of Slovenia, Mr. Danilo Türk. It was the first time that a head of state had visited and spoken at an ELFA meeting. ELFA members very much appreciated this gesture. They understood it as an acknowledgment of ELFA's activities and a support of its endeavors to promote high quality standards in legal education.

The substantive part of the program was introduced by showing filmed statements by different professors at various European law faculties, presenting their personal views on the reform. The title of the film was "The Bologna process 10 years after the Bologna declaration - its analysis through the eyes of different ELFA members". The statements presented in the film showed a high variety of approaches and views on the reform. The majority of those interviewed tried to present the brighter side of the reform, but some were also critical, directing attention to the challenges and problems accompanying the implementation of the reform.

In order to provide a broader perspective of the reform as well as to encourage discussion, the filmed statements were followed by four kick-off papers. Four professors of law (two of them former ELFA Presidents) presented their views on the reform with particular reference to their home countries. Professor Heribert Hirte (Hamburg, Germany) presented the situation in Germany where the reform has not been introduced in the field of legal studies. He spoke of the dilemmas related to the introduction of the Bologna model in legal studies. Professor Wilibald Posch (Graz, Austria) talked about the difficulties accompanying the implementation of the Bologna reform in Austria and also addressed some general issues related to it. Professor Marko Petrak (Zagreb, Croatia) spoke about the situation in Croatia and their experience with the Bologna curriculum. He drew parallels with neighbouring countries and discussed some of the general challenges of the reform. Roberto Toniatti who succeeded in introducing a highly successful Bologna curriculum at his home University of Trento (Italy) regretted the fact that the reform has not been given a fair chance in Italy. There the reform model was modified before it could develop its positive aspects.

The general discussion following the four papers brought to light the problems related to the Bologna reform as well as some of positive practices that have been developed at particular universities.

The second part of the morning session was dedicated to the topic *Faculty of Law vs. Factory of Law*. The organisers of the meeting intended to provoke a discussion of the problem of how to attain and maintain high quality standards in view of increasing numbers of students and absence of admission tests. The speakers and participants discussed good practices and measures that could prevent a rather “mechanical” and “impersonal” approach to the teaching of law.

After the lunch break participants could choose between three workshops chaired by Board members. The common title of all the workshops was “Teaching Law in the 21st Century”.

The first workshop discussed the use of new methods and technologies in legal teaching. The second workshop endeavoured to find the answer to the question of how much a legal curriculum could be opened to other disciplines together with the role of non-legal disciplines in legal education. The topic of the third workshop was “The position of general subjects (i. e. Roman law, Legal history, Legal theory, etc.) as well as non-legal subjects (e. g. Sociology, Psychology etc.) within the legal curriculum”.

Papers presented in the workshops and the discussion that followed showed a wide variety of ideas on how to draft a good curriculum and how to approach the teaching of law.

4. The General Assembly 2010

The second part of the annual meeting was the General Assembly of ELFA that started immediately after the workshops. After the initial formalities, the President presented his report. He informed the General Assembly about the Board meetings, about the financial issues, about some on-going projects and about the on-line publication of the

European Journal of Legal Education (EJLE) that has replaced paper publication after Routledge terminated the contract.

The President pointed out that going online was a suitable way to make the EJLE more flexible and better suited to swift feedback on important and time-sensitive events.

In order not to forego its established high quality standards, the refurbished online publication has two parts. For those interested in a more researched and scholarly discussion, there is the peer-reviewed portion. Here, all the articles have to be reviewed and are published only if peer review has been positive. The editor of this section of the EJLE continues to be Professor Julian Lombay who was also editor of the print edition of the EJLE.

To further facilitate immediate communication between members, a new, non-reviewed part of the journal has also been introduced. All sorts of texts dealing with topics of interest for ELFA members, such as announcements of important events, invitations for collaboration, etc., can be published here.

The editorial work of this section of the EJLE is distributed among Board members.

To make the EJLE even more accessible to ELFA members, the Board decided to publish non-English texts as well. In his report the President encouraged all ELFA members to make the EJLE a useful tool and a true platform enabling the exchange of ideas concerning legal education. He expressed hope that the members will provide enough texts and information to make the EJLE a useful, indispensable and recognised factor in the field of European legal education.

In his report the President also mentioned that, due to financial constraints, some members have left the association. Fortunately, some new law faculties have filed applications to become new members of ELFA.

After discussion the President's report was approved unanimously by the General Assembly. The same occurred with the annual financial report, the annual accounts and the Draft Budget 2010. All were approved unanimously. Subsequently, the General Assembly released the Board and elected the new President, the first vice-president and a new Board member. According to the standing ELFA tradition, the first vice-president stood as candidate for the new Presidency. Accordingly, the Board nominated Professor Jacek Petzel from the Faculty of Law at Warsaw University as the candidate for President of the Board of ELFA for the period between the General Assembly of 2010 and the General Assembly of 2011. The Board also nominated Dean Manuel Bermejo Castrillo from the Faculty of Law at the Universidad Carlos III de Madrid as the candidate for first vice-president. Both Jacek Petzel and Manuel Bermejo Castrillo were elected unanimously.

According to the Statutes of ELFA, the General Assembly has to elect a new Board member to replace the outgoing one. As the mandate of the outgoing President Janez Kranjc of the Board of ELFA had expired, a new member of the Board had to be elected. There were three candidates for election to the Board. Mr Haluk Kabaalioglu from

the Yeditepe University (Istanbul, Turkey) was elected the new member of the Board by secret ballot. The General Assembly also approved the applications for membership.

5. The resolutions adopted at the Generally Assembly of ELFA in Ljubljana

After a thorough discussion and some changes, the General Assembly adopted the Resolutions presented by the Board and set the date of the next annual meeting. It will be held in Warsaw in February 2011.

The General Assembly adopted unanimously the following resolution on the Bologna Process and the resolution on the European system of assessment of scientific publications. Both resolutions have been published on the ELFA website and sent to various institutions.

a) ELFA Resolution on the Bologna Process

The European Law Faculties Association (ELFA), Convening at its Annual General Meeting in Ljubljana, Slovenia, on 25-28 February 2010,

- (1) Noting that ten years have passed since the Sorbonne-Bologna declaration was signed, launching what is now termed the Bologna process of creating a European higher education area
- (2) Reaffirming its belief that the commonalities of legal education in Europe warrant the coordination of the general principles of legal education for a European legal profession as well as for a wider professional context
- (3) Confirming its commitment to serving as a forum enabling the joint opinions of European law faculties to be represented at the European level, thus providing its assistance to all European institutions dealing with the contribution of legal education to society
- (4) Whereas ten years after the launch of the reform process is an appropriate time to review the progress in achieving its stated aims

Adopts the following resolution on the status and development of the Bologna process:

1. ELFA supports the efforts to provide for a European framework of higher education, *increase the comparability of education and transferability of degrees obtained*, and welcomes the beneficial aspects of the Bologna process in this regard as having a noticeable positive impact thereon.
2. While ELFA welcomes the aim of increasing the employability of the students as well as – where appropriate– shortening the duration of studies, the realities of the reform fall far short of this aim. In many countries, the creation of new first-cycle and

fragmented degrees has *decreased rather than increased the employability of graduates* and the duration of studies *for individual students* has remained the same.

3. Noting the above, it is of greatest importance to ELFA that the quantitative goals of the Bologna process are not achieved at the expense of the quality of legal education. It is a firm belief of ELFA that the vocation of the higher legal education is to educate balanced intellectuals with a solid understanding of the general tenets of the legal profession, which is also the best, if not the only, guarantee of their employability in substantive rather than merely formal terms. The drive to shorten the duration of studies should not result in the lowering of standards. In this regard, ELFA calls upon the law faculties and national education authorities to consider introducing systems of admission examination and selection where not yet applicable.

4. While ELFA welcomes in their entirety the increasing levels of exchange programmes, additional attention could be given to the peculiarities of legal education which are partly conditioned by the demands of a particular legal order. This feature of the curricula, which may be a potential barrier to international exchange, is particularly present in the final years of the studies, the very same years traditionally envisioned for exchange. Accordingly, ELFA would support an attempt to try and resolve this discrepancy.

5. While ELFA agrees with the student-centred approach to legal education inspiring the Bologna process, it stresses the need for respect of appropriate time allowances for scientific research for law professors, which is aimed at maintaining and improving the quality of the same student-centred approach.

6. ELFA stresses the importance of general subjects, e. g. legal history, Roman law, legal theory and philosophy of law, as well as other non-legal subjects, e. g. economics, sociology, as valuable fields of legal education.

7. Finally, ELFA strongly believes that the creation of the European Higher Education Area should be implemented in the spirit of academic freedom and university autonomy.

b) ELFA Resolution on European system of assessment of scientific publications

The European Law Faculties Association (ELFA),

Convening at its Annual General Meeting in Ljubljana, Slovenia, on 25-27 February 2010, Noting that the recognition of scientific publications has relied for too long on assessment by non-European institutions

Adopts the following resolution

ELFA calls for the establishment of a European system of assessment of scientific publications. Such a system should take into account the variety of languages and academic practices, and be prepared in consultation with the academic community.

6. Conclusion

ELFA has proved to be an important institution in the field of legal education. It is not only a platform for open discussion and exchange of good practices concerning legal education but also a very important instrument to make the voice of European law faculties audible to a broader public. Yet, its weight vitally depends upon the number of members and their activity. Without active and committed members ELFA cannot fulfil its objectives. Let me thus exploit this opportunity to heartily encourage all those law faculties that have not yet become ELFA members to join the association as soon as possible. Let us hope ELFA will soon become the association of all European law faculties, meeting high quality standards, and an indispensable and recognised factor in the field of European legal education.