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Cooperation in Internationalizing Legal Education in Europe—Emerging New Players

Associate Dean Louis F. Del Duca*

There is today a ferment of creative activity in legal education in Europe. This in part is the result of three recent major developments. This commentary will discuss the Erasmus, European Law Faculties Association, and the 1999 Bologna/Sorbonne Declaration. These major developments will be discussed in the context of the overreaching interest which the European Community has in the Europeanization and internationalization of legal education in Europe.

The first major development is the creation of the ERASMUS program by the European Community. ERASMUS began modestly in 1987 with only some 150 institutions and approximately 3,000 university students involved in a semester or a year of study in a host school in another country.¹ By the academic year 1999-2000, there were 1,800 institutions providing more than 110,000 university students with a semester or full year of study abroad in a host country.² For the period 1987/88 to 1999/2000 approximately 750,000 university students have spent an ERASMUS period abroad in one of these 1,800 institutions.³ The program also currently includes initiatives to facilitate teacher mobility, curriculum development, intensive language courses and the

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1. The European Commission, *Socrates Programme-Higher Education (ERASMUS) Statistics*, available at <http://www.europa.eu.int/comm/education/erasmus/statisti/stat1.pdf> (last visited Sept. 12, 2001).

2. *Id.*

3. The European Commission, *Socrates Programme-Higher Education (ERASMUS): What is Socrates/Erasmus*, available at <http://www.europa.eu.int/comm/education/erasmus/what.html> (last visited Sept. 12, 2001).

European Credit Transfer System, which sets guidelines and standard form for rational allocation of credit for students from the host institution to the participating student's school of origin.

Currently designated Socrates/Erasmus, the program is also vast in its geographic application. The fifteen member states of the European Community plus fifteen other European countries participate. The latter fifteen countries consist of three countries from the European Economic Area (i.e., Iceland, Liechtenstein and Norway) and the twelve countries associated with the European Community (i.e., Bulgaria, Cypress, the Czech Republic, Hungary, Estonia, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, and Slovenia). This massive exchange program continues to have an increasingly important pervasive impact on European legal education. We in the United States have also frequently peripherally benefitted from having students from non-English speaking European countries enrolled in our LL.M. programs for students from abroad after they have spent a semester or year in England and significantly increased their capacity to work with legal materials in the English language. Socrates/Erasmus students generally study in a host country with a different language from the student's country of origin. Foreign language skills which were already comparatively much more developed in Europe than in the United States have been further significantly enhanced by the high volume of student and faculty mobility and also by the Socrates/Erasmus programs Intensive Language Preparation Courses.

A second item that I briefly note, is the formation of the European Law Faculties Association (hereafter ELFA). Franz Vanistendael, Dean of the University of Leuven School of Law and one of the founders and first president of ELFA, reports that the organization was formed in 1995 at a meeting in Leuven in Belgium attended by approximately eighty law schools from the European Union States, Malta, Norway and Switzerland.⁴ Incorporated in August, 1996 in Leuven, Belgium with offices at the Law Faculty of the University of Leuven, it serves as an international forum for consideration of matters regarding European legal education. There are now over 150 members of ELFA. The ELFA "international forum" for considering legal education issues

4. European Law Faculties Association, *Welcome*, at <http://www.jura.au.dk/elfa/Default.html> (last modified Nov. 11, 1997). Confederation of European Union Rectors' Conferences, *The Bologna Declaration: An Explanation*, at <http://www.crue.upm.es/eurec/bolognaexplanation.htm> (last visited Sept. 17, 2001).

contrasts sharply with the consideration of legal education issues by individual national organizations prior to the creation of ELFA. ELFA also acts as a representative of European law schools at the international level, particularly in contacts with the European Community, and also vis-a-vis other educational organizations like the Association of American Law Schools.

A third major development in cooperative internationalization of legal education in Europe is the 1999 Bologna/Sorbonne Declaration.⁵ This Declaration was produced at a meeting in Bologna hosted by the University of Bologna and the Sorbonne and attended by the chancellors of leading universities in Europe and the education ministers of the member states of the European Community and associated states. It contains a statement of principles and goals that European universities, *including their law schools*, should strive to achieve over a ten year period in order “to establish the European area of higher education and to promote the European system of higher education world-wide.” It seeks to accomplish this in part by achieving comparability in academic degrees, a uniform structure of the university curriculum, and a common system of transfers for course credits.

Comparability in academic degrees is sought by creating a higher degree of uniformity in the names of the degrees and development of a “diploma supplement” under the European Credit Transfer System which lists all courses taken and grades obtained. The diploma supplement facilitates rational assignment and transfer of credits and makes European degrees more understandable for employers and academic institutions. A model type diploma supplement will become part of the transcript of every student in Europe to provide readability and comparability in valuing degrees and course work.

Another major goal of the Bologna/Sorbonne Declaration is to standardize university studies into an initial three year undergraduate type of study followed by a two year graduate study program. The initial three year course of study would be useful in obtaining entry into the European labor market. The second two year graduate study program would result in a master or doctorate degree. In the case of legal education, the five year program would be a prerequisite for admission to the practice of law. The proposed new framework for university studies is being actively discussed throughout Europe. It is reported that the National

5. Frans J. Vanistendael, *Blitz Survey of the Challenges for Legal Education in Europe*, 18 DICK. J. INT'L L. 457, 460 (2000).

Association of Law Schools in Belgium has decided to adopt a three year initial program plus an additional two years with a masters degree. The Netherlands has opted for a three year plus one year sequence. The matter is actively being discussed in Germany, Italy and other countries. In addition, the European Law Faculty Association is actively involved as a forum in which these developments are being considered.

Implementation of the Bologna/Sorbonne Declaration in the field of legal education is producing some movement in the direction of international harmonization. The historical tradition of European legal education in modern times has been for each individual nation to have its own system and process of accreditation, usually through ministries of education. Harmonization and internationalization of these systems will inevitably involve interaction and conflict with national interests. However, success to date in areas such as development of the European Credit Transfer System (ECTS) which was initiated experimentally by 145 universities in EU member states and EFTA countries and which is now used by more than 1000 institutions,⁶ indicates that significant progress is possible.

Innovations by individuals, law schools, cooperative programs among law schools, and technology driven innovations such as distance learning⁷ and other reforms⁸ will, of course, influence the

6. The European Commission, *Socrates Programme-Higher Education (ERASMUS)*, at <http://www.europa.eu.int/comm/education/erasmus/activity.html> (last visited Jan. 2, 2002).

7. Leading European distance learning organizations use The European-Distance Education Network (EDEN) as a clearing house. See European-Distance Education Network, *A Network for the Open and Distance Learning Community in Europe*, at <http://www.eden.bme.hu> (last visited Jan. 2, 2002). The work of the Universitat Oberta de Catalunya (UOC), which has expanded from 344 students in 1995-96 to approximately 20,000 students in 2001, is of particular interest. See Universitat Oberta de Catalunya, *The Virtual University*, at <http://www.uoc.es/web/eng/index.html> (last visited Jan. 2, 2002). P. Fabra, Assistant Director of the UOC Law School, has provided the following information regarding the UOC Law School Program which is completely based on a distance learning curriculum.

The Law Program of the UOC began in September of 1996 with an enrollment of 100 students. By 2001 enrollment increased to 2,000 students. Thirty-seven percent of these students already have a university degree. Ninety-five percent are working full time. Sixty percent are men and forty percent women. The majority of the students are married with an average of one child per family. Two-thirds of the courses are required by the Spanish Ministry of Education for all Spanish law schools, including the UOC. The remainder of the curriculum is left to the discretion of individual universities. In this regard, the UOC Law School attempts to direct students to specialize in problems related to "transformation of law in the information society." For example, compulsory

courses of law on “New Technologies” and optional courses in “Artificial Intelligence in Law” are included in this part of the curriculum by the UOC Law School.

Tuition costs are essentially the same at the UOC as they are for other Spanish law schools. Students at the UOC pay a part of the cost of instructional materials prepared by the UOC for its courses.

A large portion of the student body is made up of persons in the 25-35 year old age bracket. Because students at the UOC Law School are working, the average duration of their enrollment to obtain their law degree is six years rather than the normal full-time study four year period. Students may choose between a “continuous assessment system” of evaluation or the usual final examination. In the “continuous assessment system,” students complete various computer tasks and exercises during the semester working on a continuous basis with the professor who administers and grades various exercises. At the end of the semester students come to The University to complete a short on-site control test regarding the work they have performed during the course. Students who choose the conventional “final exam” process, come to the University at the end of the semester to write their exam.

Apart from the examination procedure, students meet twice on site with the professor, at the beginning and a second time at the end of each semester (two weeks before exams). In the first on site meeting the professor explains the aims and objectives of the course; and discusses the course materials, syllabus and the pedagogical system, the number of papers or exercises required in the course if they choose the continuous assessment system, and other matters. In the second and last on-site meeting, professors review the work completed, comment on problems encountered during the semester, and give final instructions prior to the exams.

8. The *aequis communitaire* of the European Community is augmented by significant developments outside of the Community. See, e.g., W. Sorgdragen, *Towards a European Civil Code*, 5 EUR. REV. PRIV. L. 455 (1997), available at <http://www.wkap.nl/> (last visited Jan. 2, 2002) (the opening remarks of the Netherlands Minister of Justice, W. Sorgdragen, on the development of a European Civil Code). See also HARTKAMP, HESSELINK, HONDIUS, DU PERRON, & VRANKEN, *TOWARDS A EUROPEAN CIVIL CODE* (A.S. Hartkamp et al. eds., Kluwer 2d ed. 1998). The topic was further addressed at the *10th Biennial Conference of the International Academy of Commercial and Consumer Law* (2000); See Ulrich Drobnig, *Unified Private Law for the European Internal Market*, 106 DICK. L. REV. (2001) (forthcoming); see also Michael J. Bonell, *Do We Need a Global Commercial Code?*, 106 DICK. L. REV. (2001) (forthcoming). The European Community through the European Parliament also explicitly supported harmonization of European Civil Codes Resolution of May 6, 1994 on the *Harmonization of Certain Sectors of the Private Law of the Member States*, at http://www.ufsia.ac.be/~estorme/CECL_Resolution.html (last visited Jan. 2, 2002). A new colloquium is scheduled in Leuven on November 30, 2001.

Dr. Christian von Bar, professor of jurisprudence in Osnabrück, is currently co-ordinating the project of European Harmonization, which he has initiated together with Professor Dr. Ulrich Drobnig and Dr. Jürgen Basedow from the Max Planck Institute for Foreign and International Private Law in Hamburg. In the course of the next two years, the Deutsche Forschungsgemeinschaft will provide approximately 2.2 million marks (1.13 million euros) in support of this project. See Deutsche Forschungsgemeinschaft, *Foundations for a European Civil Code*, available at http://www.dfg.de/english/press/releases/Archive/presse_1999_02_eng.html (last visited Jan. 2, 2002). Research for a new common core of private law in Europe on which a European Civil Code can be built is also underway in the

internationalization of legal education in Europe. However, all of these reforms will occur within the framework of the expanded SOCRATES-ERASMUS program, the work of the recently created European Law Faculty Association, and efforts to implement the 1999 Bologna/Sorbonne Declaration.

The presence of the European Community in the 15 member states and associated countries and its pervasive interest in European education is a unique factor on the European scene. Leading commentators note that freedom of mobility of workers across national borders is one of the stated major goals of the European Community. They also note that the fragmented educational system that exists on a national level in Europe arguably impedes the free movement of workers. European Community initiatives and participation in efforts to harmonize the

Netherlands under the name of the Ius Commune Research School cooperatively operated by the law faculties of the universities of Leuven in Belgium, Maastricht and Utrecht in the Netherlands together with researchers for other Dutch law faculties. The Ius Commune Research School electronically publishes materials on various aspects of the new Ius Commune. These lectures are also subsequently available in a hard copy. Sjef Van Erp, *Ius Commune: A European Civil Code?*, available at <http://law.kub.nl/ejcl/44/editor44.html> (last visited Jan. 2, 2002).

The work of the Commission on development of *Principles of Contract Law* (The complete version of Part I and II—November 1998 prepared by The Commission on European Contract Law, appeared in October 1999 and was presented to the public at a conference in Utrecht in December 1999. (O. Lando and H. Beale, (eds.), (Kluwer Law International, The Hague, Netherlands, 1999). The complete version of Parts I, II and III was finalized in 2001 and will be published in 2002. Further parts will be developed by the Study group of a European Civil Code, starting from 2000 on. University of Antwerp, *Principles of European Contract Law*, available at <http://www.ufsia.ac.be/~estorme/PECL.html> (last visited September 19, 2001). See H. Beale, *Towards a law of contract for Europe: The work of the Commission of European Contract Law*, in NATIONAL AND EUROPEAN LAW ON THE THRESHOLD TO THE SINGLE MARKET (Frankfurt am Main, 1993); and *The "Europeanisation of Contract Law,"* in EXPLORING THE BOUNDARIES OF CONTRACT 23-47 (Dartmouth, 1996).

Also important is the work of UNIDROIT in many areas but particularly with its Principles of International Commercial Contract (Rome, 1994). M.J. BONELL, AN INTERNATIONAL RESTATEMENT OF CONTRACT LAW: THE UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS (2d ed 1997). See UNIDROIT Conventions and UNIDROIT Work Program for 1999-2001 Triennium.

We note also the work of UNCITRAL in many areas and particularly the Convention on International Sale of Goods (CISG). See UNCITRAL Adopted Texts and UNCITRAL Working Groups at <http://www.uncitral.org/english/travaux/travaux-index-e.htm> (last visited Jan. 2, 2002).

For additional current research on the common core of private law, see Lattei & M. Bussani, *The Common Core of European Private Law*, 3 COL. J. EUROPEAN L. 339 (1998); Kotz, *The Common Core of European Private Law: Third General Meeting, Trento 17-19 July 1997* in *Eur. Rev. Priv. Law* 549 (1987); see Bussani and Mattei, (eds.) *Making European Law. Essays on the Common Core Project* (2000).

national systems will therefore continue to play a significant role in internationalizing legal education in Europe.

