

The European Law School (Network)

STEFAN GRUNDMANN, JACQUELINE DUTHEIL DE LA ROCHÈRE & JOHN PHILLIPS

Abstract: The European Law School (Network) opened its doors at the end of the 2007/2008 academic year. For the first time, three universities have come together to create a comprehensive European legal education. The initial project will be to create a program of study, with both national and international components. This joint venture is not simply to create another Master's program but an understanding of Europe that emphasizes and promotes both unity and diversity. We develop this theme in sections 4 and 5 of this paper. At the same time the program endeavours to provide the essential features of a modern legal education (as set out in section 5), albeit, at the present time, for only a limited number of students.

1. European Law School: Berlin-London-Paris

The European Law School is a collaborative program greatly supported by three leading universities in three of the most important Member States. Whereas international programs have, so far, been offered only at postgraduate level, this integrated program begins this process at the undergraduate level, combining within Europe different national elements of study.

The European Law School (Network) is maintained and run by three universities: The first is the Faculty of Law at the University of Paris II (Panthéon-Assas); it, by far, is the largest of the three participating schools. With some 100 professors, the faculty covers the entire spectrum of law in all its facets. This applies to teaching, as well as research. Traditionally, the faculty is seen as an intellectual leader in the development of legal education, especially in respect of negotiations with the governmental bodies. The faculty is also home to the 'Association Henri Capitant des amis de la culture juridique française', a prominent legal professional association, with both a national and an international reputation. For further details, see www.u-paris2.fr. The second partner institution is King's College London. The School of Law enjoys a distinguished tradition and reputation, with over 60 professors. Committed to diversity in legal scholarship (with distinguished research in commercial and financial law, as well as criminology and legal theory), the School is also home to numerous research centers, such as the Centers for European Law, the Center for Medical Law and Ethics, and the International Center for Prison Studies. Master of Law students can specialize in a variety of legal areas, including commercial law, finance law, intellectual property law, competition law, European law, and tax law. Master degrees in criminology, medical law, and law and global ethics are also offered. For further details, reference may be made to www.kcl.ac.uk. The third partner institution is Humboldt University Berlin. In the first 130 years of its inception, Humboldt University housed leading law scholars of their day, such as Savigny, Goldschmidt, von Gierke, von Liszt, Rabel, Smend, and so forth, in

close proximity also to legal and political philosophers and historians, such as Hegel and Mommsen. This tradition was interrupted by two totalitarian regimes. After its reestablishment in the early 1990s of the twentieth century, its profile was shaped by scholarly analysis of the contemporary history of laws (namely transformation), the Europeanization and internationalization of law, and the links between jurisprudence and legal practice (for a more detailed description, see <www.rewi.hu-berlin.de>), as well as a distinct interdisciplinary orientation in virtually all areas.

The cooperation at the European Law School builds on many years of substantive and tested collaboration of Humboldt University with its two partners, King's College and Université Panthéon-Assas; each in a program of study leading to a combined degree.

The students of these institutions – typically of French, British, and German nationality – may now also study for the ‘Juriste Européen’ (‘European Lawyer’, ‘Europäischer Jurist’), commencing the program in their respective countries of origin. A three-year of primarily domestic-based education in the home country (which will of course already see elements of the foreign links and languages integrated) is combined with a two-year, more international and more specialized education; that is, one year at every partner country’s partner institution.

From the perspective of students who commence their studies at Humboldt-University (or transfer there after the second semester), the essential features of the program are as follows:

The curriculum ‘Juriste Européen’ (‘European Lawyer’, ‘Europäischer Jurist’) connects the traditional study of law, including the first state exam, with a stronger and a more international methodological education than is usually the case. Due to a high degree of integration and harmonization of the respective program components, the entire course does not lead to an increase in the amount of time needed for qualification. For German students, it is a form of the First State (Bar) Exam that is complemented with a French Master (formerly ‘Maîtrise’) and a UK-LL.M., which also serves as a ‘university-specializing period’ in their fourth year, which they need for the First Exam. Conversely, French students conclude their studies with a ‘license’ in Paris, an LL.M. in Berlin, which will then be recognized as Maîtrise I in Paris, and an LL.M. from London (as their Maîtrise II). For UK students, in turn, a similar procedure applies. The third year at King’s College and the award of the LL.B. is followed by a Master I from Paris and a LL.M. in Berlin.

Following this broad curriculum (and degrees awarded), German students study three years at Humboldt University (the French parallel three years at Université Panthéon-Assas, the British at King’s College). During this time, they will meet at Summer Academies. In addition, from fall 2008 and 2009 onwards, local students have met and will be meeting with the more advanced foreign students of the ‘European Lawyer’ program, as these will be attending law classes in the respective

partner countries, that is, partner institutions. Even in the first three years, students of the European Law School (Network) have access to various additional lectures and events at their home universities (confer below). Through these, German students will primarily be taught subject matters that are relevant for the First State (Bar) Exam. In that way, the course ‘European Lawyer’ accomplishes a coherent connection of the study in the home country with phases of legal learning abroad, in a way that does not treat international studies merely as a luxury. One of the years spent abroad will be recognized as Master I for the French students, and for German students, it will be credited to their First State (Bar) Exam.

For the specialization in year 4 and year 5, every student chooses one of four subjects: Civil Law, Commercial Law, Public Law, or Criminal Law. Thus, the ‘European Lawyer’ (‘Juriste Européen’, ‘Europäischer Jurist’) is educated and prepared for challenges at a European level at large (for large law firms, for institutions of the legislature or the civil service, for the higher courts, for business, for the array of non-government organizations or human rights organizations; and for the diplomatic service). The range of possible careers is wide and varied. As well as being a national and international focus throughout the program, students will have a choice of four specialist subject areas. The respective course content – of the specialist subject area – then form the substance of his/her study abroad, for Humboldt students this would mean in Paris and London, for French students in Berlin and London, and for the KCL students in Paris and Berlin.

The core of the education abroad is a two-master study program for each student. In addition, seminars are offered for all students, from year 1 through to year 5, which help them further develop their skills. At Humboldt University, to give an example, the topics relate to the following specialist areas:

- European and Comparative Law in all four areas of specialization.
- Legal drafting, in collaboration with the legal professions, business, and the public bodies.

An annual Summer Academy on the fundamental questions of legal theory is something all three universities will be offering jointly. Students of the European Law School (Network) may register for these at a time of their choosing: in any of their five years, during their professional training (such as during the training contract or pupillage), or even later. They serve to complete this ambitious program and are optional in the first three years. For foreign students of the ‘European Lawyer’ program; for instance, for the British and French students in Berlin, some of these modules form part of the (compulsory) Master course offered at Humboldt University.

In the initial phase, each university selects ten students per year. The total number of students enrolled in the program each year, thus, amounts to thirty and

that of the five-year curriculum amounts to (up to) 150 students. These numbers have been chosen for the initial phase, subject to increases later on. Students for the program are selected by the home universities from a pool of their current law students (or law students that, following a successful application, have transferred to this partner university). The home university has rigorous admission requirements, and these requirements are recognized unconditionally by all three universities. At Paris II, admission is also subject to language and academic conditions. After a first preselection of applicants enrolled at Paris II on the strength of their individual dossiers, final admission is made on the basis of an interview. For home students at Humboldt University, selections are made at the earliest throughout the vacation period between the first and the second year. In the first selection campaign, the ten students have been selected out of a pool of about sixty strong applicants. Students of other German universities who emerge successfully from this selection process gain their enrolment entitlement for Humboldt University, which they will then have to make use of. After all, they are only admitted on the basis of the agreement on the establishment of the European Law School (Network) between the universities Panthéon-Assas, King's College, and Humboldt University. Excellent command of one of the two foreign languages (with the appropriate certificates) is a precondition. Students that have yet to attain a sufficient level are encouraged to take language classes in years 2 and 3 at Humboldt. The decision about admission is made here on the basis of the 'Abitur' (A level) grade, an average of the marks achieved throughout the degree so far (usually the first year) and an interview.

This course requires a high degree of commitment and focus. In the first selection round at Humboldt, the number of applicants already significantly exceeded the amount of available places. For these reasons, a commitment to the course is necessary from the first year of the law degree.

2. Enlargement prospects, Alternatives, and the Bologna Process

The European Law School (Network) goes beyond the described program of a comprehensive education for lawyers. The idea of a European Law School encompasses to at least the same extent the prospects of international legal research. It may also be extended beyond the three founding institutions.

2.1 *Enlargement Prospects*

A school of law amalgamates within itself teaching and research, especially so if one feels compelled to the teachings of Wilhelm von Humboldt. If (international) research takes a back seat within the concept of the European Law School, this has two reasons. The internationalization of research is a long reality, albeit not in all law departments, but definitely so at Humboldt and its partner universities abroad. Although further developments will happen in this field, structural change was much more needed in the field of education. Teaching operations require a reliable

structure, with study and exam regulations, syllabi, an administrative framework for organizing the collaboration, but also for raising funds from sponsors. Such structures have already been in place throughout the internationalization of legal scholarship, although also, here, improvements could still be made. The fact that legal research at Humboldt University and also at its partner universities is already internationalized to a great degree was almost a prerequisite for the establishment of the European Law School (Network) in teaching. As a result, principal contacts from the European Constitutional Law Network (<www.ecln.net>) were utilized as well as from the Society of European Contract Law (<www.secola.org>), both administratively attached to Humboldt University. Both involve joint research projects in the core areas of the European Constitution and developments in European contract law (with a European Union (EU) code on contract law) that bring scholars from a number of universities together, predominantly those from the partner universities that make up the European Law School. For Humboldt University, especially, the point is that it has given itself, from the start, an institutional framework in conducting and promoting international research, with the Walter-Hallstein Institute for European Constitutional Law, the Institute for European Private and Commercial Law, and the Institute for International (and European) Criminal Law. Two of these three institutes can be credited with the fact that, since the reestablishment of the faculty in the mid-1990s, a structured (post)graduate development with an emphasis on the ‘Europeanization of law’ has taken place, that is, a broad, structured education and support of Ph.D. candidates in the field of ‘Europeanization of law’.

The *Forum Constitutionis Europae* (FCE) and the ‘Humboldt Reden zu Europa’ (Humboldt speeches on Europe) were setup following the famous keynote speech by (German) foreign secretary Fischer on 12 May 2000 under the scope of the FCE. Both these forums contributed substantially to drawing the research agenda of ‘Europeanization of Law’ into an intimate dialogue between politics and social reality. Similar developments have already taken place in Paris and London, so that a European Law School of research, from the very first scholarly opus to the larger projects by research organizations, existed for a long time but only now receives a unifying label. Under this framework, it will, in the future, incrementally develop common foundations for analyzing and teaching principles of European private and commercial law, European public law, and European criminal law in all three countries and, later, for the remainder of the EU.

The European Law School (Network), therefore, is set to work in very close cooperation in all aspects of the ‘universitas’ (research, graduate study, and also, most recently, undergraduate education) in the spirit of internationalism in Europe. It is a collaborative effort between the capitals’ leading universities in the very three Member States of EU, of whom most people expect a certain degree of scholarly leadership in European legal developments.

This tripartite program forms the first and, perhaps, the largest step that initially needs to be taken. In the first phase, the structures need to be put to the test and ‘matured’. Nevertheless, the establishment of the European Law School (Network) should not lead a ‘fortress for Western Europe’. The expansion of the network was planned from its inception, provided that the initial phase proved successful. Furthermore, distinguished law departments, primarily from the capital cities, should in the future be brought on board in order to underline Europe’s plurality within the European Law School. As yet, the program structures that would then be necessary have not finally been determined. Should, for example, ‘La Sapienza’ in Rome simply allow its students to pursue the same path as Panthéon-Assas, or the University of Vienna the same path as those from Humboldt University? And should students from Amsterdam be able to choose from two of the three partner universities, or ought the choice to be restricted? How ought the Summer Academies to function? Whether or not such a collaborative effort can be applied to all the levels mentioned remains to be seen. In many cases, at least the research dimension will be shared by many partner institutions. This, too, is a chance to deepen and entrench close collaboration in working relationships. This all suggests that it is indeed worth taking the first step.

It is characteristic for the European Law School (Network) that it is based on the cooperation of the three founding institutions mentioned above. However, it is far more than those institutions working together, and, as such, it is already an image of the founding idea, of unity and plurality in Europe (see section 4).

At all sites of the European Law School, the question will be asked, how - if successful - the various faculties and the European alliance will relate to each other. This question will also have to be raised in relation to buildings, if the doors are not to open only metaphorically speaking. At King’s College, parts of Somerset House, directly overlooking the River Thames, are being considered. At Humboldt University, the specialist classes of the European Law School shall, from 2010 onwards, be taught in the emperor’s rooms (‘Kaiserräume’) of the Old Palace (‘Altes Palais’). This means that a prominent place will be chosen but located geographically and structurally within the faculties. The physical parting from the faculty would indeed signify a weakening and needs to be avoided. Conversely, it is an old truism in the history of art that buildings have an influence on the image of the very institutions they house, but can in turn also - as may be the case for a European Law School - provide a new, valuable impetus.

2.2 Alternatives and the Bologna Process

With the establishment of the European Law School (Network) comes the hope that internationalism in legal education does not just commence at postgraduate level and gain significance typically only for a limited and short time. In fact, this is the case for many alternative offers currently available.

The Erasmus year – during the undergraduate degree – does not really form an altogether suitable alternative. Embedded in the undergraduate degree program, it typically ends without the award of a degree, despite the time involved. It is undoubtedly enriching, but it still is too ‘casual’ in its operation.

The proper alternative offers available are almost entirely Master courses, pursued subsequent to the national law degree courses. They are taught at one location only, and most of them are one year in duration. For German students, this means that they sit their First State (Bar) Exam in year 5 of their studies (and wait for their results, to then apply) to go abroad in year 6. This means that the traditional degree course, supplemented by a year abroad, will take six years to complete. This is exactly the same amount of time that the lengthier version of study at the European Law School estimates. The program at the European Law School, therefore, allows for a more international education in the same amount of time (or even less time), but also provides the following benefits:

- For the first time, the law degree will become genuinely international without (at least in most jurisdictions) an increase in duration.
- Students continue to be fully qualified in their national exam, for instance in German law-First State (Bar) Exam (‘Erstes Examen’).
- The international education will not be squashed within the narrow confines of a year.
- The newly established course may be of even shorter duration, provided the more rigorous version is selected, in comparison to the traditional degree.
- Networks of leading lawyers are established early on.
- Legal competencies beyond solving problem questions are developed (systematic comparison and evaluation of differing solutions, using law as a planning tool for the future, decision-making, and an understanding of business, economic, and other interdisciplinary concepts, as the case may be).

In merely one year of postgraduate study in a foreign country, it is difficult to put into effect the intrinsic educational notions, as they are envisaged for the European Law School. It cannot convey the unique experience of Europe’s unity and plurality; in fact, the valuable perspective that is gained by comparing different approaches to legal problems is likely to be absent (see section 4.). Furthermore, it is not possible to continue working, as has been the case in the past, over the course of several years, incrementally and repeatedly on the internationality of the respective international networks. Besides, the entire law degree cannot be guided by a single methodical concept that accompanies the legal education throughout the five years (see section 5.).

The Bologna process that reminds many of the establishment of the ‘European Lawyer’ program nurtures a number of considerations. Not all are entirely relevant to the ‘European Lawyer’ program.

As previously mentioned, the ‘Juriste Européen’ program is divided into a first phase of a three-year period and a two-year (‘postgraduate’) phase. Its external structure, therefore, compares well with the structure that the Bologna process generally aims to implement (or has implemented). Additionally, the division between the broad core foundations of legal education and an increased specialization aligns the program with the Bologna process. However, contrary to the assumptions of the Bologna process, two things are not envisaged: On the one hand, it is not intended that, as a second phase, some ‘Master-phase’ in any subject area may follow. In other words, ‘Bachelor’ phase and ‘Master’ phase correspond closely in terms of content. They also correspond as far as the degree award technicalities are concerned, as without the second phase, the professional qualifications will not be awarded. On the other hand and furthermore, it is not planned that only a certain percentage of graduates of the first phase are admitted to the second phase. Hence, after three years, no separation shall be made between those that have merely completed the core foundation degree (phase I) and those that continue through to the graduate phase. Of course, ultimately, this decision is already made in the admission process for the ‘European Lawyer’ course, quite deliberately so, in order to then provide an integrated and coherent legal education. The ‘Juriste Européen’ program is therefore in form and content far too harmonized to conform to the overarching concept of the Bologna process in its entirety. Its external structure, however, fits well with the process as a whole.

The fundamental reasons for the Bologna process are twofold. Both the different degree segments (from different disciplines) and different degree segments (in different countries) should be more compatible with each other. The first serves some degree programs better than others. For high-flying European lawyers, the first applies only in a limited way. They are certainly encouraged to develop interdisciplinary skills. Yet three years in the core foundational phase or two years at the graduate phase are simply too brief to acquire excellent legal skills. The subject matter is just too demanding to attempt to tie the development of these skills to the shackles of a Bachelor’s degree at the expense of the abovementioned qualities. The second – the chance to combine various degree segments across countries – forms the very essence of the basic idea of the ‘Juriste Européen’ program. Of course, the unconstrained liberty – the complete freedom of movement – in respect of the countries that can be chosen in the second phase is (as yet) lacking.

3. The Underlying Idea: Plurality and Unity in Europe

The three perspectives from which the modules of the individual areas of specialization (private law, public law, and so forth) are studied at the European Law School are as follows:

- uniform law as far as it exists for this area (unification or harmonization);
- grand solutions in the absence of such a unified law that can be found through a comparative approach;

- important interdisciplinary aspects of the subject matter chosen, for instance, in private law, namely the economic, philosophical, or sociological theory of this area of the law.

Beneath this rests the fundamental belief that, without these three components, European Law and its dynamic development cannot be understood. The uniform components are highly important, but not yet sufficient. What is also needed is a view of the main (differing) trends and some normative theory for evaluation. Thus, in its overall structure, the curriculum is about the right blend of unity and plurality that is crucial. No other alternative program currently provides for this important connection between EU Law and Comparative Law. It is this connection, however, that forms the centrepiece of a sensible international legal education in Europe. On the other hand, the interplay between national and unified law has a long tradition at all three universities for research in the field of EU Law. While multilevel governance may be seen differently among many scholars - for instance at Humboldt University - the issue as such is an issue of core interest for all European Law scholars here. Thus, the conflict between unity and plurality - between national and unified law - sits at the center of the debate. It is emphasized that this tense relationship ranks as one of the fundamental questions of Europe and the EU.

In all these questions, one point certainly becomes clear: a unified European Law is only one part of Europe and the qualification as a 'European Lawyer'. What is also required is the need to make comparisons in approaching legal problems, especially within the area of comparative law, and also a consideration of how various levels interact. This requires an ability to handle issues of enormous complexity.

Lawyers that reflect the plurality and unity of Europe and are able to shape it are those kinds of lawyers the European Law School seeks to teach. The school has a distinct research-led profile that continues to raise the very fundamental question of the process of Europeanization. As broad as the pool of methods is and the choice of perspectives are, the individual specialist categories will be examined under various aspects.

4. Pursuit: The Modern Legal Education

If 'European' is not only a synonym for moving unified European aspects further into awareness, but for an approach that is representative of a modern Europe, in plurality and unity; then this addresses the second central argument. The term European Law School (Network) does not explicitly make the point that it is designed to impart modern legal skills. Yet, this is exactly the case. Nowhere are legal developments as exciting as in the process of Europeanization. This - and not the respective national laws - is the real driving force of legal development.

If this is the case, the European training must also account for which skills are of vital significance for this environment. This does not mean that the traditional

strengths of national legal education ought to be forgotten. The integration into the domestic systems, such as the LL.B. in the United Kingdom, the License in France, and the First State (Bar) Exam in Germany, will prevent this. Ultimately, students of the European Law School (Network) who commence their studies, for instance, at Humboldt University are going to have to prove themselves in exactly this system – First State (Bar) Exam. The domestic legal education at national level, therefore, remains center stage. This is also true for French students, as well as for UK students, who are initially awarded a License and LL.B., respectively. The establishment of the European Law School aims essentially to address those issues that tend to receive insufficient consideration throughout the traditional law programs.

There are three central issues. The joint Summer Academies primarily aim to address the question of what the foundations of law in Europe are, what its effects on society are, what its intellectual origins are. This aims to counteract the danger of a mere technical understanding of law. Participants are to develop into self-aware and ‘complete’ lawyers. The second component is addressed by the methodological approach (as outlined above): it aims to link EU Law with Comparative Law and use this analysis to compare different approaches to the solution of legal problems and shape solutions accordingly; something that will inevitably embrace policy and interdisciplinary influences. This will promote an understanding of law as a tool of power and influence and also lead to collaboration with the legal profession. With regard to this third point, great emphasis is placed on reflective training, that is, the application of methods that will also be relevant at a later stage, in professional practice, especially contract drafting and design, and perhaps also problem solving strategies.

This ambitious project that has finally entered its implementation phase already appears coherent in its theoretical model. Nevertheless, it faces limitations on two fronts, and the participants need to be aware of these.

This project is so conceptually rich that it cannot be generally applied to the qualification process of lawyers on a comprehensive basis, even if sufficient funds were available. It would be too challenging. The idea is that, at times, when the proportion of young people attending the university is approaching 25% or 30%, special high-level courses are indispensable. Some countries, especially Anglo-American ones, but not France and Germany, offer these at their elite universities. If Europe wants to remain competitive, it must offer an education in smaller groups that demand much from those involved and implement this within the broader degree programs that are available. It is by no means necessary that all lawyers become familiar with the full breath of techniques mentioned above. This kind of education is first and foremost necessary only for a number of high-level executive positions. That said, the idea of a European Law School – less intense and broader in scope – may (and should) be altogether inspiring and ought not to be called into question.

At the end of a contribution describing a new type of European legal education that is strongly inspired by an ideal, perhaps a very simple sentence might

be helpful: it will continue to depend on sufficient funds and even more successful fundraising, whether or not a sound concept - as described in this article - results in a 'merely' good course of study - something that is now secured - or whether it becomes absolutely outstanding and a real 'school'. In comparison to the typical courses, already the curriculum, as it stands now, definitely offers a considerable step forward.

5. Outlook

In autumn of 2008, the European Law School (Network) commenced its exchange phase (fourth and fifth year). Conceptually, the program already represents a significant leap beyond the traditional legal education. Yet, simultaneously, the initiators hope that the idea of a European Law School (Network) can be developed further, in various dimensions, which will make further commitments indispensable.

