

## **“Common standards for continuing legal learning in Europe?”**

First of all, as a Member of the Board and on behalf of the European Law Faculties Association, I would like to greet all participants of the conference. This organisation – ELFA – brings together more than 160 European law faculties from 40 countries, from Armenia to the UK. The main objective of ELFA, founded 12 years ago in Leuven, is to actively participate in the process of reforming legal education in Europe. ELFA publishes EJLE (European Journal of Legal Education), edited by Mr Julian Lonbay, who is present here with us. In 2001 ELFA formed a QUAACAS Committee (Quality Accreditation and Assessment Committee) for the purpose of conducting research to develop accreditation standards and determine minimum curriculum requirements at European law faculties. Currently QUAACAS is working on research related to the Tuning Project.

The issues under discussion today also to a great extent fall within the scope of ELFA’s interests. The upcoming ELFA conference, which will take place in Hamburg from February 28 till March 1, 2008 – at the time of the Annual General Meeting – will address the problem of ongoing lifelong professional training. Although up till now focused mainly on problems related to the teaching of law at law faculties, ELFA regards post-university permanent learning as a very important issue. ELFA reckons law faculties can play an active part in this process.

The introduction of a permanent learning system of a pan-European nature, and one that works well, requires answers to several crucial initial questions. The first question to be answered is whether such a system is needed at all. Secondly, who should fall within the scope of such system. Thirdly, what institutions should be responsible for its creation and coordination. Fourthly, whether it is necessary to develop a strict pan-European system, or whether the creation of something that might be called “a minimum standard” would be sufficient. And last but not least, what detailed specific solution should be adopted.

To answer the first question, it seems evident that such a system is needed. The number of legal regulations in each European state is increasing. Also the number of European regulations is growing, which results in frequent amendments to the law in force. As shown by a recent survey in Poland, 1321 Acts of law were published between 1998 and 2004, containing a total of 5,213,900 words. Should we add the Regulations to that count, the total contents of this law exceeds 10 million words. In 2004 alone there were 286 Official Journals published, containing 2,889 legal acts. By comparison, 20 years ago in 1986 there were only 61 Journals with 324 legal acts. Acts of law are also frequently amended. For example the “Act on Personal Income Tax” has been amended 41 times ( it was a year it was ammended 15 times ). Thus we are facing a dynamic development of legal regulation and continuously changing law. On top of that the changes are not limited to what we refer to as “lex”, but also to the domain of ”ius” – as we could witness in Poland after 1989. A lawyer working in the legal services market has no choice but to keep learning on an ongoing basis. If we want to assure sufficient quality of legal service, it is necessary to institutionalise this process.

Answering the second question – who should fall within the scope of this system – it must be concluded that the system we are considering does not need to cover all those who have

completed their legal studies. The ones we are interested in are those who are operating in the legal services market, namely barristers/advocates, solicitors/legal advisers, notaries, excluding however judges, public prosecutors and lawyers employed by state institutions. The training tasks, as far as judges and prosecutors are concerned, should be and are carried out by National Training Centres, already existing in many countries, with the support of EJTN (European Judicial Training Network). In Poland this institution is the National Training Center for Officials of common courts of law and public prosecutors office, created by the Ministry of Justice in June 2005 and operating from September 2006. Lawyers working in state institutions should be trained by the means of courses organised by these institutions.

In my opinion the system should anyhow cover in Poland also another category of people. These are people providing so-called legal consulting services. As a result of recent legislation the legal services market in Poland has been opened up very widely and now practically every (natural) person may register a business of "legal consulting". Interestingly, the registration body does not verify whether these people have any legal education or training at all. To include the latter group in the process of ongoing professional training would require specific legislation, since such persons are not members of bar or legal advisors societies.

The answer to the question what institutions should develop this system is obvious. At national level such systems should be created by professional corporations with the support of law faculties, and with – as seems inevitable in Poland and maybe in other countries – the Ministry of Justice. At the European level it should be coordinated by CCBE (Council of Bars and Law Societies in Europe/Conseil de barreaux europeens), whose task should be to develop basic principles of the system.

It is crucial to find the answer to the next question regarding the nature of the system to be created. In my view such a system cannot be strict and should be developed by national professional corporations, although taking into account something that what could be considered as "standard minimum requirements". CCBE's role is in creating such standards should be fundamental. A system meeting such "standard minimum requirements" would make it possible to accept the qualifications of a lawyer who for one reason or another changed his place of business and moved to another European state.

And finally the answer to the last, perhaps most difficult of all these questions: what should be the principles of this system. First, it is necessary to determine some time framework and decide whether for example a lawyer with 20 years working experience should still be obliged to take part in the system. Secondly, to decide after what period of time a person should apply for a certificate of professionalism. It seems that 5 years would be a good solution. Thirdly, and this is maybe the most complex and important, the specific principles of the system must be determined. My view is that the system should not in any event require the participants to pass any exams. It seems that introducing the system of credit points could be a good solution, (based to some extent on the permanent learning systems for the medical profession in some countries, or following the example of the ECTS system used at most law faculties in Europe). Such a system should require a participating lawyer to collect for example 500 credits within 5 years – for taking part in post-graduate courses, training sessions, conferences organised at the national or international level (requiring the submission of a certificate of attendance at the conference), completing national or international traineeships, pursuing academic interests (research) and publications in legal periodicals recognised by the national corporation, etc. The number of credits awarded for each form of professional activity is for further discussion. It also seems essential that the permanent learning curricula

should include some elements of European law . To create such general framework should be a task for CCBE, which should first research the permanent learning systems already in place in Europe. This is indispensable when aiming at developing this – as I call it - “minimum standard”.

In the end it has also to be said that the introduction of such a system involves a lot of problems of a financial and technical nature. At the national level it would be necessary to create special units dealing with these issues, and such units would have to be equipped with appropriate databases and the right to issue professional certificates. It seems inevitable to introduce fees for the certificates issued, although the system could be financially supported by revenues from conference fees or by granting permits or licences to organisations , which want to carry out training events.

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