

REFERENCE POINTS FOR THE DESIGN AND DELIVERY OF DEGREE PROGRAMMES IN LAW

1) Definition of the subject area

Law is the study of the formal ways to shape individual and collective behaviour of people by structuring and organizing society in order to prevent and manage conflicts arising by human interactions.

A definition of the subject area has two distinct functions: to describe the main character of the area and to provide a way of discriminating it from other contiguous fields. In trying to achieve both these goals we focused on the object of legal studies, and we also tried to avoid any reference to a specific legal tradition.

European legal traditions has been divided into at least three major groups: a civil law tradition with a French flavour, rooted in the legal culture that led to the adoption of the Napoleonic Civil Code; a German flavoured civil law tradition, more connected with the Latin tradition; and the common law tradition. These groups of legal traditions, while sharing many similar characters, still show many differences in the way legal rules are created and enforced.

Also the role of legal scholarship, its ends and objectives, are different within these traditions. And those differences have an impact on the way legal education is shaped: a more practical approach can indeed be found within the common law tradition, in which legal education has been traditionally provided by the Inns of Court, whereas a more theoretical approach can be found within the civil law traditions where legal education has been provided by academic institutions.

In proposing a definition which must encompass all those legal traditions we had to use abstraction in order to avoid any notion which could be rooted within a specific tradition and thus have a specific meaning not shared by all European legal systems. And so, instead of focusing on the object of legal education (legal rules), we focused on the ends legal rules are aimed to: shaping individual and collective behaviour in a formal, structured way, in order to prevent and manage conflicts arising from human interactions.

Obviously there are many contiguous subject areas, which are not directly connected with the study of legal rules, but are deemed necessary in a legal curriculum – spanning from history to philosophy, from economics to computer science. Some of those areas even have a legal declination (history of law, philosophy of law, law and economics, etc.), and that has been taken into account in defining the list of competences to be attained by a law student.

Moreover, like every cultural phenomenon, legal systems do have a historical dimension which must be always taken into account, and so “formal ways of

shaping the individual and collective behaviour” refers to both present and past systems of legal rules.

The same can be said about the need of a comparative approach in legal analysis, which is increasingly perceived as a necessity for lawyers in a global productive environment.

Finally, it must be noted that our definition is strictly positive and does not take into account the fact that the legal studies may be aimed at criticizing the present legislation and at providing alternative legal solutions. This can either be a side effect or a specific goal of legal analysis that we consider inside the definition of our subject matter as a relevant part of the analysis of the legal system itself.

Legal studies have many affinities with other subject matters in the social sciences. The stress to the formality of the way of shaping individual and collective behaviour through social structures, organizations, institutions, rules and procedures, should clarify the distinction between legal studies and other social sciences like sociology or economics.

2) Description of the academic and professional field and the educational programmes offered in the subject area.

a) Academic/Professional fields

The study of law has been traditionally divided into in-depth examination of various aspects of the two main domain of law: *Public Law* and *Private Law*. The former includes above all *Constitutional Law*, *Administrative Law* (with a very long list of special matters as *Tax Law*, *Social Security*, *Environmental law*, *Aliens law...*), various subjects devoted to *Criminal law* and *Penal Policy*. The later, dealing with the relations of equal individuals within the society, concerns chiefly civil law or common law in the English legal circumscription in its various aspects, commercial law, family and marriage law, contracts, torts, labour law,. An important part of the curricula is devoted to research and training of procedural rules in civil, administrative and penal law. It has always been the European tradition to teach also law in context, through various - as we could call them *Hyphenated law disciplines*- Philosophy of Law, Sociology of Law, History of Law as well as the Legal foundations of the modern societies those with very different level of attention depending on the profile of the curriculum, legal system and university. The reference to Transnational Law has nowadays an increasing relevance because of the interrelation of the citizens and societies. Both in the public and private aspects it would be difficult to think of a legal training in our days without paying enough attention to protection of Human Rights, Law of International Trade or Private International Law.

On the professional level selected legal disciplines are studied in depth – especially in the classical areas of public and private law both in the

national and transnational aspects. The professional development is often aided by in-depth studies on Master and/or Doctoral Level. Many universities offer specialized masters in law that aim at enhancing the professional skills and the market position of the students. Some centres have developed other forms of continuous education (lifelong learning) such as workshops, seminars or postgraduate studies which however do not necessarily offer any particular degree.

b) Educational programmes offered.

Generally speaking the chief education programme offered throughout Europe in the subject are *studies in law* as such. The countries and sometimes universities on national level differ in the degree of specificity of the programme offered, in number and type of compulsory courses as well as the in the flexibility of the curricula. Yet the core of the curriculum remains similar (see above, under section 2a).

Some of the universities/countries offer more specific interdisciplinary programmes based on law, such as criminal law and or criminology; business law and law and business administration; various degrees in public administration; law and languages.... In some countries a degree in canon law is offered as well.

3) Overview of typical degrees offered.

One of the most important external differences between various models of legal education in Europe is the definition of the basic level of studies in one or two cycles. Most of the member states, following Bologna indication have divided their once single cycle studies into two levels: bachelor and master. There are few exceptions to this, Scandinavian Countries, Poland, Germany and recently Italy. Even in those countries, one still can observe in their organisation of studies a kind of internal division: the first years of studies are devoted to the general subjects whereas the final ones, leading to the equivalent of a master degree, are more specialised and flexible.

With the notable exception of the UK the lower law degree does not by principle grant access to the traditional legal professions. This means that in most of the countries that follow the 3-cycle model of legal education the students need to complete both the 1st and the 2nd cycle in order to be able to practice law in the traditional sense. It has been a general understanding that the lower law degree does not find many practical implications around Europe (even in professions as lower clerks or law secretaries). It has to be stressed as well that simple obtaining of the master degree in law (or bachelor in case of the UK) does not automatically grant access to the law profession (the only exception to this, Spain, has just changed its rules). A graduate in law in order to continue with his or her legal profession has normally to pass an exam admitting him or her into the legal professional training and then upon completion of the training, another exam opening the doors to the legal professions. Countries vary in organisation of these legal trainings –they

last from 2 to 4 years and are either specialised in one legal profession, and therefore mostly organised by the association of legal professionals (e.g. the bar inn or chamber of solicitors) or more general and thus run by the state.

It is therefore important to remember – while describing the Learning Outcomes at level 8 that in law there is a parallel division between scientific cycle – doctoral studies and the vocational one – the professional training for the specific legal profession. These two may also be combined in various ways. A number of young academics, especially in the more practice-orientated areas of private law undergo legal vocational training.

One has to note as well that in some cases one could observe a division between the academic/scientific doctorate and the professional one. In some legal traditions (Germany, Austria, but recently Poland as well) doctoral title just the threshold opening in academic career, it is rather a distinction in the professional career. We would also like to put forward the example of Poland where by the force of the recent law doctors in law with some professional experience are granted access to regulated legal professions without further exams. This is probably the only example of the practical implementation of Bologna 3rd cycle studies at the labour market in the law area.

4) Overview of typical occupations related to the subject area phrased in more general terms

The answer both simplest and closest to reality would be: having studied law one can do anything, especially on the modern labour market. Students of law have been and are managers, agents of various kinds, Noble-prize winning poets and screenwriters, but also shop-assistants, clerks, secretaries etc. However the traditional - and state-regulated legal professions are the following:

- Judges
- Litigation/Practical lawyers: Barristers, Solicitors
- State Attorneys
- Notaries.

5) List and definition of the desired / intended / expected Learning Outcomes statements, phrased in terms of subject specific and generic competences to be developed, covering levels 6 to 8

General Competences

		Ba	Ma	PhD
	Problem solving with the ability to analyze and synthesis.	basic	Advanced	in-depth
1	Ability to apply knowledge in practice.	basic	advanced, outside academic context	
2	Ability to understand the ethical consequences of a decision.	x	x	x
3	Ability to communicate orally and in writing in one own's native language with both experts and non experts.	x	x	x
4	Ability to use informationtechnology	x	x	x
5	Ability to learn and to reflect on one own's learning and seek and make use of feed-back	x	x	x
6	Ability to commit oneself to a task.	x	x	x
7				

8	Ability to contribute to and to participate at teamwork.	x	x	x
9	Ability to cooperate in an international environment	basic	advanced	advanced
10	Ability to conduct academic and professional research efficiently	guided	independently/basic	independently/advanced

Specific competences

		LLB	LLM	Phd
1	Knowledge and understanding of principal features and key concepts and principles of the legal system including European and International dimension (including institutions and procedures)	X	x	x
2	Knowledge and understanding of legal principles and values in a wide range of topics extending beyond the core curriculum		basic	advanced
3	Ability to take a sound and motivated legal decision.	x	x	x
4	In-depth knowledge of specialist legal areas		X basic	advanced
5	Being at the forefront of the filed of research and advancing the knowledge of the field of research			X

	Ability to identify and apply the legal sources using a legal method	Basic	Advanced	
6	Understanding of political, social, economic, historical, personal and psychological phenomena (among others) taking them into consideration in the creation, interpretation and application of Law	Basic	advanced	in-depth
7	Critical awareness of the historical and philosophical foundation of a legal methodology and challenge its use.			X
8	Ability to read a range of complex material and to summarise their arguments accurately	Basic	Advanced	in-depth
9	Ability to identify and foresee contemporary debates and engage with these while accurately reporting the applicable law	X	participating	Engaging in international debates
11	Ability to identify and work with principal aspects of supranational and foreign legal systems	Basic	Advanced	in-depth
12	Ability to use a foreign legal language	X	X advanced	X advanced
13	Ability to identify relevant legal (including procedural) issues from a large body of unstructured facts and whether factual circumstances are sufficiently elucidated for a legal decision	X-simple	Advanced	
14				

16	Ability to individuate different legal solutions, to weigh their argumentative strength and to analyse outcomes of a legal problem and to outline alternative solutions		basic	advanced
18	Ability to apply scientific research methods (legal and other research methods)		Basic	Advanced
19	Ability to express oneself in a fluent technical language using precise, clear legal terms.	Basic	Advanced	in-depth
20	Ability to work in cross-disciplinary teams as the legal expert of the team and contribute effectively to its task		X	X
21	Ability to identify new relevant ethical issues		basic	advanced

5) Preliminary conclusions

This study is the result of a reflexion made by a group of academics in the field of law coming from different European Countries. In the definition and design of the competences and skills for the field of law several surveys have been conducted in the main European countries trying to achieve the goal of including the main sensitivities towards law: common law and civil tradition systems; professional and academic focussed curricula; countries based in and outside the Bologna process; 3+2, 4+1 and 5 years systems; northern and southern European countries and even members and not members of the European Union. This work and mainly the reflexion on it have permitted the members of this group developing a general approach to the field and reach some conclusions that imply a common basis for the framework inside Europe. This work has made it possible to design a list of skills that are considered of main interest for any student of law no matter the legal system or profile of the CV. The group intends to use this initial work in order to continue the analysis of the skills and establish a deeper research covering the teaching methods that could be used in order to develop the skills in the different levels and the evaluation tools for the assessment of the students, the skills and the Programs.

Now we show the main conclusions reached by the team:

- Despite the relevant differences among the legal systems inside the Europe and the European Union, the analysis of the different curriculum and the professional profiles of the students shows that the focus is made all over Europe on a very similar list of skills.
- Legal studies are the way to enter in very different professions both legal and paralegal. This means that level 6 programs must develop skills that open the doors to many different professions. Focus must be made in basic knowledge and application together with general skills.
- Level 7 contains very different LL.Ms with different focus of knowledge but comparable level of development of generic and specific skills. Level 8 focuses on research and despite the different types of Phd existing in Europe, develop similar skills and in totally comparable levels.
- The legal specification of the general competences is fundamental for the creation of successful legal curricula and special mention must be made to the methodology of development of those. Assessment of the level of achievement of the students is key for the students and Programs.
- The specific legal skills imply and contain knowledge in the different levels; knowledge achieved, they require a second level of application and a third of critical analysis of the knowledge. There is no skill without technical knowledge but skills imply a higher deeper and more complex level of achievement in all the levels of training of law.
- The relevance of the skills based on knowledge can not be questioned in all the levels of training law. The focus is different though in the approach to

knowledge in the different cycles being some of the skills of level 8 related to the creation of knowledge.

- The training is focused on the different levels of development of skills considering that the highest academic level is Phd. In the legal field the training does not finish at the Phd Level. Any professional continues legal education until the end of his professional life and the achievement of skills continues increasing. Some professionals reach the highest level of development of skills without reaching the Phd Level.

- The application of knowledge and critical approach to thinking must be developed in all the different levels of legal training with special focus on the highest levels. It is especially relevant to focus on methodology and assessment techniques for developing of those skills taking into account the complexity of the task and the implications it has for the training process and achieving of goals of the students and the process itself.

- The existence of systems of education based on skills promotes the mobility of students because it improves in a very significant level the transparency of the curricula both for students and stakeholders in a traditionally closed market that.

- The internationalization of economies and markets has underlined the relevance of legal professionals trained with skills that make them capable to answer to the new needs of the society. Mobility is essential to achieve this goal and this structure of legal studies can help to make this possibility real for an increasing number of students.