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European Dimension of Legal Education.

A comparative study of the Romanian Law Curricula and EU Law Syllabus

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Abstract: Our purpose is to provide a detailed view on the European legal education system in Romania. There are few papers on EU legal education policy in Romania. We try to fill this gap in some extent, as a part of a larger research we conducted in the past 3 years. Our sources of evidence were: the Romanian legislation; a representative number of law curricula and EU law syllabus and a research survey of Romanian students, EU law professors and legal practitioners. We found out that the “traditional” Law specialization is more desired by the potential students than the European Law specialization. Nevertheless, Romanian law schools have enough discretion to introduce more EU law disciplines. By targeting the weak parts of the EU legal education system, our study may reveal its benefits to law professors, legal researchers, responsible factors within the Romanian law departments and even to the Romanian legislator. This paper provides a short explanation of the ascension and development of EU legal studies in Romania, an overview of the key issues in the law curricula and the EU law syllabus and recommendations on the reforming the EU legal education in Romania.

Keywords: EU legal studies; legal education policy; curricular choices

1. Introduction

On January 1st 2007, Romania joined the European Union, along with Bulgaria. It was the latest expansion of the EU, considered by the European Commission as part of the same wave (the fifth) i.e. enlargement of the European Union in 2004.

The Romanian Constitution (§ 32 (6) – “Right to education”) warrants the autonomy of any university. Nevertheless, EU legal education – like any other form of public education – is, to some extent, under state’s control and command. The academic autonomy and discretion is not unconditional; universities have to follow the national policy of public education. Likewise, the academic teaching staff is following state decision and has to comply with state regulations. On the other hand, the teachers are subordinated to the universities in a lower extent being just their employees; regarding the way of teaching, they enjoy almost full discretion.

Although Romanian higher education institutions are independent, autonomous entities, the Romanian state imposes the minimum standards to provide a certain quality of academic studies.

First of all, the general frame of the educational system is set by the Romanian Constitution and the organic law on education, No 1 / 2011. Nevertheless, the kind of normative information needed for this study is to be found not in such general laws, but in lower-ranking provisions like governmental and ministerial acts, emphasizing and interpreting the normative acts (Tomulețiu et al. 2010).

Moreover, in view of the academic education, in 2005 was established The Romanian Agency for Quality Assurance in Higher Education (RAQAHE), an autonomous public institution of national

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interest, mainly focusing on the external assessment of the Romanian higher education's quality, at both levels of study programs and institutional point of view.

However, the political commitment of a Government is not enough for the full integration of any country. A stable and socially accepted EU policy has to be consented and sustained by each and all key factors of national jurisdictions, including law professors and law students.

In other words, legal education is essential to achieve the goal of a fully unified Europe. The role of academic studies is not just an informative one, but also a formative one. This paper aims to present a part of a wider three years research effort, which considers the EU Integration through legal education (Gorea *et al.*, 2010)

2. Purpose of Study and Methodology of Research

The objectives of our present study are: (1) to offer a short but accurate review of the ascension and development of EU legal studies in Romania, since 2006 to present days; (2) to track the key issues in the EU law curricular chosen by the Romanian main Academic Law Schools and the syllabus defined by EU law professors; (3) to draw some conclusions and provide some recommendations on the reforming the EU legal education in Romania.

In order to reach these goals we used three main sources of evidence: (a) the Romanian instructional legislation; (b) a representative number of law curricula and EU law syllabus; (c) a research survey of Romanian students, EU law professors and legal practitioners.

(a) In order to clear up the legislative and institutional background of EU legal studies in Romania, we analyzed several relevant laws starting from the Romanian Constitution and the Law on education to governmental regulations on legal specializations and law curriculum.

(b) We also conducted a comparison study of law curricula defined by six main Romanian Universities and extracted the most frequent issues from the EU Law syllabus of those law faculties. To be more precise, we studied six Law departments functioning within the following six Romanian Universities: "Dimitrie Cantemir" University of Târgu-Mureş, University of Bucharest, University of Craiova, "Al. I. Cuza" University of Iaşi, West University of Timișoara and "Lucian Blaga" University of Sibiu.

In this comparison study, we used public information, published on the official websites of each relevant institution or provided by assigned academics. We considered only "Law" specialty and full-time mode of study, and excluded disciplines not inherent to EU law branch (International public law, International relationships and organizations, European Human Rights Convention, EHRC Case Law etc.).

(c) In order to find out how the phenomenon of EU legal education is seen by the Romanian law students, EU law professors and legal practitioners, we also conducted a research survey. This sociological method of investigation consists in asking subjects to reply to several statements or questions from a questionnaire or interview.

Our methodology of work is following the rules of a social research. After defining the population subject of our research such as students, legal practitioners and EU law teachers, we got the consent of 216 willingly subjects forming our sampling group: 115 law students, 85 lawyers and 16 EU law teachers from all over the country and ask them to answer some questions, in a face to face or self-administrated survey. All the subjects were over 19 years old, 49 % males and 51 % females.

We prepared three different sets of questions for the three selected subjects. For students, we choose 5 questions, asking them to evaluate the significance of EU law and CJEU case-law for their future legal career and to describe how they use now or intend to use EU documentation sources. For legal practitioners (judges, prosecutors, lawyers and legal advisers) we choose a set of 6 open questions, intended to reveal their main areas of practical interest in EU law, the non-academic context in which

they studied EU law and their documentation sources in EU law matters. Finally, for EU law teachers we prepared interview guidelines, as an interview has the advantage of a more refined and toned survey technique and allows the respondents to give deep and free answers. We asked EU law teachers to identify the most important topics of courses and applications (including their arguments of such choices), to explain how they encourage the students to focus more on EU legal studies, what documentation sources they recommend to their students and what documentation sources they use etc. In order to conclude our researching survey, we also interviewed openly 5 of the most prestigious legal scholars and EU law specialists from Romania.

3 Findings and Results

3.1 The Structure of Legal Education System in Romania

Once we have outlined the legislative and institutional background of academic studies in Romania, we can take a closer look on how the Romanian legal education system is structured and what are the meaningful consequences to be drawn up for our study.

In 2006, the Romanian Government adopted a provision (no. 1175) defining a new structure of the bachelor's level, concordant with the principles of the Bologna process. Later on, this provision was subsequently improved by several normative acts as the Government's Decision no. 749/2009 or Government's Decision no. 631/2010, both referring on universities study domains and specialization.

Currently, the Romanian legal education at bachelor's level has three specializations: "Law", "Community Law" and "Public Order and Safety" (last one only as of 2009).

Although the Treaty of Lisbon gives to the EU a legal personality (Article 48) and the European Communities are no longer public law subjects (Article 1 par. 3), the Romanian legislator has not yet adjusted the way of speaking and continues to talk about a "community law" instead of the "EU law", at least in the regulations concerning legal education.

Talking about Community law it's not the real problem (as before 2007 we couldn't refer otherwise to the European law), but now, it is in our opinion the time for the Government to assume first of all the current terminology encouraging in this way other factors to update their language.

Disregarding these terminological issues, a Romanian Faculty of Law can provide three kinds of legal learning paths, all of them considered by law as general studies: "classical" Law, EU law and, recently, Public Order and Safety. Of course, it is not *compulsory* for any Faculty of Law to offer all these three specializations. We wanted to know how the Romanian Legal Departments are using this opportunity so we analyzed the list of approved legal specializations. We found out that most of the Legal Departments are choosing the "Law" specialization, only.

3.2 Community Law Specialization at Bachelor Degree Level

There are, according to the Nomenclature of accredited specializations or temporarily authorized to operate at the first stage of university-level studies, only two universities in Romania having as specialization the Community Law: "Babes Bolyai" University in Cluj Napoca and „Nicolae Titulescu" University in Bucharest.

For the first one, this specialization is no longer part of the educational provision for 2010-2011 or for 2011-2012. In fact, this specialization is no longer found also in the above cited Government Decision no. 749/2009 subsequently modified by the Government Decision no. 631/2010.

For the second one, the University "Nicolae Titulescu" of Bucharest, the only one in Romania still offering the specialization of Community Law within the Faculty of Law, in the academic year 2010 – 2011, only 23 students joined the specialty of Community Law compared to 678 enrolled at the specialty Law, i.e. less than 3.4%. In the academic year 2011-2012, the situation is even worse, as no

more than 13 persons are enlisted as European and International Law (the specialization's name have changed since the previous year) students. In comparison, the Law specialization offered by the same Faculty of Law attracted a total of 600 students (450 on attendance type of courses and 150 on non-attendance type of courses).

Nationwide, this percentage drops dramatically because this is the only operational specialty of such kind. However, it is to emphasize that several universities in Romania have as specialty the „Community law” at the level of master degree, which means that prospective students consider studying the European Law not as a general legal training, but as a professional specialization.

3.3. EU Law Courses Required by Specific Standards

As aforementioned, even if universities enjoy academic autonomy, the state imposes a set of requirements designed to ensure the quality of higher education. Such requirements are related, as well, to the content of legal education (see: Baias, F. A., Dănişor D. C., Vasilescu, P., 2007).

Based on the Government decision no. 1175 / 2006, the Romanian Agency for Quality Assurance in Higher Education (RAQAHE) above stated, adopted a provision for Law specialization and Community Law specialization: «Specific standards in legal education». This regulation imposes to a student of «classical» Law to follow the courses of the European Community and Competition Law. Nevertheless, the courses of the European Competition Law we found in none of the examined curricula.

Since we talk about accredited faculties (by a procedure involving the control exercised by RAQAHE itself), we can deduce that it is an implicit amendment of the Standards, which are in fact quite old and aren't updated. Since (based on the above mentioned) we do not have the specialty of Community Law at the Bachelor degree level, we can't analyze this situation and will proceed to analyze the EU studies within the Law specialty.

We'll emphasize only that a hypothetical Community Law student shall follow twelve more specific courses: General Theory of European Community Law, Institutional Community Law, European Relations and Organizations, The European Development History, Community Business Law, Community Social Law, Community Financial and Tax Law, EU Insurance Law, Intellectual Property Law, Community Environmental Law, Community Transport Law and Community Politics.

3.4. Comparative Study of the Romanian Law Curricula

Based on the comparative study we conducted on the curricula published by the website of 6 legal departments, we found out that:

1. All of the analyzed law departments include in their curriculum at least one general EU law discipline: one of them – 1 discipline as such, two departments have 2 EU law disciplines, two departments – 4 disciplines and one of the six has no less than 5 EU law disciplines. Please keep in mind that two of the six universities have the “European community law” studied in two semesters, which apparently doubles this discipline (“European community law I” and “European community law II”); the total number of EU law disciplines studied in the 6 law departments is, consequently, 18.
2. Most of the 18 courses are imposed (11), 6 are optional (the students can opt between 2 or 3 disciplines, but must choose one) and 1 is facultative (the students can follow it if they want but they don't have to).
3. Regarding the name of the courses, we found out they are far from being uniform. First of all, some are in the process of adopting the new correct terminology and have in their curricula both “European community law” and “EU law”. The remaining 4 law departments still have the old discipline's name (“European community law” or “Institutional community law”). Second of all, some choose to include in their curricula an additional number of EU law disciplines, not imposed by the “Law specific

standards in legal education”: Business communitarian law, History of European construction, Substantive law of the European Union, European construction, Social communitarian law, History of legal European thinking or Current issues of European integration.

4. The 18 disciplines are divided in all eight semesters, but mostly in the third, fourth or the fifth semester, i.e. the second or third year of study.

5. The evaluation form is mostly an exam, colloquies held only when the discipline is not imposed but optional or facultative. The ECTS credits number varies between 2 and 6, with an average of 5 ECTS credits.

Table 1. Comparative study of the Romanian law curricula.

Institution	Discipline's title	Semester of study	Evaluation: Exam (E) / Colloquy (C)	Discipline's regime Imposed (I) / Optional (O) / Facultative(F)	ECTS credits	Courses (C) and Applications (S) Hours / semester
Law Faculty, "Dimitrie Cantemir" University of Targu-Mures	1. European community law	3	E	I	3	28C+28S
Law Faculty, University of Bucharest	1. European community law I / EU Law I	4	E	I	5	28C+28S
	2. European community law II / EU Law II	5	E	I	5	28C+28S
Law and Administrative Sciences Faculty, University of Craiova	1. Institutional communitarian law	3	E	I	4	28C+14S
	2. Business communitarian law	5	E	I	3	28C+14S
Law Faculty, "Al. I. Cuza" University of Iasi	1. Institutional communitarian law	2	E	I	5	28C+28S
	2. European community law. General part	3	C	O	5	28C+28S
	3. History of European Construction	3	C	O	5	28C+28S
	4. Substantive Law of the European Union	5	C	O	5	28C+14S
Law and Administrative Sciences Faculty, West University of Timisoara	1. Institutional communitarian law	2	E	I	6	42C+14S
	2. European Construction	3	C	O	3	28C+ 0A
	3. Social communitarian law	7	C	O	3	28C+ 0A
	4. Business communitarian law	8	E	I	5	28C+14S
"Simion Barnutiu" Law Faculty, "Lucian Blaga" University of Sibiu	1. History of European legal thinking	1	C	O	4	14C+14S
	2. European community law I	3	E	I	3	28C+14S
	3. European community law II	4	E	I	3	28C+28S
	4. Current issues of European integration	5	C	F	2	14C+14S
	5. Business communitarian law	7	E	I	4	28C+28S

3.5. EU Law Syllabus Analysis

As aforementioned, the state authorities force binds law departments to include some disciplines in their curricula. Likewise, the curriculum binds the professors in aspects like discipline's name, the semester of study or the total number of course / application hours.

3.5.1. EU law professor's discretion and responsibility

However, law professors have much more discretion in defining their syllabus for the disciplines subject of the "EU law" concept. According to the RAQAHE Standards, the disciplines of study included in the curricula are consisting of syllabuses specifying the objectives of the discipline, the

basic thematic content, the distribution of the number of lessons, seminar, and practice hours, by topics, student evaluation and a minimum bibliography.

In other words, EU law professors may choose freely the subjects of their courses and applications, they can decide how many hours to assign for each subject and they can select the compulsory bibliography for their students. Such discretion ought to be doubled by a great sense of responsibility.

From the interviews taken, we can state that EU law professors feel indeed responsible for their choices. We also asked a Romanian EU law official (the Second Secretary for the Permanent Representation of Romania to the European Union) for an interview and he told us that, in his opinion, the main problem is the quality of the professors: the standards imposed by the legislator cannot be followed if the professors are poorly trained.

We can conclude that the responsibility is shared between the EU law professors, the ministerial homologation body and the university which employs the professor and approves his EU law syllabus.

3.5.2 EU law syllabus analysis

From the comparative analysis of the six curricula we found out that the most frequent EU law courses' subjects are: EU history and communitarian development's principles; EU institutions' structure and activity; Sources of law and the European legal order; Judicial relations in the European Union; The single market and EU politics. The above subjects are included, under one name or another, in each of the 6 studied curricula and were indicated by all 16 interview respondents.

We've noticed as uncommon the following courses: *The national judge as communitarian judge* and *The Romanian lawyer's role in EU law enforcement* – at the University of Bucharest's Law School; *Intercommunications between Romania and EU* – at the University of Craiova's Law and Public Administration School; *Documentation sources on European matters* – at the Law Department of Iasi University; *Law's general principles and unwritten law as EU law sources* – at the University of Timisoara's Law Department.

«EU development and its perspectives» seems to be the main course subject in the 16 interviewed EU law professors' opinion. They think the only mean to avoid confusions is to understand the EU mechanisms, its procedures and its consequences. On the other hand, «EU politics and EU funding», as well as «EU competition law», although considered useful, were indicated in a less than 3% percentage.

According to the interview respondents, the 5 most important subjects to be included in EU law syllabus are: EU development and its perspectives (16.43%); EU law and its relationship with internal law (12.86%); EU institutional law (12.86%); EU law sources (11.43%); EU decision making process (9.29%).

Regarding the practical application, EU law professors are convinced that most useful topics for their students should be: European Parliament and its work procedures (15.71%); CJEU case-law (15%); CJEU procedures (13.57%); European Commission's role in EU (12.14%); EU institutions' place, role and activity (12.14%).

3.6. Motivations for EU Legal Studies

Professor's responsibility lies not only in selecting the topics of courses and applications, but also in the way of making their students aware about the importance of EU law, and motivating them to study it. Of course, the European legislation takes its hold also on other courses, e.g. the Romanian new Civil Code (October 2011) which provided “a significant liberalization of marriage dissolution by divorce” (Bodoaşcă, T., Saharov, N., Drăghici, T.-A., 2011).

How important is in the opinion of students to master EU law for their future legal career? According to their answers, it is: extremely important for 26.76%, very important for 54.93%, of medium importance for 16.9%, relatively unimportant for 0.1% and of minor importance for 1.4%.

Most of the professors agree that both «Understanding new perspectives» (35.71%) and «Practical significance: EU law became internal Law» (35.71%) are the main arguments they use to convince their students. As an interesting subject, the possibility of being elected or to become an employee in EU institutions or bodies is considered as an important argument to the students for 14.29% of professors.

4. Conclusions and Recommendations

From the perspective of EU law, legal education in Romania gains new valences, approaches and new gateways. The quantitative and qualitative survey we made on primary sources (legislation, legal curricula, EU law syllabus, interviews and questionnaires) allowed us to draw some conclusions, summarized here below:

(1) Despite the constant interest of the Romanian Government into the European legal education, Romania still confronts with conceptual issues and unsystematic approach of EU law courses. In the regulations relevant to legal education, Romanian legislator has not yet adjusted the way of expression and continues to speak about “community law” instead of “EU law”.

(2) Disregarding this semantic oversight, the Romanian government issued “specific standards” for *EU law* specialization in law schools, indicating a constant interest and support in this educational branch, at least as a level of declaration.

(3) Even if the law schools are allowed by instructional provisions to offer distinct *EU law* specialization, most of them choose the “traditional” *Law* as specialty as more desired by the potential students.

(4) *EU law* is more often requested by the Romanian law graduates as a master degree specialization, what makes us believe that EU legal studies are thought more as a form of professional specialization than a general form of legal training.

(5) Apart from a number of courses imposed by the Government, Romanian law schools have enough discretion to make the most of the curricular choices, so it’s up to them to define how many and what kind of EU law disciplines they include in the curricula, in which semester of study, how many hours they assign for courses and applications, the number of ECTS and so on.

(6) As the curriculum binds the EU law teacher in aspects like discipline’s name, the semester of study or the total number of course / application hours, he/she enjoys discretion in issuing the syllabus and may choose freely the topics of courses and applications, the number of hours assigned for each topic and the compulsory bibliography.

As a general conclusion, the responsibility for a proper, competitive EU legal education in Romania is shared-between duty of EU law teachers, the commitment of every law school and the political will of the Government. Each of these three key factors must concur to help law students in the effort to understand *what*, *how* and *why* to learn EU law. Finally, we can make some recommendations for the above three actors on the EU legal education scene, hoping that of such actions can benefit not only to law students, lawyers and other legal practitioners, but the whole Romanian society, serving to a healthy, harmonious and strong EU policy.

Therefore, our recommendations to the Romanian authorities are:

(1) To update the official terminology of all instructional provisions by the term of “EU law” instead of “community law”

- (2) To grant several governmental scholarships in order to encourage potential law students to choose EU legal studies for bachelor's degree;
- (3) To encourage the EU legal education in the widest sense by books and magazines written in an easy language, accessible even for lay in law areas in order to understand the significance of European law as internal law.
- (4) To be more receptive to the EU law and the opinion of legal education experts and to consult such professionals before taking important decisions.

Our recommendations to the Romanian faculties of Law are:

- (1) To assign in their curricula more hours of practical exercises for EU law courses, following the example of non-academic training programs for judges, prosecutors or lawyers.
- (2) To try to organize regular practical trainings for students within the EU institutions, bodies and agencies, or at least yearly visits to bodies like the European Parliament, the EU Court of Justice.
- (3) To join international networks for EU legal studies and encourage students to enroll in visiting or exchanging programs for university studies.

Finally, our suggestions to any Romanian professor of EU law are:

- (1) To find creative and interactive methods to make law students aware how important is EU law as internal law, mainly of the practical benefits for any lawyer's career;
- (2) To encourage more the students to work independently with EU law provisions: access, understand the way of expression, interpret the meaning and figure out how to use it in actions and pleas;
- (3) To help students to understand clearly and directly the practical aspects of the EU law, like the complex institutional architecture of EU as well as decision making process, by practical exercises and study of case;
- (4) To encourage and expect active participation in class, e.g. by moot exercises – hypothetical problems, moot courts and decision-making games.
- (5) To inoculate to students the idea of law in the widest sense and EU law in particular, is a social construction demanding critical thinking, contextual approach and sensitivity to other cultures and experiences.

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