

Goals and Objectives of Law Schools under Bologna Process

Dr. Salomé Adroher Biosca
Vice-Dean of International and Institutional Relations
Law Faculty Pontificia Comillas
Spain

The goals and objectives of a law School as Comillas University, are conditioned by two factors, one an “outside” exigencies and other “inside” necessity; the Bologna Process requirements and the Jesuits University identity. I will explain how we concrete our goals and objectives working with both conditions.

1.- The Spanish legal framework and the “Bologna process”

1.1. The demands of the European Higher Education Area (EHEA)

The “Bologna Process”, an initiative which seeks to create a European Higher Education Area by 2010, is faced by the difficult and complex challenge to achieve that the students can be capable of choosing education in a wide range of high quality studies in several countries and that they can use simple procedures for the recognition of these studies. This process responds to the need felt throughout Europe to modernise the university institutions, *aggiornamento or updating*, which is undoubtedly necessary if we wish to approximate to the functioning of educational systems, such as those of the North America and Asia, which, as show by the data, have better results than the French, German or British systems, in principle, the European leaders.

The three priorities of the Bologna process are: a) the introduction of the system of three cycles (graduate/master/doctorate); b) the guarantee of quality; and c) the recognition of qualifications and periods of study.

The first consequence of the Declaration of Bologna was the political decision of the Ministers of Education to carry out the convergence of the educational systems, which led to these systems entering a process of transformation. In order to contribute to this process, among other initiatives, the so-called *Tuning Project*¹ was approved with the intention to design a methodology for understanding for the understanding of the curriculum of the students in such a way that this was comparable.

In order to each this goal, among other objectives the *Tuning* project put forward the objective to encourage transparency in the academic and professional profiles of the degrees and syllabuses, while leaving room for diversity, liberty and autonomy. In the opinion of the Tuning team, the objective sought involved accepting the ECTS as a single European system of accreditation and perfect this as a system for the transfer and accumulation of credits and developing professional profiles, results of learning and the wished for competences, in terms of generic and specific competences², as instruments for

¹ The Socrates-Erasmus Project. Tuning Educational Structures in Europe.

² The specific competences would be those concerning each area of studies including skills, knowledge and content by thematic areas.

understanding, apprehending and easily comparing the different educational systems, thus facilitating the process of harmonisation of university teaching at the graduate and postgraduate levels which will permit the approximation of the different systems.

In my opinion, it can be said that the *Tuning* Project has achieved at least part of its objectives as today the European Credit Transfer System (ECTS) is a reality and the European university systems begin to accept, as happened at least in the Spanish system as we will see later, that the degrees be defined in terms of results of learning and generic (instrumental, interpersonal and systematic) competences and competences which are specific to each thematic area.

1.2. The controversial response of the Spanish legislator to the new system

A) THE REGULATION OF THE EUROPEAN CREDIT SYSTEM ECTS

The Spanish State formally established the ECTS system through “Royal Decree 1125/2003 of September 5, whereby the European Credit System was established”, with the announcement that the European credit had become the unit of measure of academic assets in official university education³.

B) THE REGULATION OF POSTGRADUATE PREVIOUS TO GRADUATE LEVEL OR “HOW TO START TO BUILD A HOUSE FROM THE ROOF DOWN”

Once the ECTS credit system, which was to be the basis for the reform of university studies, was established, it was necessary to wait until 2005 for the Spanish State to begin a timid reform of the university system. Royal Decree 55/2005, of January 21, established that university education leading to the obtaining of official titles valid throughout Spain would be structured in three cycles, termed graduate, master and doctorate. This law announced that the ECTS credit system, contained in Royal Decree 1125/2003, was going to be used in the design of Spanish university degrees. On January 21, Royal Decree 56/2005 was promulgated, whereby the official postgraduate was modified using the ECTS credits as a measure of academic assets.

Criticism was almost immediate; it did not seem to make sense that postgraduate education should be modified before addressing the appropriate reforms at graduate level. Despite this criticism, the modification came into force and the Spanish universities set about creating official master degrees, which began to compete with the unofficial private titles which were the only ones which had existed on the market until then. Royal Decree

³ According to article 3 of this Royal Decree “the European credit is the unit of measure of academic assets and represents the amount of work of the student in order to comply with the objectives of the syllabus and is obtained by passing each of the subjects which make up the syllabus of the studies leading to the obtaining of official university degrees valid throughout Spain. Theoretical and practical studies are integrated into this unit of measure, as well as other guided academic activities, with the inclusion of the amount of study and work which the student must carry out in order to achieve the educational objectives proper to each of the subjects of the syllabus”.

Article 4.5 of Royal Decree 1125/2003 also sets out that “the minimum number of hours per credit will be 25, and the maximum will be 30”. In article 4.3 the Spanish legislator considers that between 25 and 30 of these hours must be integrated into theoretical and practical teaching, as well other guided academic activities, with the inclusion of hours of study and work which the student must complete in order to achieve the educational objectives proper to each one of the subjects of the corresponding syllabus. It should also be pointed out that article 4.1 of this same law includes a specific provision concerning the maximum credit load per academic year: 60 ECTS credits.

56/2005 entrusted the responsibility for the organisation of the master and doctoral programmes to the autonomy of the universities, and these were not subject to general directives from the State, although procedures were established in order to guarantee quality. Thee legislation also included a minimum regulation in article 8 of the Royal Decree which established that the official master degrees would involve a minimum of 60 credits and a maximum of 120⁴, and they would involve advanced education of a specialised or multidisciplinary nature aimed at academic or professional specialisation or at promoting research. As regards the doctorate, this required the student to have achieved a minimum of 60 postgraduate credits or that he have a master degree (article 10.3 of the Royal Decree) in order to access the phase for writing the thesis.

C) THE NEW REQUIREMENTS TO ACCESS THE LEGAL PROFESSIONS

With regard to the professional practice of the law through Law 34/2006, of October 30, “on access to the professions of Lawyer and Court Attorney”, the system of access to these professions was radically transformed. It can be said that a spectacular turnabout has taken place in this area as previously it had been sufficient to be a graduate in law, with no additional prerequisites, in order to join the Spanish Bar and practise these professions. However, articles 1.2 and 1.3 of Law 34/2006, which did not come into force until October 31, 2011, imposed the obligation to obtain the professional title of lawyer or court attorney in order to supply assistance as a lawyer and legal representation in those court or out of court proceedings where legal regulations require this. In order to obtain these qualifications, it is necessary to have a degree in Law (article 2.1) and have acquired the specialised training required to be able to access the evaluations in order to obtain these titles (article 2.2). The training referred to in this law is regulated education of an official nature, which the law does not refer to as a master degree, but which must consist of training courses organised by the universities (article 4.1) and accredited jointly by the Ministry of Justice and the Ministry of Education and Science (article 2.2). The training courses will consist of 60 credits and it will be necessary to carry out external practical training which will be assigned 30 credits (articles 4.3 and 6.1).⁵

D) THE FINAL REGULATION OF GRADUATE LEVEL “HOW TO FINISH THE HOUSE WITH THE FOUNDATIONS”

As regards the studies of graduate, it was necessary to wait until 2007 for the new regulation of university education through Royal Decree 1393/2007, of October 29, whereby the official university education system is established⁶ using the ECTS credit system.

The system for regulating graduate university education deriving from the conjunction of the norms laid down in Royal Decree 1393/2007, of October 29 and Royal Decree 1125/2003, contains the following guidelines:

⁴ One or two academic years as stipulated in article 4.1 of Royal Decree 1125/2003

⁵ The law does not clarify whether the credits of the external practical training are included or not within the 60 credits referred to in article 4.1. It does state that the duration of the training will be one academic year or one and a half academic years. This point must be clarified in the Implementation Rules stipulated in Law 34/2006, which have not yet appeared.

⁶ Royal Decree 1393/2007 derogates Royal Decrees 55/2005 and 56/2005, therefore, it not only regulates graduate education but also establishes a new legislative framework for postgraduate education.

A) The title of graduate involves 240 credits (article 12.2 of Royal Decree 1393/2007), divided into four academic years of 60 credits each (article 4.1 Royal Decree 1125/2003).

B) The minimum number of hours per credit will be 25 and the maximum number 30, taking as reference a student engaged in university studies full time for a minimum of 36 and a maximum of 40 weeks per academic year (articles. 4.4 and 4.5 Royal Decree 1125/2003).

C) Among other criteria, the regulation of official education involves the ideas of diversity, the encouragement of intra-university and inter-university mobility and the orientation of education towards the learning of the student and the employability of the graduates, which are reflected in several requirements of the composition of the syllabus:

1) A minimum of 60 credits for basic subjects is established, and of these, at least 36 must be linked to some subjects of the particular branch of knowledge⁷.

2) It is possible to incorporate practical training into the syllabus, with a maximum of 60 credits.

3) There is an obligation to incorporate an end of degree paper to the syllabus with between 6 and 30 credits.

4) A “system for the transfer and recognition of credit” is regulated in order to encourage the mobility of students.

5) It is proposed that the objective of the configuration of the education be the acquisition of competences.

The legislative block constituted by the aforementioned Decrees considerably alters the existing Spanish university regulation and the adoption of the ECTS system entails a conceptual re-formulation of the higher educational system, which passes from being focused on class hours to being centred on the work of the student.

2.- Our Law Faculty and the “Bologna” revolution

2.1. The teaching tradition of the Jesuit Universities and the challenge of Bologna

The challenge which the Spanish university addresses has been considered by UNIJES (Association of Jesuit Universities in Spain) as an exceptional opportunity to revise the ultimate objectives of its presence in the university world in the light of its identity and mission. Thus, a framework-document was drafted, “i+m orientations⁸ for the new curriculum designs” which essentially addressed the “reason why”, the ultimate specific objectives of the universities of the Society of Jesus. As we will see below, these objectives are very close to the “spirit of Bologna”.

As regards the “reasons why” the Association of Jesuit Universities in Spain points out that “the objective of all education is the formation of the person”, taking into account that Jesuit teaching encompasses this s the “complete person” which involves four dimensions: “*utilitas, humanitas, iustitia et fides*”. Thus, based on this, the syllabuses drawn

⁷ Law is integrated into the branch of knowledge of the Social and Legal Sciences whose basic subjects are: Anthropology, Political Science, Communication, Law, Economics, Education, Business Administration, Statistics, Geography, History, Psychology and Sociology.

⁸ The letters stand for identity and mission.

up at the Universidad Pontificia Comillas, and, of course, in its Law Faculty (ICADE), must provide training which is useful, integral, for justice and capable of responding to the Christian vocation of the student.

1) *Utilitas*: In the words of Father Kolvenbach, “Jesuit education is eminently practical and is intended to provide students with the knowledge and skills required to excel in any area they might choose”.

Within the Jesuit paradigm, the fact that their students aspire to professional competence involves two important factors: a) on the one hand, qualifying the professional competence with *categories of excellence*, academic quality, rigor..., and, b) on the other hand, alerting against the reduction of ‘*competence*’ to ‘*skill /dexterity*’ or to ‘*pure technology*’.

In my opinion, the professional competence which the EHEA also aspires, includes not only “*knowledge*” (knowing) and “*skill-ability*” (knowing how) but also “*value references*” (knowing how to behave, knowing how to be) such as creativity and innovative capacity, critical thought and personal maturity, leadership and orientation to achievement, which ties in perfectly with the Jesuit *utilitas*.

2) *Humanitas*: A Jesuit University will be highly practical as it continues to insist on integral formation (in the sense of forming persons capable of a harmonious development of their professional, personal and social life) and a holistic focus on education. In short, it is not possible to educate excellent professionals who are uncultured or illiterate in humanity.

3) *Iustitia*: Throughout their education, the students must allow the disturbing reality of this world to enter their lives in such a way that they learn how to feel this, to think critically, to respond to suffering and to commit themselves to it constructively. They will have to learn to perceive, to think, to judge, to choose and act in favour of the rights of others, especially the more disadvantaged and the oppressed.

4) *Fides*: In addition, we must be able to educate our students in the faith. The education of the Society of Jesus respects religious freedom as a value and assumes religious pluralism as a fact but it is oriented to making man capable of discovering his ultimate destiny in God and of responding generously to the call of God to realize his potential as His son.

2.2. The Universidad Pontificia Comillas and the new European challenges

At our university a university of the Church directed for over a century by the Society of Jesus, the private institution which has most universities in the world, we have always known how to combine the excellence of educational experience provided by our tradition with the continual updating which social changes require. Thus, even before the new law on the regulation of graduate education was approved, at the Law Faculty, we have endeavoured to approximate our teaching system to the methodological change required by the ECTS system. Now, the legislation also obliges us to revise the university titles and to redefine the academic syllabuses. The objectives proposed by UNIJES are backed up by the regulations of our University.

2.3. Teaching Law in the Universidad Pontificia Comillas: what and how.

Within this objective framework, the Law Faculty undertakes the reform of its current graduate degrees⁹ and official postgraduate degrees¹⁰. The list of our current qualifications clearly shows that our Faculty has a dual vocation: legal-business studies, which have been taught for many years, and legal-international studies, which commenced only a few years ago. The new syllabuses we are drawing up are intended to continue and intensify these areas of work.

As I have explained *how* we teach at our Law Faculty, I'll talk about *how* we teach. In consonance with the words of Father Kolvenbach, the motto chosen by our University is "the value of excellence". This motto is the expression of the "Ignatian *magis*" and our Institutional Declaration explains it as follows, "The university endeavours to achieve quality as a distinctive feature, precisely at the historical time in which quality is so often proclaimed rhetorically while it collectively declines".

One of the reasons why our students choose our Faculty is this "quality" which has always provided prestige to our studies and to which we permanently tend. However, quality is only achieved with effort and the continual effort to self-improvement, achieving what is "even more difficult" has always been a distinctive feature of Jesuit teaching. The *Ratio Studiorum*, a fundamental document of Jesuit teaching, put into practice in teaching since the middle of the XVI century, continues to be present in our teaching method and, in our opinion, this can be considered to be precursor of what Bologna is and represents today.

Our particular pedagogy is characterised by the following three points:

1) Teaching founded on values and based on a particular vision of the world and on the centrality of the human being.

2) Teaching with its own theory of knowledge, which, in accordance with the so-called Ignatian Pedagogical Paradigm, consists of the interaction between *experience, reflection and action* or as *watching, judging and acting*. As stated in our Institutional Declaration "Comillas aspires to the systematic approximation to reality in all its complexity, to interdisciplinary methodology in the statement and search for solutions to the problems of man and society". That is to say, we teach from experience and to transform reality. For example, one of the instruments which we use to achieve this objective is the Programme of External Practical Training where our students are encouraged to contact with the environment through immersion in the daily life of the most prestigious institutions, firms, companies and non-government organisations. In fact, all our students are obliged to take part in this external training as part of their education. We also encourage our students to take advantage of the exchange programmes, such as Erasmus and similar programmes.

3) Teaching which incorporates its own theory of education, and here I point out only one of its points: the insistence on the formation of a critical sense. As stated in our.

⁹ Degree in Law and Diploma in Business Studies, Degree in Law and Diploma in International Legal studies, Double degree in Law and Management and Business Administration, and Double degree in Political and Administration Sciences

¹⁰ Master in Business Law, a Master in Taxation and International Taxing and a Master in International Affairs, there is also a Doctoral Programme on the Foundations of Law, Economic Law and Business Law.

Institutional Declaration, "The sound basis of a critical sense requires science, the interdisciplinary search for truth, the assimilation of the fundamental values and a profound knowledge of the social reality." This theory of education flees from two temptations of the present time, dogmatism and relativism, in order to propose an education based on experience rooted in reality.

In order to implement this objective, we intend that our graduate syllabuses do not focus exclusively on knowledge of positive law, which is the main focus of Spanish law and the law in the countries in our area, and on learning the techniques for its application as this entails the risk of converting the law into an instrument in social life and in professional practice, but rather that they focus on what is proper to law: the just regulation of society. Thus, we intend to draft programmes which start from a three dimensional conception of Law, which involve legal norms, the social reality and values. At teaching level, our objective is to place emphasis on general legal concepts regarding the institutions and the underlying interests concerning these and the practical consequences of choosing one or other technical-legal solution in their regulation. The knowledge of positive law, which has changed so much recently, is reserved for the Master degree as this will qualify the person for professional practice.

Finally, as the university is a teaching and research area, and it is thanks to this research that science progresses and new solutions to the problems of our time come to light.