

Impact of the Bologna Declaration on Law Teaching in Spain

By:

Gonzalo Alvarez

University of Buenos Aires Faculty of Law, Argentina

Since 1999, when thirty countries signed the Bologna Declaration, the European Systems of Higher Education have been immersed in a very remarkable reform process. Although the University (at least the so called modern university) has shown a critical capacity to question the knowledge received as one of its main defining characteristics, it is also true that it has been traditionally reluctant to place itself under analysis and undergo transformation.

Undoubtedly, a reform that includes not only systemic and curricular issues but also teaching methods at an European level within a term of ten years and not subject (at least formally) to any coercion methods, seems to be impossible. This process, more than ten years after its launching is surprisingly present in many universities and their academic communities. In spite of all its pros and cons whether intended or accidental, the truth is that it has caused significant changes in many systems of higher education. This is in itself a relevant and curious question for those researchers that study the institutional organization of universities and the systems of higher education.

The Bologna Declaration intended to build within a decade the so-called European Space for Higher Education. This space implies the adaptation (and reform) of the national systems of higher education at different levels with diverse internal and external objectives and consequences. At an internal level, it tries to achieve a convergence of all the systems of higher education by creating the conditions to assure quality standards in the professional training to facilitate mobility of professionals in a single market while at the same time strengthening cultural diversity in the European regional integration process. At an external level, it tries to re-position the European higher education systems to face the predominance of the American higher education system in an attempt to regain for Europe the prestige earned throughout the XIX century.

To reach these objectives, signatory countries have agreed to foster a series of reforms. At the curricular level, they have agreed to adopt a plan of studies structured in three cycles: undergraduate (three/four years), master (one/two years) and doctorate. The curricular reform implies also the design of study plans based on the competences to be developed. It does not emphasize the informative contents to be taught but rather, the general and specific skills to be attained in order to get a degree. In turn, a uniform mechanism to measure the time of academic work of students has been adopted; namely, the European Transfer Credit System (ETCS) to promote mobility and acknowledgement of studies completed in other universities and provide a comparison standard to measure score systems. This policy has been reinforced by financing systems to promote mobility, such as the traditional Erasmus programmes, launched in 1980s, and some other new programmes that have been implemented. To facilitate the acknowledgement of studies completed abroad, the European Supplement Diploma contains additional information regarding the nature of the studies taken and their hierarchy and degree in the respective higher education system. Furthermore, the quality standard assurance systems have been developed and they must be followed by university institutions and courses of studies which are regularly evaluated by national quality assessment agencies certified by the European Association for Quality Assurance in higher Education (ENQA).

A significant aspect of the Bologna process must be pointed out. The process does not arise from the European Union as a result of institutional policies promoted for the regional integration process. Rather, it arises as an inter-governmental cooperation plan of the Ministers of Education of some of the European Union member countries that met in Paris in 1998 which quickly spread among non-member countries. The 1999 Bologna Declaration was signed by thirty countries. At present, there are 47 signatory countries whereas the European Union gathers twenty-seven members. The states sign the declaration and undertake to make the reforms, there no being any enforcement means for such purpose. As regards the Bologna Declaration, the European Union has not taken any action, in the exercise of exclusive authority, to “bind” the countries to make reforms. Education has not been included in the transfer of sovereign authority by the states to the European Union Institutions. In this regard, the actions taken by the European Union consist of bringing support to the national policies by the exercise of the so-called supplementary competences. It should be borne in mind that several signatory countries of the Bologna Declaration are not members of the European Union.

The impact of the Bologna Declaration in the Spanish Higher Education System has been very important. In 2001, Spain passed a new Higher Education Law (amended in 2007) to adapt its universities to fit the reforms agreed by the ministers of education in the meetings following the Declaration. In 2003, the ETCS – the new credit system and the Diploma Supplement- was adopted. In 2007, the curricular reform took place, the deadline was set at the 2010/2011 school year to implement the curricular reforms incorporating the undergraduate cycle of four years, the master cycle of one/two years and the doctorate cycle.

Obviously, the reforms affected more those professional studies that are state regulated, since in those instances the governmental provisions extend beyond the minimum mandatory contents that universities have to comply with when drafting their plans of study.

Law Schools have been reached by this reform plan. Since school year 2010/2011 there are undergraduate cycles of four years and Masters Cycles; the 2005 Law is undergoing regulatory process, such law governs the studies and test systems to be taken by those graduate students that wish to register to provide professional services.

Bologna has opened a rich debate regarding the professional profiles for which students are trained. Those who have a critical view of the Bologna Declaration consider that this process implies a degradation of the legal profession and promotes a professional profile of a lawyer as a mere law-applying technician, and they further consider that it does not allow law professionals to access a solid legal training that enables them to develop their profession in complex economic and political backgrounds. A group of very important Spanish law scholars has held that these reforms imply the risk of creating a “minor, trivial and non-critical law professional with certain tendency to pragmatism and tameness, who is unable to see beyond the little, narrow regulations in force and to project a true professional view of the legal world”. They promote the idea of a “versatile law expert, who knows the history of the legal institutions and concepts, and who has the basic skills of the different law fields and is trained in the legal field, legal reasoning and legal arguments.” A critical view is also focused on the so called “pedagogic rhetoric” of the Bologna Declaration. It is held that it is not the first reform attempt in the Spanish history and that it failed in the past, where the reforms did not bring any changes to teaching methods and “the maturity of the university student is challenged by the use of simple manuals, easy weekly assignments, periodic examinations, much similar to those used in secondary school education”. For these scholars, the position is firm: the Bologna Declaration should not be applied to the formation of law professionals.

For those scholars who endorse the Declaration, the reforms proposed are intended to provide graduate students with tools that allow them a greater autonomy to face the changes occurring in labour contexts by means of a life-long educational scheme. A more flexible degree scheme will allow a better adaptability to the changing needs of the labour market and a reform of the teaching methods will reduce the conference classes in university formation, and promote practical training to allow the formation of professionals with better skills and competences to carry out their practices.

It is worth mentioning, that both trends of thought affirm that the formation proposed is the one which contemplates the best conditions for graduates to have tools that may allow them to exercise their profession autonomously in a professional context which is characterized by change.

The impact that the Bologna Declaration has in the formation of the law professional in Europe varies according to the country under analysis. But it may be said, in general, that the period of formation and practice necessary to get a qualification to provide professional services has not varied dramatically for professions such as law and medicine since the Declaration, irrespective of the different formative cycles and approaches chosen to structure those studies.

Furthermore, Bologna has provided a significant opportunity, within the frame of the curricular reforms proposed, to debate the ways in which Law should be taught. From this perspective, an empirical assessment allows us to state that in Spain, the Bologna Declaration is, in fact, generating an impact in the legal training. The incorporation of practical classes with a reduced number of students, the adoption of a continuous assessment system, the need to draft proposed activities that make the student work in and out of class, among others, have created for professors a space for reconsidering how to teach and for revising what is being done. Texts adapted to the new curricular designs have been published and they include contributions to organize the work to be done in the classroom. Some publishing houses have printed collections containing class material to be used in practical classes. There is also a great deal of material containing reflections on the teaching of law and specifically to didactic studies of law.

The last Law Schools that have implemented the reforms have commenced, in 2010, to offer the new undergraduate and master and doctorate degrees adapted to conform the Bologna Declaration. Those schools that have gone further in the implementation do not yet have any graduate students. It is still unknown the way to be adopted by the regulatory decree of the Law that governs the access to the professional license which should be implemented this year. Given this, it is rather difficult to measure the impact of the implemented changes. However, one thing is clear: the Bologna Declaration has not been overlooked to structure the education in the law field in Spain, and its impact will be seen in the future.

Bibliography:

Regarding the Bologna Declaration, consult:

http://europa.eu/legislation_summaries/education_training_youth/lifelong_learning/c11088_es.htm

Regarding the Law Studies in Europe and their adaptation to the EEES consult:

- Asociación de Facultades de Derecho Europeas: <http://elfa-afde.eu/default.aspx>
- “Libro Blanco Título de Grado en Derecho” published by the “Agencia Nacional Evaluación Calidad y Acreditación (ANECA) en 2005. Available at: http://www.aneca.es/var/media/150240/libroblanco_derecho_def.pdf
- Acta de la XIII Conferencia de Decanos de Facultades de Derecho españolas, available at http://www.unizar.es/derecho/doc/conclusiones_y_anexos.pdf

- Acta de la XIV Asamblea de Decanos de Facultades de Derecho españolas, available at:
<http://centros.uv.es/web/centros/dret/data/informacion/E60/PDF10.pdf>

As a critical view won the impact of EEES in Law teaching in Spain:
<http://sites.google.com/site/saquemosderechodebolonia/>