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# Being a Global Lawyer: EU Law Teaching and Learning Methods to Face 21st Century Society Needs

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**Abstract:** The 21st century society is in constant transformation and words like internationalization, transnationalization and globalization come up more and more frequently. Globalization involves a change in the academic and professional profile of nowadays lawyers. In the EU context, we have been witnesses of several initiatives and reactions to these changes as the establishment of the European Higher Education Area within the Bologna Declaration in 1999. New teaching and learning methods in EU Law are necessary in order to prepare Global Lawyers to face 21st century society needs, due to the internationalization of economies and markets. Despite the relevant differences among the legal systems inside 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. 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 in the area of EU Law. The goal of this paper is to present a new model of EU Legal Education that meets the needs of nowadays society in which the Global Lawyers will exercise. Using the methodology developed in the Tuning Project Law, aims to provide a EU teaching-learning model, taking into account the new professional profiles and also to the assessment, through skills and teaching-learning processes.

The selection of some methodologies will help students to develop professional skills that are needed in the transnational new jobs (international organizations, companies or NGOs). Law Schools need to decide whether they are able to develop the learning environment to perform those skills or if they need international cooperation in order to offer their students the needed capacities.

**Keywords** (in English): Teaching innovation; new skills for new jobs; generic and specific skills. Moot court simulations, Law clinics; Bridge between academy and professional life.

## I. INTRODUCTION

The aim of this paper is to make a reflection on the adequacy of Legal Education to the global society, and therefore, propose a new academic and professional profile for the Global Lawyer in order to face 21<sup>st</sup> century society needs.

Due to the internationalization and globalization of the 21st century society, the conflicts that nowadays lawyers are facing, are quite different from those of the last century. The internationalization of our societies affects both world trade and to the individual sphere of people. From the perspective of trade, internationalization and offshoring is a reality that companies face in recent years in response to the crisis and the need for innovation in business models

that exceed state barriers that are perceived as limits artificial mobility of goods and services. In the area of personal status, mobility of persons currently registered new heights few years ago and that means adaptation needs of the legal system as a whole.

From the perspective of trade, these changes are reflected for instance on the internationalization and offshoring that companies face in recent years in response to the economic crisis and the need for innovation in business models that exceed national borders, which are perceived as artificial limits to mobility of goods and services. In the area of personal status, mobility of citizens currently registered new levels, very different from those of years ago and that means the necessity of the adaptation of legal systems as a whole.

In response to the new requirements of nowadays society, Law has evolved and therefore, the Legal Education should be in suitable to these modifications. Universities try to adapt their systems to new social realities and therefore, design new professional profiles able to make available to employers with professional skills, both generic and specific, that new markets demand. University enters into dialogue with the society it serves rather than separate from it.

The design of the profiles and skills is the initial step of teaching-learning process, but the beginning is not enough. Traditional teaching methods cannot be proved the most consistent to achieve the acquisition of new skills demanded by society. In this sense, the focus will be on finding innovative practices for teaching and learning of law. It will seek to achieve a paradigm shift in legal education in the face to question whether traditional systems are suitable to achieve the new targets should be revised or supplemented. Hand in hand with this goal, new assessment techniques will be investigated in the acquisition of generic and specific skills is the apex of the educational innovation.

In order to achieve those objectives, a preliminary study of the changes in higher education and in the heart of the University, in the light of globalization and internationalization of the company is necessary.

## **II. 21ST CENTURY UNIVERSITY**

The institution of the University, which dates back to the middle Ages, has as traditional functions the transmission of culture, education of new scientists and

teaching professions and scientific research<sup>1</sup>. Therefore, we can assume that the functions of 21st Century Society are the same as those raised by Ortega y Gasset, although it is necessary to make some adjustments in line with the transformations undergone in recent decades by this institution<sup>2</sup>. In this sense, the evolution of University was due to two factors: the internationalization of University and the high increase in the number of students. The University of the last century was characterized by the locality of their students and the limited number of them, due to the fact that only a few privileged could afford the access to higher education. Over time, the university became a mass phenomenon, and the profile of students was more and more international thanks to the mobility programs<sup>3</sup>. Due to the internationalization of the university, it is possible to speak of a transnational education that transcends borders<sup>4</sup>. In the legal arena, these changes have resulted in the study of transnational legal education, as an evolution from a local and focused education to an international and global one. Therefore, we have seen a movement from a local education into a transnational one that has several consequences not only in the way in which education is perceived but also in the way in which is taught.

The purpose of Law is to regulate economic and social relationships and therefore, cannot be left out of social transformations and legal relations have been internationalized from business to the civil sphere. Consequently, the way in which Law is created and implemented has changed in order to protect these relationships that more and more frequently content a foreign element. If the way in which Law is practiced and created has changed, the Legal Education must also be changed accordingly, so that the future lawyers will be prepared to respond to nowadays society needs.

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<sup>1</sup> ORTEGA Y GASSET, J., *Misión de la Universidad*. Edición de Palma, R. J. A., con indicaciones y notas para los cursos y conferencias, Buenos Aires, 2001, p.6. About those functions of University, Quintero Olivares considers: "Desde muchos sectores implicados en la Universidad se asegura que la Universidad del futuro ha de cumplir una función totalmente diferente a la que en su tiempo pudo tener. Hoy se dice que la Universidad ha de adaptarse a las necesidades de cientos de miles de estudiantes distribuidos en cientos de centros". QUINTERO OLIVARES, G. *La enseñanza del Derecho en la encrucijada. Derecho académico, docencia universitaria y mundo profesional*, Aranzadi, Navarra, 2010, p.22.

<sup>2</sup> UNESCO, Declaración mundial sobre la Educación Superior del s. XXI, 1998: "la segunda mitad de nuestro siglo (refiriéndose al s. XX) pasará a la historia de la educación superior como la época de expansión más espectacular; a escala mundial, el número de estudiantes matriculados se multiplicó por más de seis entre 1960 (13 millones) y 1995 (82 millones)".

<sup>3</sup> "La Universidad es una institución longeva pero en permanente mutación, sus funciones han ido cambiando desde la educación de élites, a la educación de masas, a la educación permanente y continua dirigida a cualquier persona en cualquier lugar". MAYOR RUIZ, C. (Coord.), *Enseñanza y aprendizaje en la educación superior*, Octaedro, Barcelona, 2003, p. 7.

<sup>4</sup> See SCHEURMAN, W., "Reflexive Law and the Challenge of Globalization", *Journal of Political Philosophy*, Vol. 9, University of Minnesota, 2001, pp. 81-91.

All these changes represent a new concept of society, besides being embodied within the University, are reflected in the definition of the profile of the students. Therefore they are sought teaching and learning methods through which train students in competencies according to the characteristics and needs of the global society<sup>5</sup>.

Undoubtedly, education is an instrument that should support the necessary change in humanity, a tool that allows us to progress towards a more democratic world<sup>6</sup>. In this sense, human capital is the main asset of companies and therefore the quality of this capital formation is essential for the success and development of society.

### **III. FROM THE BOLOGNA DECLARATION TO THE IMPLEMENTATION OF THE EUROPEAN HIGHER EDUCATION AREA**

#### **1. Global convergence in Higher Education**

The Bologna Declaration was a turning point, not only to the European higher education but also to the education Systems around the world. The origin of this Declaration was the meeting between the European Rectors to celebrate the 800 anniversary of the Bologna University. Specifically, it was the rectors of the universities of Bologna, Paris I, Leuven, Utrecht and Barcelona. The result of this meeting was the *Magna Charta Universitatum*, signed on September 18, 1988, which was the starting point in creation of the European Higher Education Area, hereinafter EHEA.

The main objective of this meeting was to try that European society to become aware of the role that universities should develop in the light of "a society that is changing and increasingly international"<sup>7</sup>.

Unfortunately, the *Magna Charta Universitatum* did not receive the expected support and its echo was not beyond mere claims. However, it was the germ of

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<sup>5</sup> VISO ALONSO, J. R., *Qué son las competencias. Enseñar y aprender por competencias*, Editorial EOS, Madrid, 2010, p. 13; JIMENEZ, A., CABACO, A., VILLAR, F., *Proyecto Piloto de Pedagogía y Psicología al sistema de créditos europeos ECTS*, Burgos, Universidad de Burgos, 2005, p.11.

<sup>6</sup> SANTOS PASTOR, M. L., MARTÍNEZ MUÑOZ, L. F., LÓPEZ PASTOR, V. M. (Coords.), *La innovación docente en el EEES*, Universidad de Almería, Almería, 2009, p. 13.

<sup>7</sup> It is necessary to take into account the context in which The Bologna Declaration was drafted, four years before the abolition of intercommunity borders and increasing cooperation between European states was expected.

a movement around educational changes demanded by a changing international society and 10 years after its creation, the May 25, 1998, was signed in Paris Sorbonne Declaration. In this declaration the ideas raised at the previous meeting of Bologna and new emphasis is on the changes that are suffering both society and the labor market and therefore the need for educational reform in line with these changes are reflected.<sup>8</sup>.

The Sorbonne Declaration was a remarkable impact and was followed by numerous meetings and publications<sup>9</sup>. So, a year after the meeting certainly marked a before and after in European higher education took place: the Bologna Declaration of June 19, 1999 through which the EHEA and Europe was established knowledge, which implementation in all signatories universities, was scheduled for 2010<sup>10</sup>. In 1999, 29 countries ratified the Bologna Declaration in and today 45 states are part of the EHEA<sup>11</sup>.

From this moment, initiate the call process of European convergence in education, whose objectives include the harmonization of securities in favour of the mobility of workers and students. As we know, this process of European convergence is based on six points: the European Credit Transfer System

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<sup>8</sup> Sorbonne Declaration. Joint Declaration for the harmonization of design European Higher Education System (by the four Ministers of France, Germany, Italy and the United Kingdom) La Sorbonne, Paris, May 25, 1998. "We are heading for a period of major change in education and working conditions, to a diversification of courses of professional careers with education and training throughout life becoming a clear obligation. We owe our students, and our society at large, a higher education system in which they are given the best opportunities to seek and find their own area of excellence".

<sup>9</sup> The Sorbonne Declaration, along with the Declaration of Bologna, was followed by: Prague Declaration May 19, 2001; Berlin Communiqué of 19 September 2003; Bergen Communiqué of 19-20 May 2005; London Communiqué of 18 May 2007; Press Leuven 28-29 April 2009. After the last statement, held the Ministerial Conference on the Anniversary of the Bologna Process, held in Budapest and Vienna on 11 and 12 March 2010. It is also planning a meeting and subsequent statement, in April 2012, to be held in Bucharest.

<sup>10</sup> Bologna Declaration, June 19, 1999: "We hereby undertake to attain these objectives - within the framework of our institutional competences and taking full respect of the diversity of cultures, languages, national education systems and of University autonomy - to consolidate the European area of higher education. To that end, we will pursue the ways of intergovernmental co-operation, together with those of non-governmental European organisations with competence on higher education. We expect Universities again to respond promptly and positively and to contribute actively to the success of our endeavour", p. 3.

<sup>11</sup> Ratifying countries of Bologna Declaration 1999: Germany, Austria, Belgium Bulgaria, Denmark, Slovakia, Slovenia, Spain, Estonia, Finland, France, Greece, Holland, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Norway, Poland, Portugal, United Kingdom, Czech Republic, Romania, Sweden and Switzerland. In 2001 they joined Croatia, Cyprus, Liechtenstein and Turkey. Albania, Andorra, Bosnia-Herzegovina, Macedonia, Russia, Serbia and Vatican. Since 2005, new members are: Armenia, Azerbaijan, Georgia, Moldova and Ukraine. The latest addition has been to Montenegro in 2007. <http://www.eees.es/es/home> (date last accessed June 6, 2012).

(ECTS - European Credit Transfer System); the Diploma Supplement; a system of two-cycle degrees (undergraduate and masters); promoting the mobility of students and teachers and PAS; the momentum of European cooperation in quality assurance with a view to developing comparable criteria and methodologies, and finally, increasing the European dimension of higher education, particularly as regards the development of curricula , inter-institutional cooperation, mobility schemes and integrated programs of study, training and research<sup>12</sup>.

## 2. Tuning Educational Structures in Europe

In this context, *Tuning* Project arose in 2000 taking into account this constant reflection within the Higher Education required by the rapid change in society and by the Bologna Declaration. *Tuning* is a university driven project, which aims to offer a concrete approach to implement the Bologna Process at the level of higher education institutions and subject areas. This approach consists of a methodology to (re-) design, develop, implement and evaluate study programs for each of the Bologna cycles. Since 2000 three phases have been developed and several of the Bologna action lines have been addressed: notably the adoption of a system of easily readable and comparable degrees, and the adoption of a system based on three cycles (including Doctoral studies) with the establishment of a system of credits.

The application of this Tuning Project to Legal Studies has implied the definition of a list of skill both generic and specific that the students should have to develop in different cycles. With those skills we intend to create *curricula* that help the students to enter in their professional live in an easier way, to improve the level of motivation of the students using innovative methods of teaching and assessment. We also try to make academic live closer to stakeholders.

Program development comparable, compatible and transparent study is necessary towards the achievement of the desired European convergence in education and therefore, reference points have been established, in terms of outcomes and competencies. With the election of use of reference points, rather than definitions of titles, the aim is to respect for freedom, diversity and autonomy of each University and country. Each reference point is defined taking into account the minimum outcomes that are necessary for obtained a ECST. In other words, what the student is expected to know, understand and be able to do after learning process. Learning outcomes are expressed in levels of skills acquisition, both generic and specific, and are made by the teachers. However, skills are acquired or developed by the student throughout the learning process,

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<sup>12</sup> Bologna Declaration, June 19, 1999, pp. 2-3.



meaning skills in terms of the dynamic combination of cognitive, metacognitive knowledge and understanding, interpersonal, intellectual and practical as well as ethical values. There are two types of competencies: generic and specific that will be explained in detail hereinafter.

Consider universities titles in terms of learning outcomes and competences contribute to achieving the passage of an education focused on professors to student-centered education and learning, aimed at transforming the role of educator.

It is therefore necessary a redefinition of objectives and a change in the approach to educational activities. Learning outcomes and competences focus on the requirements of society in terms of preparing for the labour market and citizenship.

#### **IV. GLOBAL ACADEMIC AND PROFESSIONAL PROFILE LAWYER**

The definition of academic-professional profiles in the design of degrees needs to be considered essential for the proper development of skills in the university context.

This implies a selection of the list of generic and specific skills that students should have to acquire for every degree, considering the demands of society and the labor market. Considering those skills, a design of contents of the degree and methodologies for its implementation is determined. Also, a system that measures the achievement is needed<sup>13</sup>.

When defining the academic-professional profiles of any degree, we must take into account the changes experienced in nowadays society as well as those who are to be expected in the coming decades. Regarding professional profile of the graduate in law, various possibilities of working options need to be taken into account. From the more traditional as working as an independent lawyer or working in a small local law firm, working as a notary, public registrar, official of the public administration or lawyer or legal advisor of a private undertaking, to other less popular or commonly known as officials international organizations or public associations and organizations, such as NGOs or trade unions<sup>14</sup>.

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<sup>13</sup> RODRÍGUEZ-ARANA MUÑOZ, J. / GOÑI RODRÍGUEZ DE ALMEIDA, M.: Enseñar Derecho en el Siglo XXI. Una guía práctica sobre el Grado en Derecho, Thomson Aranzadi, Pamplona, 2009, p. 93.

<sup>14</sup> ANECA.: *Libro Blanco. Título de Grado en Derecho*. Publicación on-line: [http://www.aneca.es/var/media/150240/libroblanco\\_derecho\\_def.pdf](http://www.aneca.es/var/media/150240/libroblanco_derecho_def.pdf)

For an adequate establishment of an academic and professional profile of any degree, it is necessary to previously establish the general and specific competences that students will have to develop before graduation. In this regard, it should be noted that until the emergence of the Bologna Process and therefore of the European convergence in education, the concept of competence was reserved for the professional arena. In this sense, competence was considered to include the set of professional skills that every candidate should have to possess in order to access a certain job. With the advent of the methodological changes that were needed to achieve both educational excellence and European harmonization in this area, we began to speak of the term competence in the academic world, intending to weave bridges between the world of education and the world of employment<sup>15</sup>.

In reference to the degree of law, thanks to the questionnaires made by the Tuning project to students, alumni, academics and employees we know that the most important generic competences are:

- Ability to apply the acquired knowledge.
- Ability to adapt to new situations.
- Information management.
- Ability to work autonomously.
- Teamwork
- Oral and written communication. Ability to write texts and oral expression, in fluent technical language, using precise, clear legal terms.
- Ability to organize and plan tasks and works.

As for the specific competences considered most important for the Degree in Law from academics, employers, students and graduates they are:

- Ability for legal reasoning and argumentation.
- Act faithfully, diligently and transparently in defending interests of the people it represents.
- Understand, interpret and apply the general principles of law and the legal system.
- Be aware of the ethical dimension of the legal professions and the social responsibility law degree, and act accordingly.
- Ability to make reasoned legal decisions.

In light of these competences, both generic and specific, chosen by students, alumni, academics and employers as the most important, we can deduce the academic-professional profile of the graduate in law.

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<sup>15</sup> “Una condición básica para la construcción de una enseñanza orientada a las competencias es disponer de un perfil laboral y de formación con el que las exigencias que se plantean a los titulados coincidan con las competencias que se requieren en el mercado laboral”. GARCÍA FRAILE, J. A. / SABAN VERA, C.: Un nuevo modelo de formación para el siglo XXI: la enseñanza basada en competencias, Davinci, Barcelona, 2008, p.91.

Most of those competences assume powers of "know-how", so that teaching and learning procedures should underline the relevance of conducting activities that would help the application and development of the theory and concepts by the students.

## **V. LEGAL EDUCATION AND THE COMPETENCE BASED LEARNING. A PROPOSAL FOR THE NEW SOCIETY**

### **1. The competence based learning model**

The Bologna Declaration stated that educational changes, should focus on training students in "the skills needed to meet the challenges of the new millennium and reinforce the shared values and the relevance of a common social and cultural area" <sup>16</sup>. In this sense, competence based learning is seen as the most effective method to train jurists in the 21st Century.

This model of teaching and learning aims at one main objective: The students have to acquire, throughout their education, the skills considered necessary in today's world and society<sup>17</sup>. This means that the University needs to prepare students considering their academic and professional profile in order to develop, among other aptitudes and skills, skills that will be required to them by the labor market. This also implies that university needs to eliminate the gap between the academic and the professional world.

The term competence comes from the Latin words *cum* and *petere*. It refers to "the capacity to go and coincide in the same direction". Aurelio Villa and Manuel Poblete, consider that competences are defined as the good performance in different and real contexts, based in the integration and activation of knowledge, rules, techniques, procedures, abilities and attitudes and values<sup>18</sup>. Tuning Project define competences as a dynamic representation of cognitive and metacognitive capacities of knowledge, understanding, interpersonal, intellectual, and practical as well as ethical values<sup>19</sup>.

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<sup>16</sup> Bologna Declaration. General meeting of European Ministers of Education, 19<sup>th</sup> June 1999.

<sup>17</sup> VILLA SÁNCHEZ, A. y POBLETE RUIZ, M.: *Aprendizaje basado en competencias. Una propuesta para la evaluación de las competencias genéricas*, Universidad de Deusto, Bilbao, 2007, p. 29.

<sup>18</sup> VILLA SÁNCHEZ, A. y POBLETE RUIZ, M.: *Aprendizaje basado en competencias. Una propuesta para la evaluación de las competencias genéricas*, Universidad de Deusto, Bilbao, 2007, p.23.

<sup>19</sup> GONZÁLEZ, J. / WAGENAAR, R. (eds.), *Una introducción a Tuning Educational Structures in Europe La contribución de las universidades al proceso de Bolonia*, Universidad de Deusto, Bilbao, 2006.

For the establishment of an innovative model based on those competences, it is necessary to previously define the academic and professional qualifications required from students and, based on those, design and determine the list of generic and specific skills developed during the degree profile<sup>20</sup>.

Coordination and collaboration among teachers, among them and employers, and among all of them and students, can be considered vital to achieving this aim in the student profile. Without this joint reflection, it would not be possible to obtain a performing and excellent result.

Therefore, the achievement of the European Area of Higher Education and the awaited educational convergence does not only needs a restructuring of the structure and formalities surrounding the studies; a change in teaching and learning methodologies and the traditional role of student and teacher is also necessary.

From now on, and taking into account this educational transformation focus should not be on what the teacher teaches, but what the student learns<sup>21</sup>.

## **2. Methodologies compatible to Competence based learning**

With regard to the teaching and learning of law, prior to the Bologna Declaration, the teaching was largely based on the traditional master class where the professor doctor explained the main concepts to the students, gave them a recommended structure, underlined the main problems and the basic proposed solution to them. In this system the student had a very passive role. This system does not promote the critical and systemic thinking and does not help the development of some of the most relevant professional skills. The

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<sup>20</sup> We need to differentiate between generic and specific competences. The generic ones are those that can be considered common to every type of studies, specific ones are those that make a degree as it is, therefore, those are define the degree and are linked to its nature. Competences include skills and knowledge, methods and techniques that are essential for every area of knowledge. There are three types of generic competences: instrumental, interpersonal and generic. The instrumental represent cognitive skills, methodological, technological and linguistic. The interpersonal are those individual skills such as social skills and systemic skills are those that related with global systems. It is necessary to acquire instrumental and interpersonal skills before it is possible to acquire systemic skills.

<sup>21</sup> MORALES VALLEJO, P., "Implicaciones para el profesor de una enseñanza centrada en el alumno", *Miscelánea Comillas*, Vol. 64 (2006), núm. 124, pp. 11-12. "Puede parecer una obviedad decir que los profesores están para que los alumnos aprendan, pero si tanto se habla ahora de la enseñanza centrada en el alumno, alguna razón habrá. Quizás porque, casi sin darnos cuenta, los profesores hemos estado prestando más atención a lo que tenemos que hacer nosotros para enseñar (como es preparar clases, explicar, examinar, calificar) que a lo que tienen que hacer los alumnos para aprender."

focus at all times was based in the professor's explanations, structure and development of knowledge.

This traditional role of the teacher, has evolved in recent years towards one system that is more concerned about the role of the student, both inside and outside the classroom.

The Professor need to change its teaching strategy; instead of focusing only on teaching, he need to begin focusing on helping students in their personal way towards learning.

The traditional lecture does not disappear. It is evident that the theoretical knowledge is essential and that a traditional lecture can help the student in the process of understanding concepts and structuring ideas.

This cannot nevertheless be the only method used. Resolution of practical exercises, development of legal debates or presentation of the results of working groups have to complete the methodology used in order for the students to really understand the relation of the theoretical studies with social problems and in order for them to really be prepared to solve them.

Ultimately, it is relevant that students have the opportunity to put into practice the knowledge they are acquiring.

With regard to the implementation of a new learning model based on competences in the different institutions of higher education, the University of Deusto has been a pioneer at the national level by establishing their own teaching-learning model called MAUD (Model of Learning at the University of Deusto with the Spanish initials)<sup>22</sup>. This model was established in line with the changes set out in the Bologna Declaration. It is based on four fundamental principles: values, attitudes, skills and learning.

Among the features of this model, we include that attention is focused on the student's learning and social values and personal attitudes independently, through the acquisition of academic-professional competencies. For the optimal development of the chosen competences, the MAUD has established a new teaching model through which all of the skills acquired by the student, are

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<sup>22</sup> *Marco Pedagógico UD. Orientaciones Generales*. Universidad de Deusto, 2001. "El marco pedagógico de la U.D. recoge aquellos elementos clave que se precisan en un nuevo modelo de enseñanza aprendizaje que asiente los principios y estructuras necesarias para su desarrollo en los próximos años. El profesorado de la Universidad de Deusto viene realizando una serie de transformaciones pedagógicas en la didáctica y pedagogía universitaria como demuestran los datos del estudio interno (ICE, 1999)" p. 9.

distributed among the list of subjects of the studies. Different levels of development are established and indicators of achievement have also been designed.

To obtain this aim there are various types of activities and methodologies that can be used and that are considered more efficient than the traditional lecturing. Some of them are difficult to insert in the ordinary curriculum. Some of the advanced skills need an educational environment that can be very difficult to perform in an LLB classroom. This is why, a distribution of the skills among the different subjects in a particular law degree cannot depend on the independent decision of the professor, based on his will, preference or own capacity, but needs a common reflection from the Faculty group considering the needs of students and society and guaranteeing that the students receive adequate and balanced training in each one of the needed skills.

This reflection can lead the Faculty to the conclusion that it can be needed for the students to develop some skills in a certain level and this process requires some extra-curricular activities or require the recognition of credit to some activities that take place outside the ordinary university venue.

#### **A. Moot court simulations**

Moot Court simulations are an example of this situation. In Spain this is a rather unknown method although the participation of Spanish students in international competitions of this nature, is becoming more common.

This activity allows the student to put theory into practice and promotes the acquisition of skills that can be considered highly relevant in practice: problem solving, oral and written skills, argumentation, and one of the most difficult to develop in ordinary programs working group capacity, multicultural work capacity, transnational understanding of the legal systems and international approach to legal problem solving.

The University of Deusto and the Carlos III University of Madrid have been pioneers in this respect with a very different implication from both Universities. Carlos III being the first university that began designing a program that helps students to participate on International Moot Courts in the field of Arbitration and Commercial Law and promoting the learning experience that this implies and Deusto designing two transnational Programs that have been selected as excellence programs by the European Commission.

The first of these programs designed in Deusto, has been the Intensive Programs of Transnational Law in Deusto University. Those programs (that took

place during 10 years co-financed by the European Union since 2007) used Moot Court simulations as central part of the activities.

The intensive programs of the University of Deusto took place within the research team of Transnational Law. They involved students from near 20 different European universities within the Deusto Law Network.

During those programs an international commerce case was presented to the students and several groups were created. The groups were designed considering the different levels of the students (Phd, master and LLB) and different jurisdictions.

For 10 days the students were prepared to solve the case in different procedural positions helped by academic staff and PhD students from the different participating universities.

At the end of the Moot Court the students make different rounds and the final takes place in the High Court of the Basque Country with real judges of the court and lawyers of the Bar. This program was chosen by the National Agency, Autonomous Agency for European Educational Programs, as a model of good practice in intensive programs<sup>23</sup>.

The evaluation of this program made by the students was very challenging for the organizers. The most relevant skill that the students valued was the multicultural working capacity developed during those days. The exposure to different traditions and approaches to problem solving was the second. The capacity to create, develop and sustain different arguments for the possible solutions was the third one. Critical thinking, open mind, oral argumentation capacity, researching skills, were also very highly valued.

Those students that had participated in the 10 days program showed a level of motivation and performance quite different to students that did not take place on it in several of the universities participating in the project.

It is clear that creating an environment that pushes for the development of those skills is not something easy in ordinary law programs. Creating a multicultural group of students, implementing activities that force them to work together and fight for the same goal, being able to face transnational problems where the application of just one legal system cannot lead to a completely satisfactory answer is in most of the cases something impossible in the ordinary life of a

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<sup>23</sup> For more information about those programs the website of the research team can be consulted <http://www.transnational.deusto.es/ip2011/index.html>.

Law School and as part of an ordinary law curriculum even if it is very international in its orientation.

It is clear nevertheless that these outcomes are very highly demanded in the working transnational world, so Universities should have to try their best to offer those possibilities to their students.

## **B. Multicultural experience and international Trade**

The University of Deusto designed an Erasmus Mundus Master on Transnational Trade Law in order to create a pilot program that would measure the actual needs of international organizations, International financial entities, Multinational enterprises and transnational Law firms and the possibility of training a selected group of students to fulfill those needs.

In this master Deusto, Tilburg, Strasbourg and the Institute of Law and Finance of Frankfurt University worked together. Three North American Universities had also a close cooperation with the master (Hamline Law School, Ohio State University, Cardozo Law School). A selected team of Professors coming from more than 10 countries accepted the challenge of participating in this program.

Around 100 students participated in this Program coming from more than 35 different countries. All of them received training in three of the four participating universities. No more than 3 students from the same country were accepted to participate in the program

The preparation of the program was based, of course, in a distribution of contents to be developed in the four semesters of the master, but the focus of the distribution of the Universities was made on the different skills the students should have to develop in each university.

An analysis of the professional profiles of several Law Schools both in the LLB and LLm level made by the stakeholders that were interviewed for the proper design of this program, showed that they wanted students with some strong pillars:

- Deep knowledge of Transnational (including European Union) Law that included both Public and specially Private international Law and International Trade Law (including competition Law).
- Discipline, motivation and commitment with the organizational goal.
- Capacity to identify legal problems coming out from the transnational reality and design the best possible solution in relation with costs, time and efficiency.
- Capacity to apply law in practice. (Application of the theoretical concepts to nowadays problems that our global society faces).



- Resilience. Capacity of reflection, efficiency and work under serious pressure.
- Negotiation skills to be applied in solving legal or administrative problems.
- Serious ethical commitment. (International organizations deal with very serious problems of society and citizens from different cultures. Respect to the difference, understanding of the problems behind the legal conflict and respect to some basic universal values is considered crucial for those organizations.
- Capacity to work in multicultural teams (as those existing in those types of entities).

Methodologies were designs to develop all those skills and evaluation techniques were put into practice in order to assess the evolution of the students.

Some challenges were also underlined out of this experience that show some tips to put into practice workshops for a global professional group when the presenter speaks one primary language that is the learned or “second language” of most workshop participants.

Many dynamics contribute to a workshop session’s energy, inspiration and insight. Sometimes, though, specific language or teaching practices create barriers to learning, or discourage participation by some or all participants.

Develop and Present an Organized, Prepared Presentation. It is particularly important for the workshop leader who is presenting materials in English, but for whom English is a second language, to prepare and deliver her materials in a crisp, clear manner.

Underline the transparency of the presentation, Speak Loudly, Talk Directly to the Group, Make Each Participant’s Question a “Class Question”.

Insist on Workshop participants assuming their responsibilities as learners and support them. Workshop participants have responsibilities as learners; they must not expect to listen passively while someone speaks to them.

Part of the learning experience for these workshops – as in all educational settings – comes from participants learning from each other through the questions they ask, the answers they provide to questions posed by the presenter, or the experiences they share when doing exercises.

There are distinctive participant learning responsibilities for students when the presenter is a non-native English speaker. These include, participants Must Pay Attention, participants must help the presenter clarify concepts, and participants need to help educate each other by respecting one another<sup>24</sup>.

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<sup>24</sup> Guidelines for presentations in this workshops and tips for multicultural teaching can be found in STULBERG, J., CANEDO, MP., POTOKVA, D. “Minimising communication barriers, *Rethinking Negotiation Teaching*, Hamline University, 2009.

Two students retired because of health problems and 12 more did not obtain the degree because of non-sufficient academic performance. Problems of ethical commitment was found on at least 4 of the students that obtained sufficient academic level.

The aim of this master was to create a selected group of students capable to maintain a deep level of knowledge development using case law analysis and multicultural and transnational approach to work and learning.

Right now, 3 years after the last cohort finished the master, 90% of the students that participated in the program are performing professional tasks related to the international or transnational law area. Close to 80% working at international firms or organizations that they recognize that would have not been accessible to them without this training<sup>25</sup>.

### **C. Legal Clinics**

Another very challenging methodology that shows a very high level of success in the development of professional transnational skills are legal clinics.

This methodology, initially developed at Harvard University but that nowadays is very spread in Latin American and Eastern European Universities are legal clinics<sup>26</sup>.

On those programs, students help technically skilled professionals in the solution of cases of low income people that have no easy access to legal advice or help trying to solve community problems that need reference to alternative methods of solving conflicts because they are not so much related to incorrect application of a particular legal system but to cultural, gender, religious or ethnical issues.

These programs imply the solution of a real problem by the directed student. It creates an environment where the student is present in relation with clients that expose social problems that need to be translated into a legal issue. Real research needs to be made and practical real and efficient solutions need to be found by the students in a time frame that is determined by the reality of a case.

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<sup>25</sup> A deeper analysis of this teaching experience is being conducted with a selected group of students of the master.

<sup>26</sup> Some adaptations of the system are being established in Legal systems where the Bar Associations present serious problems for the implementation of the system itself. In certain cases, acting on areas of the law where the state does not guarantee access to a lawyer (like the clinic of Tarragona University on penitentiary law. Some others just using real cases for problem solving which implies a very relevant loss of the benefits of the method.

The implementation of this method help developing some competences that are crucial in a real profession and that are very difficult to replicate in an ordinary classroom.

The professionally and academically directed participation of students in real problems of society and social is perhaps the best method to develop ethic skills on students. Any other way to develop those skills implies a level of abstraction in the thinking of students and even in the teaching approach that cannot lead to the same result. Universities should have to make a cooperation with bar associations in the countries were they create problems for implementing this system in order to find ways positive for the profession, for the students and, especially for the society

#### **D. One additional reflection**

Undoubtedly, this change of educational paradigm implies an adaptation of the profile of teachers. Of course, there are basic skills of teachers that will never have to change. A solid and deep knowledge of the subject to be taught are of course crucial in the process of learning. However, the profile of the university professor will also include other teaching skills such as: ability to design tasks of study and independent learning to students and design of evaluation criteria. For doing this, a change in the relationship between student and teacher is needed. Professors need to devote time to process design instead of research or study and this is a very relevant part of the paradigm change.

Collaboration among teachers of one degree and a big implication of them in the change of methodology is needed in order to ensure that students acquire throughout the different degree courses in law, the academic and professional skills that have previously been established as fundamental.

## **VI. SOME CONCLUSIONS**

**FIRST.** Despite the relevant differences among the legal systems inside 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. We tend to consider that law degrees need to be inspired in the features of the national legal system, but the problems lawyers solve are universal and the transnational society needs global answers to those problems.

**SECOND.** An administrative decision on the competences needs to be previous to the beginning of the learning process by each professor. This decision needs

to be grounded on academic principles considering the needs of students and society.

A compatible methodology of development of the skills is a necessary tool for achieving the goal.

Assessment of the level of achievement of the students is one of the key concepts in this process. If we define assessment systems that don't measure effort and competence level of performance, we will obtain false positives in the results. This can seem like a positive situation for the schools in the short term that will lead students to fail in their professional aspirations and therefore will have a negative impact in the medium term for Universities and society.

**THIRD.** 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 need 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.

**FORTH.** In light of the changes caused by the internationalization of society s. XXI, reform of teaching and learning models, became necessary if we want to have citizens able to offer professional services in this new context. The implementation of the European Area, is seen as a successful response. It is although a *sine qua non* for the success of this proposal, that the different member states implement the changes in the most harmonized way possible. Otherwise we will not be able to experience a European convergence in education.

The implementation of this change in paradigm cannot stop in a simple renaming of qualifications and courses. It needs to put into practice a real transformation in the way in which higher education is conceived in terms of methods and goals.

Decisions on the skills and contents need to be based on the quality and relevance of the courses and its application in the professional profile demanded by society. Teaching methods that are currently being used in the teaching and learning of the law need to be re-think and, in case of not corresponding to standards of quality and excellence pursued by new models, change them choosing those that suit best with the social needs and the labor market demands.

The implementation of this change requires the collaboration of all those involved in teaching, from students to employers. Academics will nevertheless play a central role in the design and implementation of the model.

**FIFTH.** The competence-based education has been proven as the most suitable model to conduct this educational change that is asked by society of s. XXI.

Its success lies in focusing on student learning and the acquisition of generic and specific skills throughout the studies. The definition of academic and professional profile and the careful selection of skills and contents is fundamental. In this decision making, attention needs to be devoted to the multiculturalism of society and law and the new social needs. The ethic of effort and its application to real life problems is considered crucial in this selection.

**SIXTH.** This change needs to be supported by a very profound effort on the part of institutions of higher education, both in material and personal terms. In addition to the significant investment that will be required to effectively establish this model, a change is necessary in the teaching skills of teachers. The University must serve society, forming integral professionals, holders of values and skills required by a global society in constant change.

**SEVENTH.** Nowadays society is asking for professionals that are able to answer to global challenges. New skills need to go beyond national barriers of studies and professions.

Traditional methods of teaching and learning do not develop adequately multicultural both personal and legal skills, critical thinking, and ethical behavior.

Creating a multicultural group of students, implementing activities that force them to work together and fight for the same goal (as moot courts or problem based learning), being able to face transnational problems where the application of just one legal system cannot lead to a completely satisfactory answer (as legal clinics) needs to be included in the aim of law schools as learning experiences needed for their students. If they are not able to re-create in the classrooms those activities, they need to provide them the opportunity to find them elsewhere.

Cooperation between legal institutions of different countries and even different continents is needed for achieving this goal.

The results obtained in the different experiences that have been implemented, show that the effort worth being made.

In this context and taking into account the above, it is time to ask ourselves what we teach; the reason why we teach what we have chosen, how we teach it, and how we assess it.

If we can provide an effective answer to these questions, we have achieved the magic formula to address this change of educational paradigm.

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Tuning- Project website: [www.unideusto.org](http://www.unideusto.org)

ANECA official website: <http://www.aneca.es/>

EEES Official website: <http://www.eees.es/es/home>

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