

# Developments in Europe Julian Lonbay

Joint Legal Education  
Forum

8-9 May 2003

# Issues

- ◆ European Developments
  - Academic stage
  - Professional stage
  - CPD
  - E-learning
  - CCBE Training Committee

# European influence

## Substantive convergence

- ◆ Council of Europe
  - Human rights law
- ◆ EU pillars
  - Have contributed to the commonality of the legal rules in both civil and now criminal law
- ◆ Emergence of *ius commune* textbooks in both contract and tort; criminal law to follow

# European influence

- ◆ **EC rules**
  - Hamstrung from any direct intervention regarding the contents of legal education by the EC Treaty: Article 149EC  
EC nevertheless is indirectly a major influence
- ◆ **Funding**
  - Socrates programme
    - ◆ Erasmus
    - ◆ ECTS (European Credit Transfer system)
  - Contribution to the Diploma Supplement
- ◆ **Single Market rules**
  - ◆ Free movement of legal professionals
  - ◆ Free movement of educational provision and providers
- ◆ **Sorbonne-Bologna**
  - An emerging common area of higher education flowing from the Sorbonne-Bologna process

# Sorbonne Bologna Declaration

- ◆ Sorbonne to Graz via ...
- ◆ Intergovernmental process with strong participation of the university sector
- ◆ Originally 4 now 33 European countries involved
- ◆ The Bologna follow-up Group
- ◆ Next big meeting Berlin in September 2003

# Bologna Declaration

## ◆ Key aims

### - European Space for Higher Education by 2010

#### ◆ Ease mobility of students and transportability of qualifications

- Existing EU (Socrates, Erasmus, ENIC/NARIC and other professional recognition regimes) and other regimes (Lisbon Convention) ECTS ; Diploma Supplement; European Dimension in Education

#### ◆ Increase competitiveness/attractiveness of European higher education sector

- USA

#### ◆ Employability

- Link to the European Labour market

# Bologna Declaration

## Instruments for implementation

- ◆ Easily readable and comparable degrees
- ◆ Mainly organised in undergraduate / postgraduate phases
- ◆ Credit accumulation and transfer systems
- ◆ Quality assurance

# Bologna and Legal Studies

- ◆ Multiple legal environments
  - Not uniformity nor harmonisation
  - Promotion of trust and recognition
  - Emphasis on structural alignment, transparency, accreditation and quality assurance procedures



# The undergraduate phase

- ◆ 1st cycle degree (undergraduate - bachelor)
- ◆ In many continental countries the Bologna process requires a dramatic shortening in the length of European Legal studies. The first Bachelor stage being 3 years (not 5 or 6 years)
  - Should this cycle be the "academic" phase with the second cycle (post graduate) being more professional in orientation?
  - But Bologna calls for relevance to the labour market
- ◆ How, in law can a shortened university course lead to professional outcomes?
  - Increase in paralegal workers
  - Increase in recognition of the value of the discipline of law in the non-legal sector of the economy

# The postgraduate phase

- ◆ 2nd cycle (post graduate - masters)
  - more professional or more European?
  - Is this an opportunity for a common European Year of legal education?
  - Should law students after the 1<sup>st</sup> cycle be able to undertake the masters phase of legal education in another European State, thereby gaining a right to admission to the host State and home State legal professions, or professional training?

# The European Law Faculties Association (ELFA)

- ◆ 160+ Law schools from across Europe
- ◆ Discussing the impact of Bologna on legal studies
- ◆ [Http://elfa.bham.ac.uk/](http://elfa.bham.ac.uk/)
- ◆ *European Journal of Legal Education*
- ◆ *Elegal Seville meeting (Spring 2002)*
- ◆ Accreditation and quality control
  - Aarhus meeting (Spring 2004)



# The Common year(s)

## The transfer year(s)

- ◆ Bologna permits a 1 or 2 year master's degree
- ◆ The options according to ELFA
  - The bachelor degree could be devoted to a *comprehensive study of the national law* of the respective faculty.
  - The master's degree could consist of *European Community and Human Rights Law* as well as of "*generic*", i.e. "Europeanised" and "internationalised" courses on constitutional, administrative, commercial, intellectual property, environmental, competition and/or consumer law.

# ELFA

- ◆ “The Master’s degree received in the jurisdiction of another EU country should give immediate access to professional legal training in this country without the cumbersome and lengthy process of directives 89/48/EEC and 98/5/EC.” p.5
- ◆ “Professional associations or state examination boards should not put too restrictive a set of conditions upon final access to the legal profession which should be possible *at the latest after six years (3 + 2 +1 or 4+ 1+1 or 3+1+2).*”

# Norway

- ◆ 3 law schools: Bergen, Oslo, Tromsø
  - Currently a 6 year law degree
  - Becoming a five year master's degree
  - Should there be a 1<sup>st</sup> cycle bachelor's degree?
    - ◆ The five year master's needs only a short (not long thesis) - this an incentive not to have a 2 tier structure in law.
  - Struggling with ECTS
- ◆ Braekhus and Husabo (forthcoming EJLE)

# Professional stage

- ◆ All the mutual recognition directives are being consolidated into 1 Directive
- ◆ The current MR directive for lawyers is Directive 89/48/EEC as amended
- ◆ Criticised as too complex, unclear etc.
- ◆ THE ECJ has augmented its provisions in a series of cases
  - *E.g. Vlassopoulou* amendment
- ◆ Revised version in process of adoption
  - It will apply to lawyers
  - 5 levels of qualifications

# COM(2002)119

## ◆ Items to note

- Non MS qualifications + 3 years EC experience come within the Directive (arts 2 and 3)
- Definition of “same profession” -- “if the activities covered are similar”
- Partial activity provision
  - ◆ If compensation won't work, then should have access to that single activity – specialist practice certificate by any other name???
- Lawyers' derogation removed re choice between test and adaptation period – case to be made
- Worldwide experience to be taken into account



# COM(2002)119

- ◆ Administrative co-operation between MS Competent authorities (directly)
  - ◆ Can ask for proof of nationality and proof that he can undertake activities in the host State
- ◆ Common platforms
  - Professional associations can establish common platforms at the European level
  - Removes the Article 14 compensation measure option, subject to Commission approval.
- ◆ Language
- ◆ Citizen contact points
- ◆ Committee on the recognition of professional qualifications
- ◆ MS reports every 2 years

# Article 43

– *Morgenbesser*

# The CCBE Training Committee

- ◆ Not only the duration and content of training and different methods of assessment but what knowledge and skills do we want our lawyers to have?
  - The “European lawyer”
  - Common platform??
- ◆ ICT e learning
- ◆ CPD

