

The European Space for Higher Education and the teaching of Law.

The Spanish case

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I. INTRODUCTION

We face a period of change in university teaching. Today, the university teacher cannot be regarded as a simple transmitter of information while the student listens passively. Due to the new profile of students who reach our classrooms, and due as well to the indications derived from the European Convergence process starting in Bologna in 1999, teaching should become a more practical activity and the continuous evaluation system of assessment should be used¹.

In fact, each year Spanish universities have to deal with smaller groups of students. In these circumstances, it becomes necessary to evaluate the practical work done by the student during the academic year. The program of labour insertion of students should start within the university. The big gap between university and the labour market in Europe compared to American lies in the lack of interaction between the university world and the labour world in European countries.

Today, there are at least three elements conditioning university teaching, in general, and the teaching of law, in particular, namely: the profile of the university student, the European Space for Higher Education (ESHE) and the professor's profile. We will now analyze these conditioners separately as well as the results of these conditioners as to how we should teach.

II CONDITIONING FACTORS OF THE EDUCATION-LEARNING PROCESS

1. THE PROFILE OF THE UNIVERSITY STUDENT

All the reforms of the education laws have prioritised the idea of the student being the protagonist of his own learning. These reforms have stressed the idea that the student has to learn not so much through memorization and effort but through the relation of concepts; not so much through the information delivered by the professor but through knowledge that he discovers and acquires himself; not so much through the study of concrete contents but through the use of tools which will help him identify those

¹ DELGADO, A. M.; OLIVER, R.: "La evaluación continua en un nuevo escenario docente", in Revista de Universidad y sociedad del conocimiento, 2007, vol. 3, n. 1.

contents². In general, in High school, the students have the opportunity to express themselves in the classroom. During their secondary studies, they have the chance to debate with teachers and with other students. Therefore, they have good discussion skills, they are fast in debate, and they are good at interacting and at student-teacher dialogue.

The teaching model must be adapted to fit the students' profile. Teaching is not done on the void, but on people. So, the methodology employed must be adapted itself to fit the public's profile. We do not mean to say that the teacher has to lower the level of the studies program, nor the quality, and nor the exigency level. It is simply a question of adapting the teaching method to the new times and to the new exigencies of society and of the labour market.

The Spanish university teaching system, based on the traditional lecture, has proved itself inadequate for the new generations of students who reach university: their interests, values and their preparation are different from those of students of past times. A new teaching methodology is needed, a new form of knowledge transmission which keeps the students' attention and interest.

The new form of knowledge transmission may be more or less welcome depending on the discipline considered. In particular, concerning the study of law in Spain, the new methodology must overcome the resistance of the teaching staff who have been used to dictating lectures, while students listen in silence for years, decades and even centuries.

In short, we ought to teach the same subject matter but in a different way, with more student participation. This student participation should involve legal arguments/mooting which can be achieved by guided readings, gapped lectures, encouraging students' oral presentation and analysis of texts related to the subject of study (in our case, international covenants, contracts or case-law of national, European or international courts, etc.)

² PISA report, OECD (Program for International Student Assessment) 2003. This report provides information for each country. It can be consulted in the web page of this international organization: <http://pisa.oecd.org/document/50>. These data are also corroborated by specialists in education sciences and psychology: MARTÍNEZ PONS, J. A.: "Correlación Universidad-Enseñanza media", (2005) in *Vivat Academia*, June (66); FLAQUER, J. "Entrevista", in *Noticias de Tecnun*, (2002), see www.tecnun.es/not2002

2. THE ESHE

Universities are increasingly working in a globalised environment. They are evolving, marked by increased competition in order to attract the best students. They also have to respond to new needs. However, European universities have, generally speaking, less attractive financial resources compared to universities from other developed countries, especially those from the USA. In recent years, the EU has approached the subject of the future of European universities with an increasing interest. The history of the European education system is short but intense. Although member States retain the main powers in this field, the EU has understood that its complementary action should be much more forceful and incisive than in the past. A unique and homogenizing impulse is needed². Article 149 of the Treaty of the European Community declares: "The Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity". Therefore, States keep their powers to organize their education systems but the EC can support and supplement their action. In order to achieve this aim, the European Community action shall be aimed at developing the European dimension of education, encouraging mobility of students and teachers. It should foster, inter alia, the academic recognition of diplomas and periods of study, as well as approaching the contents of education to the needs of the labour market.

The reason for this change of attitude among the European institutions is the increasing distance detected among the innovative index in the North American universities –and even in Asian universities in many emergent economy states- in comparison with European universities, as well as the distance that seems to exist in Europe between what is taught in our universities –and especially how it is taught- and the type of professionals that the business world really needs. If the interested parties do not respond, the lack of coordination that separates the European universities from their main world competitors might increase. In the opinion of the European Commission, the academic world needs to adapt itself urgently to the interdisciplinary nature required of it by the big problems of society such as sustainable development, new diseases, risks management, etc. Nevertheless, university activity, especially

² Council Recommendation of September 24th. 1998 about the European cooperation for the quality guarantee in higher education , DOCE L 270/56, 7th of October 1998.

regarding education, tends to support an organization that depends upon the traditional system of disciplines and classic manners of teaching.³ The Resolution of the Council of November 25th 2003 on *The human capital development for the social cohesion and the competitiveness in the knowledge society* emphasizes that it is the Community's business to contribute to the development of a good education and to promote a vocational training that has in mind the responsibilities of the member states, as well as to cooperate with these in order to build a competitive economy based on knowledge.⁴

The EU is suffering from poor investment on human resources.⁵ It is necessary to obtain the maximum efficiency of public and private investments coordinating the educational and formative policies with the employment policies, something that has been confirmed by the Commission on its Communication of 20th April 2005 *To create the necessary conditions so that the universities could fully contribute on the Lisbon strategy*.⁶

The adaptation to the ESHE already implies a deep change to university education, both in degrees and the contents as well as in the educational methodology⁷. As we can see in the Preamble of the Organic Law 6/2001 of Universities of December 21 (LOU), in Spain we must rearrange university activity to allow universities "to approach, in the frame of mass media and knowledge society, the challenges derived from the innovation in the ways of generation and transmission of knowledge". The knowledge required by society has changed the traditional ways of teaching. The Organic Law 4/2007 of April 12, modifying the LOU, also establishes in its preamble that one of the reasons for the reform of LOU are the agreements reached in politics about higher education in Europe, as well as the need to deeply reform the structure and the organization of university teaching.

On the one hand, the scientific, humanistic and technical training has acquired a key social importance not only as support for the learning of a professional activity, but also as foundation for the process of construction of a citizens' European community. The

³ Commission Communication of February 5th. 2003: *The role of universities in the Europe of knowledge*.

⁴ Council Resolution of November 25th. 2003 about *The human capital development for the social cohesion and the competitiveness in the knowledge society* (DOUE C 295 page 9).

⁵ Commission communication *To invest effectively in educational training: an imperative for Europe* 10th of January 2003 not published in DOUE, doc. COM (2002) 799 at the end.

⁶ Commission communication on 20th of April 2005, *To mobilize the European intellectual capital: create the needed conditions so that the universities can fully contribute to the Lisbon strategy*. The European Parliament and the Council do support this strategy too as we can see in the European Parliament and Council Advice on the 15th of February 2006 about *a mayor European cooperation on the quality guarantee of high education* (DOUE L 64/60 of the 4th of march 2006).

⁷ To check this information, see *Guía del EEES* editada published by the Madrid Community, (2006) DE ESTEBAN MARTÍN, L. y MARTÍNEZ CUADRADO, M. (dirs.), Madrid.

university institution must play a decisive role in this new stage. The fall of demographic pressure entails, undoubtedly, an opportunity for a better use of human and material resources. The development of knowledge means that society requires flexible structures in higher education. This should make possible a training in personal criticism that allows the pupil for to interpret information that contributes not just himself but also to the creation of knowledge. A new concept of academic training becomes necessary. One that is centred on students' learning, as well as in a reevaluation of the educational function of the teacher. Lecturers should stimulate pupils' motivation. They should direct their efforts to improving quality and educational innovation.

On the other hand, the phenomenon of globalization is not limited to the economic field. It also affects, in a decisive and positive way, the transmission of knowledge and higher education. The universal character of the university institution will, moreover, be reached through the use of new technologies eliminating geographical barriers⁸.

The construction of the ESHE is a process that began with the Sorbonne Declaration (1998). It was consolidated and extended with the Bologna Declaration (1999)⁹ although earlier, the Council Recommendation 98/561/CE, of 24th of September 1998, on the European cooperation for the guarantee of the quality in high education, invited the member states to equip their systems of superior education with mechanisms of evaluation, assessment and quality guarantee.¹⁰

⁸ RUIZ CORBELLA, M. y VILLA SÁNCHEZ, A: "La red de educación y el Espacio Europeo de Educación Superior", in *Revista Interuniversitaria de Formación del Profesorado*, 2004, vol. 18, n. 1, pages. 21-37.

⁹ In the Bologna Declaration the European education Ministers demand to the EU member states to develop and introduce the following aspects in their countries:

1. To adopt an understable and comparable degree system in order to promote job opportunities and international competitiveness.
2. To establish a system of degrees based in two main levels. The first level degree will be relevant or appropriate for the European labour market. The second level, that requires the first level to be passed, should lead towards the achievement of masters or PhDs.
3. To establish a common system of credits in order to promote the mobility and compatibility of students and graduates.
4. To promote the mobility and different opportunities of academic training.
5. To guarantee the quality and to develop educative methodologies that are comparables.
6. To promote an European high education and especially that to say about the cv development, institutional cooperation, and integrated study, training and investigation programmes.

¹⁰ Council Advice 98/561/CE, 24th of September of 1998, about *the European cooperation for the quality guarantee in high education*.

Later on, in the Official Prague Communication (2001) some additional lines were added such as lifelong learning as an essential element. It was introduced in order to reach greater levels of European competitiveness, to improve social cohesion, the equality of opportunities and the quality of life. The Summit of the Heads of State took place in Barcelona in March 2002 was an important landmark in the process of construction of the ESHE. Among the Presidency of the European Council conclusions, a special point is included: to create the conditions needed to guarantee mobility to all those that participate in the scopes of education, research and innovation. The Conclusions also approved a work program that, among other actions, asks for the introduction of tools aimed at guaranteeing the transparency of diplomas and qualifications through the introduction of European CV and the European credits (ECTS, European Credits Transfer System).

The credit is the reference unit on which curricula are structured and organized. Today, in the Spanish university system, this unit is defined fundamentally on the hours of teaching, lectures or practices, distributed by the professors. This meaning is very different to the one advocated by the Declaration of Bologna. As Carlos Camiña indicates “teaching hours only contemplate one part of the learning process: the task of the professor. The traditional method is characterized by a transmission of knowledge. For that reason the “old” credits only measure teaching hours. In the new trend, the important thing is not what the professor teaches, but what the students learns. We must assume that the reform implies to educate in competences, understood as the set of qualities (team work, resolution of problems...) and attitudes (creativity, work spirit...) that will contribute to the labour success of the future professionals¹¹.

The European credits system responds to the need of finding a system of equivalences and recognition of the studies attended in other countries, developing the programs of student mobility. The generalization of this academic unit of measure for all the students is a main target for the creation of ESHE. This means that the work developed by a student in any of the member states universities is easily recognized as far as level, quality and relevance.

¹¹ CAMIÑA CATALÁ, C.: in *El Mundo: Suplemento CAMPUS* n. 490, 6th of June 2007, possible to be seen in www.elmundo.es/suplementos/campus/2007/490). In this same sense, ÁLVAREZ-OSORIO says that the number of hours does not guarantee the achievement of the educational objectives. These can be achieved by the development of team work, critical readings and the use of lessons. The aim is that graduates acquire an established education based in the objectives, that they are pleased with what they learn and that they have the possibility to enter on the labour market (ÁLVAREZ-OSORIO ALVARIÑO, A.: in *El Mundo: Suplemento CAMPUS* n. 490, 6th of June 2007, see www.elmundo.es/suplementos/campus/2007/490).

The introduction of the European credit in the Spanish university system implies important differences concerning the actual credit. The European credit does not measure the time spent in lectures. It assesses the total volume of work done by the student. This volume is expressed in hours, including the lessons, lectures or practical work, as well as the effort dedicated by the student to the study and the preparation and accomplishment of examinations. In conclusion, this unit of measurement regards a new educative model based on the work of the student and not on the hours of lecturing. In other words, this unit focuses on the students learning, not in the professors teaching.

During the Summit of Spring 2006 the European Council insisted on the need to "start up a general strategy of innovation for Europe that translates the investments in knowledge in products and services". The member states are invited to identify the handicaps in their systems of education for the promotion of a society that encourages innovation. Particularly, they should put in practice the recommendations included in the publication *To carry out the Agenda of Modernization for the Universities*.¹²

In Spain, the Decree-law needed to adapt the degrees to the new system is dated in 2004¹³. The Council Order by which the university official studies of degree and post graduate studies are set out, were made at the beginning of 2005. However they were modified at the end of that same year¹⁴. This is why until recently there wasn't even experience of how the curriculum of students should be organized.

But what is possible (although still little experience in the application of the criteria of Bologna exists) is to adapt the methodology –the type of teaching- to the new environment, to the new European and labour market demands, so that we have a better education-learning criteria¹⁵. In this sense, a method of work is proposed, similar

¹² Commissions Community Communication to the Council and the European Parliament, 10th may 2006, *To fulfill the Agenda of Modernization for the Universities: education, investigation and innovation*.

¹³ Royal Decree 49/2004, 19th of January, about study programmes and oficial degrees homologation and their validity in all the national territory (*BOE* de 22nd of January 2004, n. 19, page 2667).

¹⁴ R. D. 55/2005, 21st of January 2005, for which the educational structure in Universities is established and the official university degrees are regulated (*BOE* 25th of January 2005, n. 21, page 2842) and R. D. 56/2005, 21st of January 2005, that regulates PhD studies (*BOE* 25th of January 2005, n. 21, page 2846) both modified by the R.D.1509/2005, 16th of December 2005, that alters the R. D. 55/2005 and the R. D. 56/2005 (*BOE* 20th of December 2005, n. 303, page 41455).

¹⁵ GARCÍA SAN JOSÉ, D.: *La enseñanza-aprendizaje del Derecho Internacional Público en el EEES*, (2005), eds. Laborum, *passim*

to what happens in European universities which have already adapted their degrees to the European demands, promoting work and active participation of students in their own process of education. Here, the global effort of the student throughout the course is valued. Those syllabus that use the ECTS system imply a type of evaluation of the student that does not only have in mind his qualification on the final exam but also the time spent in individual and team work, the accomplishment of examinations and tests, the attendance to lessons and tutorials with the professor, the effort made in internships, the participation in courses and lectures related to the subject, essays and papers produced, the collection of documents and books in the library as well as oral presentations made in front of the class.

3. THE PROFILE OF THE TEACHING STAFF IN UNIVERSITIES IN THE ESHE

The university must respond to the new needs in education and training raised with the economy and the knowledge society. They especially must respond to the increasing demand of scientific and technical education, cross-sectional competences and innovative possibilities of learning. But the central point so that the university can respond to these challenges is a qualified and motivated teaching staff.¹⁶

The European directives propose a new model in education. As Alfonso Palazón indicates, the student is the masterpiece in the educational action: the evaluation of his work, his hours of study, practices, team work, tutorials, will be the performance axis. The professor will act as a guide: he will guide in the search for information and in the search of books related to the study. This does not mean that the professor will quit in his or her function of transmitter of knowledge. His or her role in educational teaching is irreplaceable¹⁷. But there will be more student participation in the lessons, fomented and directed by the professor. There will be more dialogue, more interaction and more personal work of the student demonstrated through tests, individual and team work, practices and previous readings, oral interventions and discussions with their classmates. This new educational method means for the professor much more dedication, time, effort, energy, previous preparation of working materials and capacity to supervise/evaluate the students in their legal arguments during the discussions. In this model, through out the evaluation there is a constant search for excellence and culture of quality.

¹⁶ Commissions Communication 5th of February 2003: *The Universities role in the Europe of knowledge*.

¹⁷ PALAZÓN, A.: "Hacia un nuevo perfil del docente universitario", see *Educaweb.com* 6th of June 2005, in www.educaweb.com/EducaNews/interface/asp

Today's system of education is, to a great extent, inadequate for the new generations of university students. It becomes therefore necessary for the professor to explore new educational methodologies, that is to say, new ways to transmit the knowledge in order to catch the attention of today's college students.

The educational guide will have to show the level of effort that the professor demands from the students, practical works to be done, tests or examinations which will be given to them. The presence in active and argued class will be assessed by the professor. He will have to make an additional effort to get to know his pupils.

This new methodology is based upon a new conception: the classroom as a working place and not as a mere transmission of the knowledge that can be found in books. The regular attendance of the student to lessons allows the professor to evaluate the pupil in a continuous way having in mind the work done throughout the whole course. In this methodology, the professor's role is seen as a figure that accompanies the student in the study, lending the needed advice to reach the demanded level.

The most important factors for efficiency in university education are the quality, the experience, the motivation of the professors and the types of teaching used.¹⁸ But the main problem is that, traditionally, the university system has magnified the importance of research and has despised teaching. Research is prioritised in internal university promotion. It is also prioritised within the academia in terms of reputation. Whereas teaching is considered as a lesser evil that must be suffered if you want do research. This has implied a devaluation in teaching. The incentives for the professor are very small. The teaching system does not motivate lecturers to inform themselves of new educational techniques. The professor's prestige rises with research and publications. This allows his recognition in the scientific community whereas being a good teacher does not imply anything positive to his CV, except for the nice memory that he can leave in his old students. If we are not able to value the educational task, if we do not create scales that recognize the work of that professor who knows all the items of the syllabus and has a complete vision of this subject, that spends his time preparing his lectures, that uses new educational methods in order to obtain the best of his pupils, that makes his students think and spends his time correcting exercises, tests, practical

¹⁸ Commissions Communication to the Council and European Parliament *Efficiency and equality in the European systems of education* 9th of September 2006, COM(2006) 481 final.

exercises, examinations or preparing seminars, etc. we will never foster a methodological change of mind within the academia.

III. RESULTS OF THESE DETERMINING FACTORS

1. METHOD FOR THE UNIVERSITY EDUCATION, IN GENERAL, AND IN LEGAL MATTERS, IN PARTICULAR

“Universities have the potential to play a vital role in the Lisbon objective to equip Europe with the skills and competences necessary to succeed in a globalised, knowledge-based economy. In order to overcome persistent mismatches between graduate qualifications and the needs of the labour market, university programmes should be structured to enhance directly the employability of graduates and to offer broad support to the workforce more generally. Universities should offer innovative curricula, teaching methods and training/retraining programmes which include broader employment-related skills along with the more discipline-specific skills. Credit-bearing internships in industry should be integrated into curricula. This applies to all levels of education, i.e. short cycle, Bachelor, Master and Doctorate programmes. It also entails offering non-degree courses for adults, e.g. retraining and bridging courses for students not coming through the traditional routes. This should extend beyond the needs of the labour market to the stimulation of an entrepreneurial mindset amongst students and researchers”¹⁹.

According to the European Commission, the European situation in higher education is worrisome²⁰. The next years are going to be crucial to try to overturn the way things were chosen twenty years ago: the situation of overcrowding without changing the university framework. European universities (and within them Law Faculties) will have to adapt to a new context, without overcrowding; a new and more competitive context; surprised by the entrance in the educative international panorama of emergent giants such as Brazil, China or India. If the European universities do not adapt themselves, many of them will disappear. Knowledge, innovation and adaptability to the new context and the new type of students, are essential to determine the development or not of the European university system. That is the reason for the needed university reform at the European level, with the purpose that all the universities, in a similar way,

¹⁹ **Communication from the Commission to the Council and the European Parliament - Delivering on the modernisation agenda for universities - Education, research and innovation /* COM/2006/0208 final */**

²⁰ Commission Communication of April 20th. 2005, *Movilizar el capital intelectual de Europa: crear las condiciones necesarias para que las universidades puedan contribuir plenamente a la estrategia de Lisboa*. Also see.: European Parliament and Council Recommendation, February 15th. 2006, *sobre una mayor cooperación europea en la garantía de la calidad de la enseñanza superior* [DO L 64/60, March, 4th. 2006] and Council Recommendation of September 24th. 1998 *sobre la cooperación europea para la garantía de la calidad en la enseñanza superior* (98/561/CE), DOCE L 270/56 october 7th. 1998.

prepare their students, give the tools and capacities for their immediate incorporation into the labour market. To distribute practical knowledge, to approach their students to the enterprise world, to teach them to be active and dynamic people who raise questions and have the tools to answer. These have to become the principle targets of the European reform. The top-down process in which the professor is the unique transmitter of knowledge must come to an end. It is necessary to focus on participating and collaborating processes, to connect theory and practice, action and thinking²¹. University syllabus must be structured so that the entrance of graduates in the labour world improves and an ample support is offered to the manpower in a more general way. Universities must offer educational curriculum, educational methods and occupational programs. We need innovative ways of training to enable people to enter the employment market.

The diagnosis of the present situation could be synthesized by saying that the educative methodologies reform is perceived as an essential process in the Spanish Universities in order to approach an updated formative supply of legal studies. The process the ESHE is building is seen as a perfect opportunity to motivate a reform that must not consist of a mere restructuring or change in the contents of studies, but must reach the heart of the university, where we find the relationship between professors and students.

In Spain, and in other European countries too, aims of the European Convergence in higher legal education have focused on the structure of lessons, the ECTS system implementation, the European diploma supplement, etc. However the determining role of the teaching staff -the one giving lectures-, has not been considered. Law faculties must carry out strategic activities for the renovation of their educational practices. The improvement of the educational practices in University should insist on educational training, evaluation and bonuses.

Lectures are still the dominant pedagogical practice in Spanish Law Faculties -although more exercises and discussion of practical cases are being introduced. It is advisable to reinforce practical lessons and internships in different work centres. Another aspect to be promoted is the tutorial-support sessions between the professor and the student in order to complement the lessons and the individual work of students.

²¹ TAYLOR, P. et al.: “Higher education and participatory development” in Global University Network of innovation, 26th june 2007, see www.guni-rmies.net/news/detail.php?id=1075

Computer science technologies are also bound to continue playing a fundamental role in the methodological renovation.

Another axis of the education approach in advanced European systems is the active development of the student. Here the basic principle is that the students must become the main actor in his or her own educational development. This entails a greater quality traineeship.

Other remarkable differences that are underlined when comparing the Spanish system with some of their homologous European systems are: the inferior development of personal tutorial attention; the smaller use of agreements with companies and institutions to promote practical professional learning; less study of foreign languages and less mobility of the students within the universities. It is worth marking that in the European universities the methodology used is already more focused on the students' independent learning, on the promotion of their competencies and on tutorial support. However in Spain the weight of teaching is still focused on lectures that mainly concentrate on making the students learn by heart the contents displayed in their lessons ("cabezas bien llenas pero no bien hechas")²².

Aims and strategies for the renovation of educational methodologies in Spanish universities require a holistic approach. The main aims of a process of general and generalized educational updating are: 1) To improve the quality of learning; 2) To increase the level of satisfaction in both professors and students; 3) To bring university studies and professional exercise closer together nearer, promoting the practical aspects of education: theoretical knowledge is needed but also skills on how to behave. 4) To promote the methodological aspects that the ESHE underlines: to give a main role to the student in his or her own development, to encourage team work, to organize education depending on the skills that will be acquired, to promote the acquisition of tools of independent and permanent learning, etc. 5) The renovation of the methodologies must generate a progressive readjustment of the present academic structures, forcing the incorporation of new models of educational and institutional action.

This takes one to a deeper reflection on what is the role played by the University in the real world. In fact, if the Spanish University had not undertaken the path of the

²² MEC: *Propuestas para una renovación de las metodologías educativas de la Universidad*, 2006, Madrid, page 8.

European convergence, we would probably have had to look for another excuse, another reason for making us stop and think about it. Some have said that the problem nowadays is not as much the question of what to teach but how to do it.²³

The total number of law students has fallen progressively in recent years. This has allowed there to be smaller class groups in place of the traditional lecture format in areas in which the old style of teaching is no longer of use.

On the other hand, there are major labour market demands. Employers search for people who can quickly enrol in their company or administration staff. People who, besides the specific skills required for their occupation, have acquired other transferable skills.

Finally, there has also been a change in the profile of the university student. Nowadays it is normal to find students, mainly those in first year, whose effort, ability and work ethic are lacking.

From the beginning, Spain embraced the Declaration of Bologna. Both the LOU (2001), in its Preamble, and the Ley Orgánica 4/07 reforming the LOU, demonstrate the aim of Spanish universities to become one of the best higher education systems in the newly enlarged European Union. For this to be possible, the role of the student in his own learning has to be further considered; the ECTS should be awarded according to the effort of the students and the subject. It is important to have in mind that this effort should not only be measured according to the number of hours weekly assigned to the subject.

1.1 CHANGE IN THE PROFESSOR'S ROLE²²

²³ CHRISTENSEN, C.R.: "Introduction" in *El arte y el oficio de la enseñanza*, MORGANROTH, M. (ed.), (2004), Madrid, pp. 9 and following, p. 28.

²² About the change in the professor's role, see: VALCÁRCEL CASES, M.: "Formación del personal en el marco del espacio Europeo de Educación Superior", in COLLADO YURRITA, M. A. (coord.): *La evaluación, acreditación y certificación en el marco de la convergencia europea*, 2005, Universidad de Castilla-La Mancha, p. 105-128; PASCUAL PACHECO, R. et. al: *Liderazgo transformacional en los centros docentes*, 1993, Mensajero, Bilbao, and in VILLA SÁNCHEZ, A.: "El proceso de convergencia europea y el papel del profesorado", in *Foro de Educación*, 2006, n. 7-8, pp. 103-117; From this author: "Convergencia europea y actualización del profesorado", in *Hacia una enseñanza universitaria centrada en el aprendizaje: Libro Homenaje a Pedro Morales Vallejo*, 2004, (TORRE PUENTE, J. C., coord.), Editorial Gil Coria, p. 271-320; and "La formación del profesorado en la encrucijada", in *Perspectivas y problemas de la función docente*", (VILLA SÁNCHEZ, A., coord.), 1988, p. 24-38.

The biggest obstacles for the renovation of educational methodologies lie in the teaching staff. Amongst other problems, the report issued in Spain by a Commission (request of the Ministry of Education through the Council of University Coordination in April of 2005) on *Proposals for the renovation of University educational methodologies*, highlights: 1) the lack of incentives for acknowledgment of the educational work; 2) the little value given to the activity of teaching within the professors' promotion process; 3) routine; 4) fear of change; 5) the aging of the teaching staff; 6) the objectives of the ESHE seem to be quite confused; 7) lack of tradition in team work; 8) difficulties in motivating students so that they get involved in their own learning process; 9) the teaching staff's poor preparation for classes.²⁵

The professor must turn the class into a work space that justifies the students' presence, promoting their interaction and participation in the lessons. The professor must not only motivate the students so that they get more involved in their learning process, but he or she must also teach students how to learn.

The didactic renovation means an additional effort for the professor, but also values the professor's work as the professor becomes the main person in charge of the educational process. It is the professor who must be in charge of the practical application of the educational methodologies. It is the professor's duty to become involved in the renovation and application of the new methodologies.

The methodological renovation must entail a clear progress towards a new style of working for the teaching staff. Before, the professor's main duty was the preparation of lessons. Now there are different ways of teaching: lessons, seminars, tutorials, workshops, internships, practicum, dissertation, events, lessons in the computer room or in the library, etc. A more coordinated and cooperative action between the teaching staff is needed.

Universities should open different paths in order to help improve the teaching staff's level of knowledge on this new methodological system. Here we could distinguish between development activities, visits, exchanges and research.

1.2 CHANGE IN THE EDUCATIONAL METHODOLOGY

²⁵ MEC: *Propuestas para la renovación de las metodologías educativas en la Universidad*, abril 2005, www2.uah.es/formación_profesorado_universitario

The European Parliament and the Council Decision 2317/2003/CE reminds us about the necessity for the European Space for Higher Education to become more attractive not only for European students but also for the rest of the world²⁷. The university community does not consider advisable (nor is it realistic to consider it as a short term option) to end with the use of lectures, understood as the theoretical explanation by professor to student. This traditional way of teaching has its benefits but it is necessary to consider its limitations (the most serious one being the passivity of students, deteriorating the quality of their learning) and, consequently, to complement this system with other ways of teaching that encourage the participation of students²⁸.

In a lecture, the professor enjoys greater control of the classroom and decides the subjects of the lesson, the order and the detail to be taught. This methodology can easily offer the students a complete vision highlighting the main issues and solutions of each subject. Lectures force the teacher to systematize dispersed information. The lecturer can offer a coherent approach to the subject. Because of this, the theoretical lesson is considered as an important educational instrument.

But a lecture by itself, without giving the possibility of interaction between the students and the professor, without asking questions to the students so that they can argue and look for legal answers, leaves the students as passive members in their own learning processes. By itself it does not stimulate the student, it does not give the opportunity to the students to formulate their own answers; it can lead to a later homework, but it does not demand it. However, the use of discussions based on a lecture encourages the students to gain ability in analysis, allowing questions and objections. Lectures as the unique method of educating, display good results and an ability to define closed concepts defined. However, the combination of theoretical explanation with discussions with the pupils encourages the latter to search for answers themselves and turns the classroom into a work place³⁰.

The professor must encourage critical work and stimulate a thirst for knowledge in the students. The professor must encourage good structured speeches that are made possible by using different techniques, such as discussions and debates, team work,

²⁷ Decision 2317/2003/CE of the European Parliament and Council of the 5th of December 2003 establishing a programme for a better quality of higher education and the promotion of intercultural between countries (DOUE L 345/1 of the 12th December 2003)

²⁸ MEC: *Propuestas...*, p.134.

³⁰ WILKINSON, J.: “Variedades de la enseñanza”, in *El arte y el oficio de la enseñanza*, MORGANROTH, M. (ed.), (2004), Madrid, p. 27 and following., page 31 and DUBROW, H.: “Teoría y práctica de la clase magistral, in p. 61 and following, in the same book.

role plays, practical lessons, etc. The professor must try to provide the knowledge, the techniques and the abilities that will be useful for the students once they have finished their degree. In this process of learning, besides memory exercising, it is necessary to promote understanding and interpretation, analysis (to detect the elements of a whole and the connections between them and to be able to discover essential and common things between a dispersed concepts, etc), critical opinions and evaluation (to be able to give a value judgement of a theory, rule, fact, etc). Along these lines, the Communication of the Commission to the Council and the European Parliament, 10th of May of 2006, *To fulfill the agenda of modernization for the universities: education, research and innovation* indicates that the students would have to acquire (besides a basic understanding in the chosen field) knowledge in the following matters: research, communication, business acumen and team work.

Beginning the lessons by asking the students a question is a good way not only of catching the students' attention but also to encourage them to start a discussion. The professor will have to draw attention to the importance of each of the questions that the students ask and should connect these with others giving a sense to what he is explaining. The interesting thing is to provide the students with the bases necessary to develop their own analysis on the theory and the facts. In some cases this implies evaluating an argument that is being developed; in others, deciding when and how to use the procedure, method or explanation that is being offered. It can also imply determining the consequences of what is being said or making value judgments on the different methods of solving problems. Sometimes it can include all the previous things said and even more. The professor will have to offer the students some guidelines to help them discover the answers to his or her question by themselves.

1.3 The importance of tutorials

The figure of the tutor constitutes a very old practice and one of the identity signs of the university system. Tutorials have gained a new importance, since the most important element of the new model of education is the relationship between professor and student. Its great contribution is to highlight the importance of the recognition of each student as an individual subject in the educational process. It is essential to reinforce the channels of communication between student and professor,. This produces active and personalized education³².

³² Ideas observed in the Report elaborated by the commission order of the Spanish Ministry of Education through the Council of University Coordination already mentioned.

Tutorials, as observed in the ESHE, are not only good for solving students' doubts on the syllabus. They are also useful as a way to learn different study techniques for that branch of knowledge from the professor. They can even be oriented to the labour and professional insertion of the student³³. Tutorials tend to be more popular, in a large number of universities, as a way of providing information and personal guidance (affecting scopes such as the election of different subjects areas and the knowledge of possible career opportunities).

Therefore, tutorials must be reevaluated both by the educational staff and by the pupils. Tutorials must not only be seen as a time in which the professor agrees to be there for the student, or hopes the student will come to consult him, nor as a time in which he will be available in his office. From the students' point of view, they shouldn't be seen as an instrument for those only who are either the worst or the best students. Tutorials are a very useful technique in the students' learning process and in the development of their enthusiasm and self-confidence. Tutorials help to create future professionals with competences in defending arguments, communication skills and the ability to know how to behave. In conclusion, tutorials help to create active and uninhibited professionals. Tutorials, oriented to complement theoretical-practical lessons in bigger groups and the own personal study of each student, are therefore a practice that should be promoted.

1.4 Evaluation system³⁴

It is now necessary to establish new evaluation systems that are more effective and at the same time stimulate and give rewards to the work and active study carried out by the students.

The system involves a combination of continuous evaluation and final exam. The students should pass both parts since the final mark or qualification can't be calculated without the final exam (as it happens in the method of real continuous evaluation) nor can be calculated only depending on the result that the student obtains in a final

³³ SOLABARRIETA EIZAGUIRRE, J. and AUZMENDI ESCRIBANO, E.: *Cómo diseñar y realizar tutorías en la formación "on line"*, 2003, Universidad de Deusto, Bilbao, page 56.

³⁴ About the professors evaluation see: MORALES VALLEJO, P: *La evaluación del profesor: una visión de los principales problemas y enfoques en diversos contextos*, 1993, Servicio Central de Publicaciones del Gobierno Vasco, Vitoria-Gasteiz; SOSA MORENO, F. et al.: *Los equipos directivos ante el uso de la evaluación*, 1996, ICE, Bilbao; COLLADO YURRITA, M. A. (coord.): *La evaluación, acreditación y certificación en el marco de la convergencia europea*, 2005, Universidad de Castilla-La Mancha.

examination (that would not have in mind all the previous work done by the student throughout the year). In this way, the students' work during the year is assessed and their presence in lessons is necessary but not enough by itself. It is necessary "to be" and to be active³⁵.

The evaluation system proposed is mixed: it combines the mark of the course (that is to say, the evaluation of the work carried out by the student during the development of the subject: written assignments, reading/tutorial preparation, practice problem questions) with the grade of the final examination:

-- 50% of the mark corresponds to the mark obtained for the final exam

-- 50% of the final mark corresponds to the mark earned by the student for the work carried out during the course. To obtain this mark, the professor must issue at least the following activities: tests, voluntary oral presentations; class tests, reading assignments, practical cases, non eliminatory pieces of work and other activities and tests.

The evaluation system is to be accessible for the student, having to specify the exact distribution that each professor makes according to the 50% of the course note.

1.5 The importance of the educational guide

Within the framework of a system like this, the role of the educational guide acquires special relevance. The educational guide is seen as something more than the syllabus of the subject. The educational guide or course outline becomes a learning contract between the professor and the student. Here the student must identify the general objectives of the subject (knowledge objectives) as well as the abilities and skills required (application objectives), the educational methods used by the professor and the work that must be completed by the student during the course, the practices to be carried out, the papers to be handed in and the criteria of evaluation, the book references (including both a basic and a complementary bibliography) and the cases proposed for its resolution.

³⁵ JEDREY, C.: "Calificar y evaluar", en *El arte y el oficio de la enseñanza*, MORGANROTH, M., (2004), Madrid, page 155 and followings.

Therefore the educational guide becomes a useful tool that summarizes the “rules of the game”, which must be clear and must provide a complete overview of the work to be done by the student. This educational guide reflects the cooperation between the university staff since methodology is not an individual task of each professor but a department task. The writing of a course outline requires the cooperation on the part of the teaching staff.

As a summary, the following table schematically shows the diverse implications of the change in the educational method and the new proposed learning method:

CONSEQUENCES OF THE CHANGE IN THE EDUCATIONAL METHOD

For the students	For the professor
Greater presence in the classroom	Change in his or her working habits
Greater work load	Greater work load
Greater effort of planning	More involvement with the students
Greater academic control in their work	Synthesis in contents
More information on their evaluation	More aspects to have in mind in evaluation
Greater autonomy in their learning process	Greater exigency of cooperation
Greater learning opportunities	Greater effort of planning

In conclusion, it implies a change of habits in the student and a greater dynamism in the professors' work.

On the other hand, we should emphasize a list of benefits and faults originated by this system. The benefits are as follows:

1. Unification of the educational methodology
2. An image of a common and global educational project among the teaching staff
3. The student knows what is expected of him
4. More dynamic lessons, prior readings
5. Better knowledge of the students and their academic capacities
6. Dynamic work, promotion of students' responsibility, etc
7. Stimulation of team work

Some possible faults are as follows:

1. Difficulty in measuring the work load for the student

2. Delay in the planning scheduled for the subject
3. Greater work load for the professor because of the amount of tests and/or activities to prepare and correct; as well as having to cooperate the rest of the teaching staff.

1.6 Summary

Historically, the Spanish university has valued the professor's research over his teaching efforts. This has resulted, consequently, in the current lack of motivation towards teaching, which is the main role of an educative establishment.

In 2005 the Ministry of Education and Science convened a Commission to draft proposals on methodological renovation in universities. After analysing the current state of Spanish higher education, the Commission issued a report highlighting the following issues:

- 1) The professors only innovate to the extent that they wish;
- 2) Poor development of personal attention to the students;
- 3) The need to reinforce the student's practical development;
- 4) Low mobility among the teaching staff and the students;
- 5) Low number of agreements with companies and institutions.

It is necessary to take advantage of the European Convergence process in higher education to make deep innovations, especially with regard to the educational methodologies. The Spanish universities must support deep changes in the curricula and the syllabus of the subjects to incorporate the principles and procedures that are needed within the framework for the methodological renovation of the ESHE. A change of attitude in the teaching staff, so that they improve their didactic structure, is considered necessary. It is not sufficient merely to address the issue of didactic structure. It is necessary to look for motivations and incentives too. The ESHE is perceived as an opportunity to generalize experiences in methodological innovation.

We are approaching a historical landmark in European university education: the creation of a university space that will bring a revolution in the system of learning and teaching. It is an opportunity to renew and change. 75% of the Spanish universities have already included instruments within their framework to improve the quality of the learning under the ESHE, but there is still much work to be done.

The time has come to change from a method of traditional education to a learning method in which the student, as the centre of the process, can develop a greater capacity for judgment and reflection. Lessons must be addressed to teach theoretical, technical, practical knowledge and abilities; to look for the students to assure a development of their thinking capacity and their critical vision. This will provide students with criteria to distinguish between different trends and it will facilitate the attainment of their own criteria. University education must aim in its objectives to try to train an active student, who can understand and judge his studies in more depth through the development of a participating attitude, rather than merely passive or receptive one. In order to secure this objective, it is necessary to use theoretical lessons, problem questions, seminars, different didactic materials, individual and team work, tutorials, lessons in the computer lab, etc, having in mind that the lessons must be ruled by the principle of the harmonization of the theoretical-scientific direction and the practical-technical one, as both are essential.

The main principle of developing in this way provides that the student must be the protagonist in his own learning process. In this way, the professor will be the one who indicates the objectives. He will act as an adviser, helping to correct deviations or losses of time and energies. This new way of teaching especially focuses on the students' learning. To a certain extent, it promotes education in accordance with the individual, his or her capacities and interests.

2 BRIEF NOTE ON THE METHOD FOR LEGAL EDUCATION FOR PUBLIC INTERNATIONAL LAW AND EUROPEAN COMMUNITY LAW

We must understand the European convergence as an opportunity to think about International and Community Law, our methodology - what we teach and how we teach.

All things said about the methodology in universities are perfectly applicable to the field of Public International Law and EC Law. These two subjects are perfectly suitable for the students' active learning for their personal development and their interaction with the professor. The lessons in these two subjects can easily become dynamic by the professor simply allowing and even favouring discussions. The contents of these subjects usually appear in the front pages of newspapers as well as in the television news bulletins. There is a tendency, even between laymen in Law, to analyse international facts and information received from the EU. The professor of International

Public Law and Community Law must be able to, by establishing and teaching the basic principles of these disciplines, allow discussions and the analysis of facts between the students, avoiding close minded arguments.

Public International and EC Law make possible the accomplishment of theoretical practical exercises together with lessons based on lectures. Students throughout their study of international texts (treaties, proceedings of international organizations, case-law and rulings of international courts, etc.), through their analysis and interpretations, their discussions and team work, acquire the tools that, at the relevant time, will allow their labour insertion into a position that requires abilities in international or European matters.

Furthermore, Public International Law and EC Law allow the presentation of complex practical cases, combining the use of different juridical orders (international, European, national - and, within the national laws, criminal, civil, procedural, labour, commercial law, etc.). The presentation, discussion and solution of international case-law, resolutions of international organisations or other international documents, facilitate the development of skills in this field of knowledge. This helps to create reflective and critical professionals, due to the acquisition of international and pro-European competences, developing technical abilities and stimulating communication skills. If, moreover, these documents are handed out in different language, their interpretation and analysis also helps the student to improve their knowledge of a foreign language – the promotion of languages and mobility being two of the aims of the ESHE.

International and EC Law furthermore permit the practice of role playing, an educational technique that forces the student to play the role of a subject or character of International Law trying to defend an argument based on his interests (which may not be his own personal opinion).

It even permits the carrying out of a cine-forum legal technique where after watching a documentary or film with an legal international context, a legal debate about the legal aspects observed in the film can take place at the class.

In conclusion, international and European legal education does not exclusively require the use of the educational technique based on lectures. Whether the teaching of the subject is to be annual or for one semester, international and European teaching is especially prepared for the use of a methodology based on practical techniques. This type of teaching promotes discussions in the lessons. It motivates the student to read

and to think about official international documents, encouraging him or her to make voluntary oral contributions to the rest of the class. This methodology allows the professor to assess the theoretical knowledge of the student using not only a final exam but also different exercises based on practical cases, etc.