

Fundamental disciplines in law as a reflection of the juridical education

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„Law“ is one of the regulated studies in Bulgaria. For good or bad the legislator has accepted that students who graduate from this study have an important role in the entire society and for that reason the regime of this study has to be in a certain way equal for all universities offering this study.

In this way, together with the specific disciplines like Family law, Labor law, Penal law, Public law, all procedural laws, etc. the education in law includes also some more general disciplines. These are the so called Fundamental disciplines in the law. They are History of Bulgarian country and law, Theory of law, Roman civil law, Philosophy and Sociology of the law. Some of these fundamental disciplines are mandatory for all law faculties. Others are taught everywhere without being mandatory. The presence of some others of these disciplines in the curriculum depends on the decision of each faculty or as it may happen – on the possibility of the faculty to find suitable lecturers for the particular subject.

The place of fundamental disciplines in the law is a heritage of the classical academic tradition. It follows the principle that in addition to the specific professional legal knowledge the future magistrates, attorneys and notaries need to have a broader view on the law in general. In other words, the law needs to be understood in its historical, philosophical, moral and ethical dimensions.

In this context the role of the fundamental disciplines in the legal education is to develop in the future lawyers skills like independent critical thinking, presentation and defense of theses, ability to put events and occurrences in a broad context, realizing the value dimension of the legal processes, comprehension of the moral and ethical grounds of the legal profession. How this is done in reality is another question whose answer is connected with the crawling crises in the university education including studying law, as well as with a broader phenomena described as “pressure of the labour market”. This „natural pressure” leads to a more narrow specialization of the future lawyers and influences the curricula among the competing universities. As a consequence, the role of the fundamental disciplines in the legal education becomes even smaller and this is noticeable.

The above mentioned problems are researched in the analysis „Fundamental disciplines in law as a reflection of the legal education – value aspects of the legal education” (*the full text see here*), carried out by the “Bulgarian institute for legal initiatives” foundation in the period of April 2017 to March 2018. Its authors are reviewing for the first time in details the problems of teaching fundamental disciplines in the law in Bulgaria. For this purpose were held interviews with almost all university teachers in the different fundamental disciplines in the country. In

addition to this, a survey among the students was carried out covering 200 students from 5 universities. Separately, the legal background was analyzed, as well as the curricula, the available literature resources, project activity of the academic staff and a comparative study.

The thorough view of the research shows that most of the challenges in front of the fundamental disciplines are not foreign for the entire legal education. That means that some problems are common both for the fundamental and the specific disciplines. For example, the outdated curricula, the decreasing interest of the students and the model of the so called traveling university professors which was very characteristic for the transition period (*i. e. all academic persons who are lecturing the same discipline in two, three or even more universities*).

One fact which made a very strong impression is that in almost all law faculties the period after 1944 is absent from the programs of the subject “History of the Bulgarian country and law“. On one hand, the absence of an adequate and not emotional evaluation of the socialist years, is still an important dividing line in our society. On the other hand, there is no reason why our future magistrates, defenders and legislators should not learn more about the social and political processes during these times. The survey shows that the absence of the period after 1944 is not because of any conspiracy contract for silence, i.e. this problem is not ideological but practical: there is simply no available literature to study from. There are almost no legal-historic studies from that period. From an academic point of view that sounds almost absurd, but it is a fact making evident one other problem of the fundamental disciplines – they are unattractive for an academic career.

One positive conclusion from the survey is that the possible teaching of ethics in the law faculties is being supported by both university professors and students. The predominant opinion is that this should become a separate discipline, although that foreign experience shows that this is not always the best solution. The analysis also clearly shows that the academia has a very negative attitude towards the erosion of the values system and the blurring of the borders between righteous, allowed, moral and ethical, the latter being in the center of big corruption and uncountable scandals in the judiciary. This naturally reflects on the whole judiciary which loses even more prestige and authority.

The paper is also trying to outline the profile of the students. Most university teachers share the statement that nowadays students have become strongly pragmatic, they easily lose interest, they are not motivated to learn large volumes of information, they have poor general culture, low literacy and important gaps in the knowledge which they were supposed to gain in high school. Similar one sided guilt blaming with an almost mythological dimension is false and unproductive. Undoubtedly, the shortages of High school education and the family environment are posing additional challenges to the university teachers. They are expected to invest a lot more creative efforts when organizing and presenting the learning material and motivating the students to study. The good news is that such teachers exist. One of the interviewed summarizes the situation like this: *“If the university teacher has lower requirements, reading will decrease. It can't be said though that the students are bad because their live is yet to start. Most of them are normal, because they are lazy, they are pragmatically oriented, because the society is like*

this. There might be rascals but this is obvious from the results. If you work with somebody - it can be seen.“

Part of the survey is also the debate “for“ and “against“ legal education in absentia. The removal of this type of education is among the most important changes which will be implemented with the new Regulation for the unified state standards for obtaining the professional qualification of a lawyer, adopted in 2017. At present, this is not a fact as the Regulation has not yet entered into force. The university teachers who were interviewed are not hiding the fact that there are differences in the level of preparation of regular students and students in absentia. At the same time they underline that students in absentia are more motivated than their regular peers, they are older with a real life and professional experience, thus they know much better why they want to study law. It also has to be noticed that a lot of the regular students are working full time, therefore, their presence during lectures and practices is more of a wishful thinking that does not match the reality. In this way the real difference in the education of students in absentia and regular ones seems very small.

The Regulation is subject to critique not only because of the revocation of the in absentia legal education. The interviewed have shared the opinion that it creates more problems instead of resolving them even though it has not entered into force yet. Most of the interviewed consider it hasty, half-made and not well thought through. There are accusations for lobbyism in favor of a particular university in the capital.

From a broader perspective the problems of the legal education in Bulgaria are part of the overall context of the university education in Europe. Neither “traveling university professors”, nor disinterested students or disproportionate big number of Law faculties are an isolated Bulgarian phenomena. However, it is a Bulgarian patent to tackle systematic problems with cosmetic changes. It is clear to everyone that cosmetic changes in the reform of the legal education will not bring anything, most likely, it will only deepen the problems. Without a deep reform in the legal education, a real judicial reform is unthinkable. In this context we have to think about the role of the fundamental disciplines because their problem is not only an isolated question about how law is taught. More importantly, it is about what type of people we want to become lawyers.