

Educating lawyers in Spain¹

Introduction

When one analyzes the changes the study of law has undergone in the last fifty years in Spain, one realizes that the education of lawyers has been affected by social and economic circumstances not only within Spain, but around the world. These require a different model for the legal profession with a capacity to rise to the new challenges of globalization and a society that has become interdependent internationally.

This article details the importance of the legal profession within Spanish society and the challenges it faces in a globalized world by analyzing the recent developments in the study of law in Spain, especially those that arise through the implementation of the educational reforms within the Bologna Process. The conclusions of this analysis entail recommendations for changes to make the profession of law more competitive in Spain, which will require a firm commitment from Spanish politicians to education in order to improve the system of legal education in our faculties of law.

By way of further introduction, it should be noted that since the 1960s, Spanish law schools have educated lawyers who have assisted in the opening of the national economy and helped develop successful international law firms in Spain based on the Anglo-American model.

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With a population of over 40,000,000, Spain ranks fifth in the European Union (EU) in terms of the number of lawyers, with one lawyer for every 366 inhabitants, or about 120,000 lawyers in total. Madrid has the largest number of lawyers per capita, approximately one for every 200 inhabitants. In the last ten years, the number of lawyers in Spain has increased by 24 percent, while the general population has increased 13.4 percent². Every year, 13,000 students graduate from law school in Spain; of those graduates, about 37 percent end up practicing in the private sector in one of the 91,000 law firms in Spain³.

The Spanish legal market is not only large, but also sophisticated and international. Some 30 percent of European firms with over 400 lawyers are Spanish firms. The Iberian legal market (comprised of Spain and Portugal) is enhancing its worldwide reputation and growing closer together; one of Spain's largest firms, Cuatrecasas, changed its name to Cuatrecasas Gonçalves Pereira, after merging with the Portuguese firm in 2003⁴. The two largest European firms (Garrigues and Cuatrecasas Gonçalves Pereira), each of which has over 1,000 lawyers, are Spanish. Moreover, most international law firms have a presence in Spain (Baker & McKenzie since 1965, and others which have arrived more recently, such as Herbert Smith).

Spanish law firms have an excellent international reputation. As reported in the *New York Times*, Bloomberg ranked Uría Menéndez among the top ten law firms in the world⁵. A survey of law firms in the *Financial Times* ranked the firm in the top ten for innovation, client services, human resources, and corporate responsibility practices⁶.

One reason for the internationalization of Spanish law firms is that large Spanish companies (Telefónica, Banco Santander, Repsol, and Ferrovial, among many others) have significant interests in Latin America.

² S. Atienza, *The Evolution of Legal Education in Spain*, "Journal of Legal Education" 2012, vol. 61, no. 3, p. 468.

³ Concerning the increase in the number of lawyers in Spain since the 1980's, see P. Casanovas, *Imágenes de la justicia: Experiencias en la diseminación de resultados en Derecho y Ciencias Sociales*, <https://carmenguarini.files.wordpress.com/2007/11/19pompeu20casanovas277-293.pdf> (accessed: 6 XII 2014).

⁴ M. Méndez, *Presentation at the Global Legal Management Project: The Legal Market in Spain*, 19 III 2010; S. Atienza, op. cit., p. 469.

⁵ E. Rosen, *How Deal-Making Lawyers Keep Score*, "New York Times" 19 X 2007, p. C8.

⁶ "Financial Times", *FT Law 50, Rankings*, 6 VII 2007, <http://www.ft.com/intl/cms/5d-6dc8c8-28b1-11dc-af78-000b5df10621.pdf> (accessed: 6 XII 2014).

Spanish law firms have followed their clients to Latin America and at the same time, they are looking for new business opportunities in countries such as Brazil⁷.

The Spanish economic boom, which began in the early 1990s, made the country an attractive business and legal market, thus attracting many international law firms. It also encouraged domestic firms to expand by merging with other firms. The legal market in Spain has been growing by almost 20 percent year on year, and international law firms have seen Spain as an important market as well as a bridge to Latin America. U.S. law firms only open in new locations when they are convinced that the legal work will be very profitable.

As the Spanish market has become more international, the country's top domestic firms have grown into large organizations⁸. Yet despite the success of the homegrown and international firms now operating in Spain, the worldwide economic recession has hit the country hard (Spain's unemployment rate is now close to 24 percent). As a result, while the Spanish legal market is maturing, lawyers are suffering during the crisis.

The president of the Madrid Bar Association, Professor Antonio Hernández Gil, points to important changes in the practice of law in Spain in the last few years. Among them, he identifies greater practice specialization, firm mergers, increasing corporate demand for legal services, economic growth and internationalization of the market, and litigation dropping as the share of legal services. Law firms in Spain have grown rapidly to adjust to the needs of the market, to compete with other firms, and to become a one-stop shop for their clients. He believes that law firm growth and specialization are both key elements to the changes in the legal profession. In the future, A. Hernández Gil predicts an increase in practice focused on risk prevention along with conciliation and mediation⁹.

⁷ S. Atienza, op. cit., p. 469.

⁸ J.M. Lopez Agundez et al., *Expansion Ranking of Law Firms in Spain*, "Expansion" 6 VII 2010, <http://www.expansion.com/2011/06/21/juridico/1308613801.html> (accessed: 6 XII 2014); J. Swift, *The Pain in Spain*, "The Lawyer" 22 III 2010, <http://www.thelawyer.com/the-pain-in-spain/1003878.article> (accessed: 6 XII 2014).

⁹ S. Atienza, op. cit., p. 471.

1. The current context

In 2001, after some fierce polemics, as the proposed projects failed to please both professors and students, the most recent educational reform act was passed. It was intended to meet the challenges posed by the recent changes in Spanish society as well as in the generation and transmission of scientific and technological knowledge.

This university reform reflects a joint effort of both universities and Spanish society. The reform seeks to update and systematize various academic matters, from teaching, to research and management. Hopefully, the changes will permit universities to meet the demands of the information society and the challenges of the new economy. The regulation has been extended. In addition to the many matters already regulated, new rules have been established regarding the hiring of professors, allowing leaves of absence, organizing distance learning, enrolling students, enabling private foundations, and permitting the existence of other legal vehicles for the development of educational purposes. To improve the quality of teaching and research, the selection and treatment of professors has been transferred to a new objective and transparent system.

In part, the changes increase the decentralization of control. For example, professors' salaries are transferred to the jurisdiction of autonomous communities. Communities also obtain control over accreditation of the quality of educational institutions. But national control has not been abdicated, a new national agency for school accreditation has been created, known as the *Agencia Nacional de Evaluación de la Calidad y Acreditación (ANECA)*. The national agency has the power to allow the creation of similar institutions in the autonomous communities.

On the other hand, the new legislation also pursues the directives of European integration, and emphasizes the creation of a university system in the best possible condition to support the creation of a common European marketplace. One central feature of this new community engagement is the promotion of mobility. Students, professors, and researchers are provided with mobility within the Spanish system, the rest of Europe, and the international community. The expectation is that mobility will encourage educational improvement. As part of the new drive to ensure mobility, students are given the freedom to choose which universities to attend and which degrees to take in order to best fulfil

their personal and professional objectives. This choice is enshrined as a legal right. This reform is extremely positive; it introduces an element of competition into the university system.

2. The requirements for a Spanish bachelor's degree in law

To gain access to university from secondary school¹⁰, students must gain a final grade – the *nota de corte* – at the end of their two years of study for the Spanish Baccalaureate. In addition, they take the *Prueba General de Bachillerato* examination (PGB) and acceptance to university can depend on the result obtained. Based on this grade, students are admitted to university over the summer period, with those gaining the highest marks being accepted first. EU nationals are entitled to compete for places at Spanish universities on equal terms with Spanish nationals, as are Spanish nationals in other EU countries¹¹.

There are two types of higher education institution in Spain: Public – those universities created by a public entity such as the government, and private – institutions created by individuals or legal bodies.

The Spanish university system has adapted to meet the requirements of the European Higher Education Area (EHEA) so university studies in Spain now follow 3 cycles:

- Bachelor's degrees – students must earn a total of 240 ECTS credits over four years of study. These degrees combine basic training, obligatory and optional subjects as well as external and cultural placements and activities and a final course dissertation;
- Master's degrees – these aim to prepare students for academic, research or professional work and are usually spread over one or two years;

¹⁰ There are four different types of university establishments in Spain: (1) University schools (*escuelas universitarias*), where 'short-term' three-year courses are offered; (2) University colleges (*colegios universitarios*), where the first three years of study leading to a licenciado are completed; (3) Faculties (*facultades*), where long-term courses are offered in all academic disciplines (except technical courses) and (4) Higher technical schools of engineering and architecture (*escuela superior de ingeniería y arquitectura*), where long-term technical courses are completed. See The Economics Network, *Bologna process: Spain*, <http://www.economicsnetwork.ac.uk/bologna/spain#References> (accessed: 6 XII 2014).

¹¹ The Economics Network, *Bologna process: Spain, The Bologna Process: A Guide for Economics Lecturers*, <http://www.economicsnetwork.ac.uk/bologna/spain#References> (accessed: 6 XII 2014).

- Doctoral degrees – with a maximum of three years fulltime and five years part-time, PhD's train students in advanced research techniques.

The Spanish academic year is split into two semesters and although this may vary slightly from university to university, the semester start will be similar no matter where one studies. Lectures usually start mid-September or early-October with exams in January. The second semester then starts early February and concludes with exams in June¹².

Legal education and surveying is defined within a general framework and directives contained in the Ley Reforma Universitaria (LRU) and the Ley de Orgánica de Universidades (LOU), which establish the power and criteria for institutions to grant degrees. The directives of the LRU are essentially conservative in the sense that much of the curriculum designed in 1953 is still in force.

The required courses that must be taught in every law school are: civil law, criminal law, constitutional law, administrative law, commercial law (this includes company law), private international law, public international law, Roman law, European Community law, procedural law, legal theory, jurisprudence, legal history, tax law, employment law, and Social Security law. In addition, students are required to enrol in "Practicum" courses (for example, by competing externships at law firms, notary publics, clerking for courts, and in different public offices, etc.)¹³. These requirements are known as the "core courses;" they are defined by the Ministry of Education and Science, and must be taught in all Spanish law schools¹⁴.

The curriculum currently in force, however, is more flexible than that established in 1953. Currently, law schools are allowed to order their students to take some additional "required courses" and, more importantly, the schools are permitted to offer elective courses as well. A total of three hundred credits are required for graduation with a bachelor's degree in law. The courses are organized into two cycles, each usually requiring two years of study.

The Bologna Process also establishes the obligation to perform internships for some degrees. Additionally, all courses of study require

¹² Prospects, *Postgraduate study, Studying abroad, Study in Spain*, http://www.prospects.ac.uk/study_in_spain.htm (accessed: 6 XII 2014).

¹³ Real Decreto 592/2014 por el que se regulan las prácticas académicas externas de los estudiantes universitarios (Royal Decree 592 of 11 July 2014 establishing the regulation of external academic practices of university students).

¹⁴ Gobierno de España, Ministerio de Educación, *Damos respuesta a tus dudas*, http://www.mecd.gob.es/boloniaensecundaria/img/damos_respuestas.pdf (accessed: 6 XII 2014).

a final independent research project or thesis (Trabajo de Fin de Grado – T.F.G.). The details of this T.F.G. depend on the institution and course of study and can consist of realizing a concrete project or one derived from external practice¹⁵.

3. The Spanish postgraduate law course

Legal degrees must be understood in connection with the university system as a whole. In Spain the third cycle of studies is a PhD (doctorate) programme¹⁶. The third stage is open to holders of Licenciado, Arquitecto or Ingeniero degrees and leads to the Doctor's degree (*Título de Doctor*), which is awarded after at least three years' further study and research. Another postgraduate degree, although not officially recognized (*Título propio de la Universidad*) is a master's degree, awarded after 1 or 2 years of further study.

In Spain, the doctorate, or third cycle, requires an additional number of credits to be obtained through the successful completion of classes and the successful defence of a thesis, which is a major research and writing requirement. Postgraduate studies combine a specialization in a specific scientific, technical, or artistic field with a grounding in basic research skills. In order to qualify for these postgraduate programmes, one must hold an undergraduate degree.

The availability of doctoral courses of study is very wide. Law is classified as one of the social sciences. The legal specialties available are heterogeneous in response to the increasing demand generated by a society immersed in a process of constant change that require new laws and regulations.

Educators generally agree, on the one hand, that a high degree of specialization is important, and on the other, that both theoretical and practical courses should be combined. The programmes tend to be divided into general parts, one consisting of core courses compulsory for everyone, which ensure at least basic knowledge and a second part composed of more specialized subjects, which seeks to delve more deeply into a specific area.

¹⁵ I.P. Chávarri, *¿Qué es el "plan Bolonia"?*, "El País", Bilbao, 19 IX 2010.

¹⁶ Real Decreto 99/2011 por el que se regulan las enseñanzas oficiales de doctorado (Royal Decree 99 of 28 I 2011 establishing the official regulation of doctoral studies).

A conclusion one can draw with respect to the survey of third-cycle postgraduate studies is that there is great diversity in the programmes available and that this diversity is a function of the need for continuing education. In a world of growing complexity ever greater degrees of legal regulation are therefore required.

4. The Bologna Process

The Bologna Process was created to promote mobility of students, graduates and higher education staff, and prepare students for their future careers and as citizens in democratic societies. It created a European Higher Education Area (EHEA) based on international cooperation and academic exchange attractive to European students and staff as well as to those from other parts of the world. The Bologna Process continues today in 47 countries, well beyond the 28 EU member states, and all 47 are committed to the EHEA goals. The Bologna reforms are: (a) comparable degrees in three cycle structures (bachelor–master–doctorate), (b) quality assurance and, (c) fair recognition of foreign degrees.

The Bologna Process serves as a means to achieve common standards. The idea put forth is that one needs to make higher education more alike in Europe as a means to create employability and mobility. This is also expressed as a process leading to comparability and transparency. It is argued that if higher education is made more alike in Europe, people will be able to transfer more easily between different educational systems, and they will find employment with greater ease¹⁷.

In this manner, common standards become a means to create a desirable future. But while standardisation is put forth as desirable, cultural differences are to be respected. 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 – are to consolidate the European area of higher education¹⁸.

This idea of respect for cultural differences is repeated in several of the documents, for example: “The aim is to preserve Europe’s cultural richness and linguistic diversity, based on its heritage of diversified

¹⁷ The Bologna Declaration of 19 VI 1999, hereinafter the “Bologna Declaration 1999”. See A. Fejes, *The Bologna Process – Governing Higher Education in Europe through standardisation*, “Revista Española de Educación Comparada” 2006, no. 12, p. 218.

¹⁸ Bologna Declaration 1999, p. 4.

traditions"¹⁹. According to A. Fejes, what is to be attained is both standardisation (homogenisation) of educational systems at the same time as there should be a respect for differences (heterogeneity). These two parallel discourses are constructed in these narratives. Standardisation can be seen as an overarching technique for fabricating the desired Europe, nations and citizens. Ideas created on a European level are to be implemented in the different national contexts through the act of standardisation. The higher educational systems in Europe have to become more alike to guarantee a good future. The discourses of heterogeneity and homogeneity can be seen as persuasive techniques to accommodate the different nations. These discourses are part of the narratives that promise both a prosperous future through comparability, at the same time as it promises specificity for the different nations; it offers a choice²⁰.

Tied to the idea of standardisation are several techniques that are to be used to create a desirable future. One of these is ECTS, the European Credit Transfer and Accumulation System. This is put forth as an important factor for assuring mobility²¹. By having the same grading system in all countries and by having the same system of counting time of study, transparency and comparability is to be reached²². According to A. Fejes, "ECTS is therefore acting as a general principle as part of the idea of standardisation. Other such techniques include the use of a diploma supplement, a description of the education a person has received, to make it easier to compare educational attainments between countries. Yet another idea is to have the same cycle for different degrees in all countries, such as three years for a bachelor's, another two years for a master's and yet another three years for a PhD"²³.

Since employability is one of Bologna's priorities, law schools and universities will have to make important changes in their curricula and teaching methodologies for their graduates to navigate new rules regarding professional access and succeed in the globalized European job market. Law 34/2006 from October 30 and Real Decreto 775/2011 from June 3, state the following requirements: (a) an undergraduate

¹⁹ Communiqué of ministers responsible for higher education, *Realising the European Higher Education Area*, Berlin 2003, hereinafter as "Berlin Communiqué 2003".

²⁰ A. Fejes, op. cit., p. 219.

²¹ Berlin Communiqué 2003.

²² Bologna Declaration 1999.

²³ A. Fejes, op. cit., p. 222.

degree in law (b) a master's degree in law (c) an internship and, (d) the passing of an exam.

Because Spanish universities are currently adapting to the Bologna Process, this is a time of significant change. The prescribed curriculum and methodologies that are part of the Process do more to prepare students for practice. G. Edward White²⁴ underlines his position that law, like medicine or theology, is a profession or activity that requires specialised practical training. As L. Díez-Picazo writes, “[t]his is especially important in legal matters, given that in a large number of cases law is formed through debate and dialectics, in which one needs to maintain an argument with one's opponent and sometimes convince an impartial third party” (trans. – C.H. del L.)²⁵. Along the same lines, M. La Torre emphasises that “the profession of law relies on persuasion through words, which for many centuries has been called rhetoric” (trans. – C.H. del L.)²⁶. However, many professors will need training in order to do this well and law schools need the resources to implement this relatively new approach effectively. Nonetheless, Bologna and the new rules governing entry to the legal profession offer a welcome new opportunity to improve legal education in Spain.

Adaptation is imperative because there is no longer a captive, local job market – the Spanish legal job market has already been globalized. The formation of elite legal professionals occurs at the postgraduate level in the United States and the United Kingdom. To a lesser extent, a candidate may substitute training from one of the private institutions related to the more prestigious local business schools. Without

²⁴ G.E. White, *Tort Law in America. An intellectual history*, New York 1980.

²⁵ L. Díez-Picazo y Ponce de León, *Perfiles II: El aprendizaje del Derecho*, Discurso de apertura del Curso Académico 2014–2015, Real Academia de Jurisprudencia y Legislación, Madrid, 3 XI 2014, p. 14.

²⁶ M. La Torre, *Abogacía y retórica. Entre teoría del derecho y deontología forense*, “Anuario de Filosofía del Derecho” 2008–2009, vol. 25. The need to foment rhetorical skills in today's world clashes with our historical past, and, as already noted by De Prada, one of the principal reasons for rejecting legal specialists and lawyers in particular has been their rhetorical capability, their ability to persuade. This was highlighted by Thomas More in *Utopia*, in which he tries to dispense with the lawyers, so that the individual in question can explain himself without any rhetoric. See T. Moro, *Utopía. En Moro, Campanella, Bacon: Utopías del renacimiento*, México 1985, pp. 113–114; A. De Prada, *Cuestiones retóricas: la maldad del Derecho y de los juristas. Una propuesta de transformación en el aprendizaje del Derecho*, in: *Transformaciones en la docencia y el aprendizaje del Derecho*, ed. by J. García Añón, Unitat d' innovació educativa, Facultat de Dret, Universitat de València 2013, pp. 251–252.

far-reaching change, Spain's entire system of public legal education will be locked into marginality and lower ranking status.

The reforms proposed by the Bologna Process are directed at improving student preparation in the reality of legal work through forcing innovation in teaching methodology and through other mechanisms. The architects of the Bologna project recognized as a grave problem the tendency for universities to induce students to sit quietly in class, to memorize and to repeat their mentors' thoughts. The reforms try to change instruction into a skills-based (as opposed to a merely knowledge-based) approach to education. Professors are urged to attempt to foment reasoning and argumentation skills in their students. Professors are encouraged to use new technologies, to teach cooperatively, and to model teamwork for their students. In this new model of education the student changes from being a passive agent to becoming an active one. The objective is to allow the student to take his own decisions for learning when he decides on one course or another in choosing a specialization. "Bologna demands greater involvement on the part of the student through, among other items, continuously taking part in class and the realization of projects" (trans. – C.H. del L.)²⁷.

As the above shows, the Bologna Process is principally concerned with the quality, transparency, and mobility of higher education in Europe. The process should increase the competitiveness of European institutions of higher learning in preparation for a world of growing globalization. The ultimate objective, increased quality of European academia, is tied to mobility. Mobility is key, because it should result in competition. At the same time, the process hopes to lower dropout and failure rates in law schools. The creation of the European space of higher education – Espacio Europeo de Educación Superior (EEES), as set out by the Declaration of Bologna, must be embarked upon in parallel with the needs of the Spanish marketplace. The two are not merely compatible, they are symbiotic.

For legal education to be usable within the entire unified European marketplace, what is required is the recognition of foreign law degrees. In one sense, recognition already exists; lawyers' freedom of mobility is already regulated by European directives 89/48 and 98/5. However, Europe needs to go further in unifying legal education. It needs to set

²⁷ I.P. Chávarri, op. cit.

minimum academic and professional standards for legal professionals. Today there are distortions that limit competition in the practise of law, which are related to different requirements and differing time periods necessary to complete legal studies in different member states of the European Union.

In a unified Europe, the duration of university studies is generally associated with a model of study of 3/5/8 years for the granting of higher education diplomas. This model has the advantage of simplicity and transparency, but may not be totally compatible with the needs and conditions of legal education. The Declaration of Bologna makes it possible to obtain a university diploma ("bachelor's") in law, as with other subjects, with three years of higher studies. This system already exists in the United Kingdom and France, but is not accepted in the majority of European jurisdictions. Therefore, some member states and law schools denigrate the possibility of students obtaining a bachelor's degree in law after three years, as a form of "fast-tracking." The nay-sayers overstate the problem; this abbreviated degree would not give access to legal professions (lawyers, judges, officials, or business or private entity solicitors).

There are over 70 universities in Spain, with some 50 public or state-provided universities and the rest coming through private provision including the Church²⁸. Universities are divided into university faculties, higher technical schools, university schools, university institutes, and other centres, notably the university colleges.

The Spanish state through the Ministry of Science and Innovation provides the regulatory framework which governs the degrees that can be issued and earned in both academic and professional settings. The Consejo de Universidades (where the Ministry, the Autonomous Communities and the Universities are represented) coordinates the activities of all universities and is a sounding board for developing policy proposals for the Ministry. Universities are relatively autonomous with isolated exceptions in certain military, artistic and music degree programmes that are offered in non-university institutions.

In line with many other countries in the EU, Spain undertook significant reforms of its higher education system in 2007 by embracing the

²⁸ Universia, España: Profesores, *Bases de Datos: Universidades españolas*, <http://profesores.universia.es/recursos/bases-datos/universidades-bases-datos/> (accessed: 6 XII 2014).

Bologna Process²⁹. To obtain mobility, disparate universities need to create a system of credits, similar to the system of the ECTS, to permit greater student mobility between institutions offering degrees in law. The ECTS credits represent, in numerical format (between one and sixty), the volume of work that a student must complete in order to pass the course. The ECTS is based on the total volume of work that a student must complete and is not just a reflection of the academic hours which the student spends sitting inside a classroom.

However, Spain's credit system is based on a different approach. According to current Spanish regulations, credit units are defined as units of accumulation calculated in class hours (both for theoretical and practical courses). Credit units do not reflect the amount of work performed by the student. Spain, therefore, needs to modify its approach to awarding credits in two ways. Firstly, the credit must be based fundamentally on the work that the student must complete in order to be minimally competent, and with a precise definition of the requirements. But students are not independent. The extent of the student's knowledge depends on the content of theoretical classes, practical classes, seminars and tutorial evaluations. Therefore, the Spanish approach to credits must be modified in a second way, to reflect the work of the professor, because the professor's effort is very relevant to the student's preparation. This proposal should not negatively impact professors' dedication. On the contrary, this should increase their incentives to work with their students. Professors should be expected to work toward the integral academic formation of the student through learning that permits the student to develop the capacity for analysis and independent thinking.

Students develop the capacity for independent thought by integrating theoretical and practical teaching, other academic activities directed by the instructor, and the student's independent work. This synthesis requires students to be dedicated and actively involved in their own maturation. This change in the educational method forces educators to work in terms of "skills." The student must be able to apply skills and knowledge in order to be competent at problem-solving. In addition, viewing education in terms of skills permit educators to evaluate the

²⁹ Real Decreto 1393/2007 por el que se establece la ordenación de las enseñanzas universitarias oficiales (Royal Decree 1393 of 29 X 2007 establishing the regulation of official university studies).

degree of preparedness, sufficiency and responsibility of students. Skills may be classified as “generic,” “basic,” and “specific.” In learning through a skills-based approach, the student becomes the active protagonist of virtual, interactive, shared, and distributed learning³⁰. The idea that is the key to this new concept of learning lies in bringing students to acquire for themselves not knowledge in itself, but, through their own work and methodologically principled discussion, to acquire the legal spirit³¹. It is suggested, however, that theoretical teaching that elaborates the legal system rationally and systematically is as important as empirical legal teaching³².

The birth of the Bologna Process requires not only a fundamental change in legal education, but an even deeper change in outlook and mentality to allow higher education to meet the challenges demanded by changes in society.

One observes diverse phenomena such as the exponential expansion of the legal market place and the introduction of new technologies that are redefining the basic concepts of European law. With respect to the introduction of new technologies, P. Casanovas has described the phenomena of convergence between the standards and practices of the common law and civil law. This convergence forces schools to break with the old structures and disciplines as defined by dated curricula. In Casanovas' words “[i]t is important to make the students understand that either in the technological legal landscape (the Semantic Web use) or in the European legal context there is an increasing convergence between American, common law and civil law standards and practices.

³⁰ B. Clavero, *Reflexión sobre la Docencia del Derecho en España*, “Cuadernos del Instituto Antonio de Nebrija” 2009, no. 12, p. 203. “One can learn as much about teaching when one is the patient subject, the student, as when one is the active agent, the teacher. And more can be learned if both experiences interconnect. One of the things I have learned through this interconnection is that as a student, one should be less patient, less passive, and as a teacher one should be less of an agent, less active.”

³¹ In truth, this is the methodology used by the adherents of the “Case Method,” which emerged after the U.S. Civil War, around 1870, as a critical response to traditional methodology. The founder of this method was the dean of the Law Faculty at Harvard University, Christopher C. Landgell. As L. Díez-Picazo y Ponce de León explains, “[i]n the case method, the professor presents a certain number of decisions to the students, which they, naturally, must study. Afterwards, the class is conducted in what some call the Socratic method, that is, by requiring that the students react to the ‘socratic’ questions from the professor”. Cf. L. Díez-Picazo y Ponce de León, *op. cit.*, p. 19.

³² See M. Weber, *Economía y Sociedad. Esbozo de una Sociología Comprensiva*, México-Buenos Aires 1964.

This also affects legal reasoning, because argumentation and negotiation are now more important than in the immediate past³³.

In Spain, the effects of modernization and the opening up of the market occurred later than in the rest of Europe. Therefore, in Spain these changes are taking place at a greater speed and creating deeper disruption. One can only hope that the Spanish university system will adapt both in order to assure quality and excellence and in order to be of assistance to Spain as the country works through future changes. A positive outcome will depend on the success of the Bologna Process.

University leaders are warning that government funding cuts and inflexible policies are distorting Spain's attempts to implement the Bologna Treaty. Universities were being forced to implement the Bologna Process 'Spanish-style', due to spending cuts and lack of funding for research. A problem arises when all superfluous expenditure has already been cut, and further cuts affect the quality of teaching. "Specifically, many master's courses are being shed, the posts of associate lecturers are not being renewed and universities are spending more time searching for alternative funding sources. On the other hand, because of the high level of youth unemployment in Spain, more young people are seeking to continue their studies. The result is a squeeze that many believe has arrived at a critical point"³⁴. Bologna cannot be

³³ P. Casanovas, *Teaching Artificial Intelligence and Law in Spain*, p. 4 (unpublished position paper on file with author).

³⁴ P. Rigg, *Spain: Cuts and culture hinder Bologna process*, 25 IX 2011, <http://www.universityworldnews.com/article.php?story=20110923213407243> (accessed: 6 XII 2014). E. Doménech, Vice-chancellor of the University of Laguna (Tenerife), said: "One can live with this level of cuts for one year, or maybe two, but when they become structural, they end up undermining the foundation of the university". As well as ensuring common standards and levels of quality, Bologna has sought to increase mobility among academics and students. But Spain's traditionally theoretical method of teaching languages has meant that many researchers lack the communication skills to work abroad. Strong Catholic family ties and a lack of state support have also meant that it is unusual for young people to study elsewhere. He said the implementation of Bologna in Spain had been "very peculiar in many aspects." The government decision to impose a four-year degree course meant that universities could not go through the process of establishing whether four-year courses were really needed". Bologna should have led each university to review its courses and respond to the economic and social needs of society. Instead, these rigid rules have meant that Spanish universities have remained very isolated from society," Mezo argued. But there was an added problem that many universities had avoided cutting courses to prevent infighting among departments, choosing instead to proportionally reduce the size of courses. "They should

implemented until higher education is adequately funded. In other words, the politicians need to put higher education further up their list of priorities in Spain³⁵.

Conclusions

1. The Spanish legal market is not only large, but also sophisticated and international.
2. The practice of law in Spain has changed in the last few years: practice specialization, law firm mergers, increasing corporate demand for legal services, economic growth and internationalization of the market, and classical litigation diminishing its share in the overall portfolio of legal services.
3. Law firms in Spain have grown rapidly to adjust to the needs of the market, to compete with other firms, and to become a one-stop shop for their clients.
4. The worldwide economic recession has hit the country hard, which has also affected the legal profession and legal education.
5. The birth of the Bologna Process requires not only a fundamental change in legal education, but an even deeper change in outlook and mentality to allow higher education to meet the challenges demanded by the changes in modern society.
6. The politicians need to put higher education further up in their list of priorities for Spain.

have looked at business needs and sought to respond to them, but instead they have opted for internal peace," he said.

³⁵ Ibidem. The most recent data show that school drop-out rates in Spain are double that of the European average and that investment in education has dropped by 11%. The Spanish educational system is showing significant signs of strain. The rates of grade repetition, drop-out, school failure and absenteeism are alarming, according to the foundation "Save the Children" in its report "Illuminating the future: investing in education is to battle against child poverty". See 20 minutos, *El abandono escolar en España duplica el europeo y la inversión en educación cae un 11%*, <http://www.20minutos.es/noticia/2413641/0/informe/educacion/save-the-children/> (accessed: 6 XII 2014). This document, which analyzes the coherence and pertinence of public policies in educational matters of cities and Autonomous Communities to break the cycle of poverty and social exclusion, reaches the conclusion that, across Spain, one of every three students has repeated at least one grade level by the time they reach 15 years of age; that around 30% of students in secondary education do not obtain the graduation certificate of ESO; and that early school drop-out rates of 23.5% are nearly twice that of the European average of 12%.