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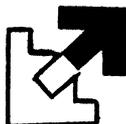
**COMMISSION  
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# **LEGAL EDUCATION AND TRAINING IN TOMORROW'S EUROPE**



**BELGIUM**



**UNIVERSITE DE METZ**

LEGAL EDUCATION AND TRAINING  
IN TOMORROW'S EUROPE

***Belgium***

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## Ø. INTRODUCTION

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The organisation of legal education in Belgium – currently under thorough change – is such that the authors of this report thought appropriate to provide a general introduction with a brief overview of the constitutional environment and the basic legislative texts, and also of a major project that can serve as a reference for the subject.

### Ø.1. THE CONSTITUTIONAL CONTEXT

According to the Belgian Constitution ratified on Dec. 24, 1970, Communities are supposed to be competent in providing for legal education. But the devolution of competence to the communities such as it was done at the time was mitigated with numerous exceptions. All provisions relating to *paix scolaire* (= satisfactory organisation of school matters), compulsory schooling, the structure of educational institutions, degrees, subsidies, wages and standards concerning the school population remained in the scope of federal authority.

The reform of the Constitution voted on July 15, 1988 reduced rather considerably the exceptions to the original competences of the three national communities. From that time onward, only three of them were left, as listed in Article 127, § 1 in the Constitution : beginning and end of compulsory education; minimum conditions for the awarding of diplomas; and pension schemes.

Education is therefore an area shared by the federal authorities, which have exclusive responsibility for the three exceptions listed in Article 127, § 1 in the Constitution, and the three Communities that have full autonomy for all other matters.

It appears that preparatory work for the 1988 constitutional reform concerning the exception relating to the awarding of diplomas should be understood in a restrictive manner. The explanatory note issued by the Administration<sup>1</sup> stipulates in this respect that the conditions concerned are such that they can be considered as determinant for the evaluation and, consequently, for the equivalence of degrees : they refer exclusively to the major subdivisions of education leading awarding of diplomas and certificates of completion (after nursery and primary schooling, secondary schooling, college and university education, post-graduate education), as well as the minimum number of years of education at each level. It was also made clear during discussions in Parliament that these conditions refer exclusively to minimal quantitative standards concerning the duration of studies without any interference in matters relating to curricula<sup>2</sup>.

### Ø.2. THE (FORMER) LEGAL PROVISIONS

Before education was organised on a Community basis, following the reform of the Constitution of July 15, 1988, university education was ruled mostly by the regulations relating to the award of academic degrees and the programme of university exams, as coordinated by the Regent's Decree of Dec. 31, 1949.

This legislation – which had given the tone for numerous years of academic legal education in Belgium – is still applicable in the French and German-speaking Community, but not in the Flemish-speaking Community.

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<sup>1</sup> *Doc. parl.*, Sénat, sess. extr. 1988, n° 100-2/1°.

<sup>2</sup> *Doc. parl.*, Chambre, N° 10/59b-456/4 - 1955, p. 1.

### Ø.2.1. THE CONCEPTS OF 'LEGAL' AND 'SCIENTIFIC' DEGREES

The coordinated acts of Dec. 31, 1949 give a list of the various academic degrees called traditionally "legal" degrees.

They refer to the degree of 'candidat / kandidaat' in 13 disciplines, including the degree *candidat en droit / kandidaat in de rechtsgeleerdheid*, the degree of *licencié / licenciat* in 9 disciplines, including the degree *licencié en droit / licenciat in de rechtsgeleerdheid* and *licencié en notariat / licenciat in de notariaat*; the degree of *agrégé / geagregerde* in secondary education; the degree of *Docteur / Doctor* in 5 disciplines, including the degree of *Docteur en droit / Doctor in de rechtsgeleerdheid*, the degree of pharmacist; the degree of engineer in 11 disciplines, and finally, the degree of *agrégé de l'enseignement supérieur / geagregerde in het akademisch onderwijs*.

According to this basic legislation, these degrees can be awarded only by universities and similar institutions – as explained hereunder – and by examination boards composed of academics. Some specific professions and offices – such as that of magistrate or notary – can only be practised by those who passed a degree as provided for in the coordinated acts of Dec. 31, 1949 and whose degree or diploma was duly certified by an evaluation board responsible for verifying that it was delivered by institutions empowered to do so, following public examinations and in full compliance with the relevant provisions.

The existence of no less than 41 legal degrees is not an obstacle to the creation of other degrees by academic institutions; such degrees are called *grades scientifiques* (= "scientific degrees"), e.g. the degrees of *licencié en sciences économique* or *licencié en psychologie*; the academic institutions are in sole charge of creating them and laying down the conditions of entry, the duration of studies, curricula and types of degree. As a rule, over 600 such *grades scientifiques* are awarded under the sole control of universities.

Various *grades scientifiques* have been created by universities in the field of legal studies. These range from the *examen agrégé de l'enseignement secondaire supérieur*, to various specialised *licences*, or even *doctorats* which do not comply with the provisions contained in the coordinated acts of Dec. 31, 1949.

### Ø.2.2. ADMISSION TO LEGAL DEGREES (LEGAL EDUCATION)

The coordinated acts of Dec. 31, 1949 lay down the specific conditions for admission to each of the above mentioned legal degrees.

For candidates for a law degree, the student has to hold one of the diplomas mentioned under Art. 5 of the coordinated acts or a diploma considered equivalent in compliance with the provisions of the Act of March 19, 1970 relating to the equivalence of diplomas and certifications of studies abroad.

Moreover, no student can be admitted to the exams for *licencié en droit* if he did not obtain the degree of *candidat en droit*, to the exam for *licencié en notariat* or *docteur en droit* if he did not obtain the degree of *licencié en droit*, and to the exam for *agrégé de l'enseignement supérieur* if he did not obtain the degree of *docteur en droit*.

### Ø.2.3. MINIMAL DURATION OF STUDIES

Article 1bis in the coordinated acts of Dec. 31, 1949 makes general provisions for all legal degrees concerning the minimal duration of studies and stipulated that no student can be admitted to the exam for the degree of *candidat* if he has not studied law for at least two years. This also applies to the degree of *licencié*. It takes at least one more year for the degree of *docteur*. It should be observed that these are minimal figures, as the coordinated acts prescribe however longer durations for some specific degrees (cf. *infra* 2.4. for the degree of *licencié en droit*).

Article 33 of the same acts stipulates that the exam for *agrégé de l'enseignement supérieur* cannot be taken until at least 2 years after obtaining the degree giving admission to it.

#### **Ø.2.4. DISCIPLINES FOR THE EXAM AND DURATION OF STUDIES**

The law makes provisions for the duration of studies, the number of exams the student has to take and the nature of disciplines.

Article 15 in the coordinated acts, as amended by the Royal Decree of March 18, 1967 stipulates that the exam for the degree of *candidat en droit* is comprised of the following disciplines

- 1) Philosophy
- 2) Psychology
- 3) Sociology
- 4) Political economy
- 5) Natural rights
- 6) History in relation to the development of law and institutions
- 7) Introduction to the sources and principles of law
- 8) Roman law
- 9) a subject selected by the candidate with the agreement of the Examination board

The law stipulates that these disciplines are sanctioned by at least two papers after at least two years of studies.

The disciplines for the *licencié en droit* exam are listed in Article 17 in the coordinated acts :

- 1) Public law
- 2) Administrative law
- 3) Civil law
- 4) Criminal law and criminal procedure
- 5) Business law
- 6) Private judicial law
- 7) Private international law
- 8) Law of nations and international institutions
- 9) Fiscal law
- 10) Social law
- 11) Four subjects selected by the candidate, with at least one of which referring to comparative law.

The law also stipulates that at least two of the above ten disciplines should be studied in detail and the student should provide proof of a sufficient command of a language other than that which he/she has selected to take the exam, so that he/she is able to consult reference books in this language. He/she should also show that he/she has sufficient understanding of the principles of accountancy to interpret relevant documents. As for the exams proper and the duration of studies, the acts make provision for the subject matter of the degree of *licencié en droit* are to be submitted to at least three exams, and only after a minimum of three years of studies.

The subjects for the obtention of a degree of *licencié en notariat* by the holder of a degree of *licencié en droit* after one more year of studying are stipulated in Article 18 in the same coordinated acts. These are :

- 1) Organisation of the notary profession and code of ethics for the professions
- 2) Juridical organisation of credit
- 3) Notarial accountancy
- 4) Appropriate knowledge of private judicial law, private international law, administrative law, civil law, fiscal law and corporate law in relation to the notary profession
- 5) Drawing up of deeds

The conditions for the degree of *docteur en droit* – which cannot be obtained until 2 years after passing the degree of *licencié*, are laid down in Article 22*bis* of the coordinated acts; they are as follows : submitting a dissertation accepted by the board and defended in public by the candidate.

The exam for the degree of *agrégé de l'enseignement supérieur* – which cannot be taken until at least 2 years after obtaining the degree of *docteur en droit* – comprises according to Article 33 in the coordinated acts :

- 1) Submitting a dissertation in printed form : it should be an original work representing a major contribution to scientific knowledge and three subsidiary questions or theses
- 2) Defending this dissertation and the appended theses or questions before a board
- 3) Lecturing on a topic supplied by the board of examiners

### Ø.2.5. ENTRANCE INTO EUROPE

Belgian legislators were keen on setting legal education in the framework of European integration and providing a legal foundation for the numerous initiatives taken in this respect; they consequently introduced paragraph II*bis* into the coordinated acts of Dec. 31, 1949 entitled “Academic cooperation in Europe”, which came into force as of Oct. 1, 1987.

This paragraph has a dual purpose. In one way, it makes it possible for a student duly inscribed in a Belgian university or institution of similar standard to take courses and practical work in subjects for which exams will have to be taken to obtain an academic degree and to take the corresponding exams in a university or academic institution belonging to another EC member state, provided he/she obtained approval for the program of studies he/she intends to conduct abroad. The law clearly stipulates that courses taken and exams passed abroad are equivalent to the corresponding courses and exams taken in a Belgian university or similar institution.

According to the new article, Belgian universities and academic institutions are also allowed to make student and staff exchange agreements with universities and academic institutions belonging to another EC member state. It is stipulated that courses, lectures and practicum in such subjects for which students have to take an exam to obtain an academic degree and which, within the context of an exchange agreement, are taken in a Belgian university or similar institution in one of the EC official languages, as well as the corresponding exams taken in the same languages are considered equivalent to courses and exams laid down in the coordinated acts of Dec. 31, 1949.

### Ø.3. PROVISIONS SPECIFIC TO THE FLEMISH-SPEAKING COMMUNITY

The initiatives taken by the authorities of the Flemish-speaking Community have assumed, in a first phase, the form of limited amendments introduced into the Dec. 31, 1949 coordinated acts concerning the awarding of academic degrees and the university examinations program.

In a second phase, these changes have led to the voting of the Decree dated June 12, 1990 concerning universities in the Flemish-speaking Community. The purpose of the decree is to make overall provisions for the organisation of academic education in the Flemish-speaking territory. The *de facto* consequence is a cancellation of almost all provisions contained in the coordinated acts of Dec. 31, 1949 for this Community. The only provisions remaining relate to the minimal duration of studies as mentioned in *supra* 2.3 and on the practice of professions or functions for which an academic degree is necessary.

The Decree of June 12, 1991 introduced several changes into the regulations governing academic education. It applies to six institutions that are clearly identified<sup>3</sup> and which have the sole right to bear the name of University and advertise as such in the Flemish-speaking Community.

Academic education has been structured into four distinct types of courses for greater rationalisation and consistency : academic training; 'continued' academic training; doctoral studies; and post-academic training.

Academic training, which follows on from secondary education, is subdivided into two *cycles*. The first *cycle* leads up to the degree of *kandidaat*, the second one – as regards law studies – to the degree of *licenciaat*.

'Continued' academic courses provide complementary training sanctioned by a degree of 'graduate in complementary studies in ...'; doctoral studies for the preparation of a doctoral thesis and sanctioned by the degree of *Doctor*; specialised courses sanctioned by the degree of 'graduate in complementary studies in ...'; and academic courses for professorship sanctioned by the degree of *agregaat van het onderwijs*.

Post-academic training refers to all continued education courses offered by universities alongside the above mentioned courses.

The Decree of June 12, 1991 entitles universities to offer courses and award the relevant degrees in 18 study areas. One of these areas refers to laws studies, the notary profession and criminology, for which the degrees of *candidat* and *licencié en droit*; *licencié en notariat*; and *candidat* and *licencié en criminologie* can be awarded.

The Decree provides information about the fields and subjects that can be covered by the courses offered by each Flemish university for a specific territorial jurisdiction – administrative district, judicial unit, or municipality. It can be noted that three out of the six Flemish universities can offer courses covering the whole range of legal education : *Katholieke Universiteit te Leuven* (Leuven); *Universiteit Gent* (Ghent); and *Vrije Universiteit Brussel* (Brussels). Two universities are restricted to courses in law : 'Universiteit Antwerpen' (Antwerp), which can award all degrees in law; and *Universitaire Faculteiten Sint-Aloysius* – whose name has been changed to *Katholieke Universiteit Brussel* (Brussels) – which can only award the degree of *kandidaat* in law.

All universities may offer complementary or specialised courses in fields or parts of fields for which they are empowered to teach at undergraduate or graduate level.

They may also offer doctoral courses and deliver a doctor's degree in such disciplines or parts of disciplines for which they are authorized to offer graduate courses. However, universities that can offer only undergraduate courses may also award a doctor's degree on the condition that the dissertation is submitted before an inter-university jury composed in cooperation with a university accredited to offer graduate courses.

The training courses for professorships leading to the *agregé/agregaat* degree are reserved for such universities authorized to offer graduate courses. Post-graduate courses can be offered in such *arrondissements* where university courses are also offered.

The new provisions concerning the duration of legal studies are not basically different from the former ones. At least two academic years should be devoted to undergraduate studies to obtain a *candidat en droit/ kandidaat in de rechtsgeleerdheid* degree, then another three years to obtain a *licencié en droit/ licenciaat in de rechtsgeleerdheid* degree, or one more for the *licencié en notariat / licenciaat in het notariaat* degree and the *diplôme en études complémentaires* (= diploma in complementary studies) or a specialty. At least one year must be devoted to studies to obtain the degree *agregé de l'enseignement / agregaat in het onderwijs*, though this year can be started some time during a graduate academic course. The doctoral degree – which is delivered only after successfully defending a dissertation in

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<sup>3</sup> These are *Katholieke Universiteit te Leuven*, le *Limburgs Universitair Centrum* (Belgian Limburg), les *Universitaire Faculteiten Sint Aloysius te Brussel* (Brussels), l'*Universiteit Antwerpen* (Anwerp), l'*Universiteit Gent* (Ghent) and *Vrije Universiteit Brussel*' (Brussels).

public, cannot be delivered – under standard conditions – earlier than two years after obtaining the diploma giving access to the corresponding course.

If we except the conditions for admission to the various academic courses, the most striking novelty introduced by the Decree of June 12, 1991 applying to the Flemish-speaking region is the abandonment of the traditional distinction between “legal” and “scientific degrees” and the corresponding absence of details about the curricula. Programmes for academic and continued training courses are determined by university authorities, broken down into study years which – according to the provisions in Art. 12 in the Decree – should be consistently composed of at least 1,500 and at most 1,800 hours of classes and studying. To promote mobility, the Decree also stipulates that the following data are also provided for each academic year and each discipline offered : the total number of hours devoted to tuition, the number of “points” corresponding to a full year of studies and to each component. This point system is obviously strongly influenced by the ‘European Community Course Credit Transfer System’ introduced in 1987.

The international and European dimension of academic education and training was duly taken account of in the Decree of June 12, 1992. Universities are allowed to determine the conditions under which students may take courses at a foreign academic institution and take exams corresponding to a part of the training offered. They can also organise staff exchanges with foreign institutions and make arrangements for the joint provision of teaching and research activities. Though Dutch is the language generally used by the Flemish Community, various scenarios are currently under study, by which courses could be provided in another language. Among such possibilities, we can mention the guest lecturer system and the special training courses tailored to suit the needs of foreign students.

#### Ø.4. NEW LEGISLATION APPLYING TO THE FRENCH-SPEAKING COMMUNITY

The kind of initiatives observed in the French-speaking Community concerning university education are to a large extent similar to those of the Flemish-speaking Community, even if they have been taken at different times.

The legal texts in force at the moment of drafting this report have limited scope and restrict themselves to some specific and rather modest amendments concerning the provisions contained in the Coordinated acts of Dec. 31, 1949 mentioned above (cf. § Ø.2.).

We should also mention the existence of a draft for a decree to apply to the French-speaking Community "concerning the form of university studies and academic degrees"; it was recently the object of a motivated opinion expressed by the Legislative Department of the State Council; no details have been published yet. This draft bill is actually the first phase of a comprehensive reform concerning the legislation applying to the universities in the French Community; the other aspects of the reform relate to the financing of institutions for higher education and the autonomy of public universities.

Most of the principles underlying this draft bill are comparable to those on which the Flemish decree of June 21, 1991 is founded. The point is to clarify the offer in matters of education and training, and rationalise the various courses to achieve greater consistency. The authors of this bill also proposed that the new provisions be introduced as a substitute for most of the Coordinated Acts of Dec. 31, 1949.

In the introduction, the draft bill gives a list of all 9 institutions which offer almost all university courses in the French-speaking part of the country and which have authorised to provide instruction at the academic level<sup>4</sup>.

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<sup>4</sup> These are *Université de Liège*, *Université catholique de Louvain* (Louvain-la-Neuve), *Université libre de Bruxelles* (Brussels), *Université de Mons-Hainaut*, *Faculté universitaire des sciences agronomiques de Gembloux*, *Facultés universitaires Notre-Dame de la Paix* à Namur, *Faculté de polytechnique de Mons*, *Facultés universitaires Saint-Louis* in Brussels, and *Facultés universitaires catholiques de Mons*.

After enumerating all 22 study areas concerned – including i.a. law and criminology – and structured under three heading (Humanities and Social Science; Science; Health) the text offers a classified list of study courses and information of the corresponding degrees.

A distinction is made at the beginning between such courses leading up to academic degrees, and forms of education and training which are not linked to a specific degree and are rather akin to continuous training and further education programs.

Courses leading up to academic degrees are subdivided into 3 *cycles* (= 'phases'). The first two cycles correspond to basic education; completing the first *cycle* provides the title of *candidat*, and second *cycle* studies in law and criminology lead up to the title of *licencié(e)*. Second *cycle* studies may run parallel to educational training for the preparation of teaching staff, in which case students can be awarded the title of *agrégé de l'enseignement secondaire supérieur*. Supplementary studies may lead to the title of *diplômé d'études complémentaires en ...* (DEC) linked to the first or second *cycle*.

Third *cycle* studies comprise specialised courses leading to the title of *diplômé d'études spécialisées en ...* (DES), except in the case of notarial studies for which the title is then *licencié en notariat*. These studies may further lead to the title of *diplômé d'études approfondies en ...* (DEA) and studies and research conducted for the preparation of a doctoral thesis to the title of *docteur* or *agrégé de l'enseignement supérieur*.

The draft bill also lists the courses that each university is allowed to organise and offer, and the academic degrees that can be awarded.

Concerning legal education, three universities are empowered to provide courses at all three levels and award all corresponding titles : *Université de Liège*, *Université catholique de Louvain* and *Université libre de Bruxelles* (Brussels). Two more universities, *Facultés universitaires de Notre-Dame de la Paix* in Namur and *Facultés universitaires Saint-Louis* in Brussels have the same rights, with the exception of second *cycle* studies and degrees. Concerning doctoral theses, the latter two universities are currently holding talks to set up an inter-university board of examiners including at least one member belonging to an institution authorised to offer second *cycle* courses.

Arrangements and provisions concerning the number of study years to be completed for proper legal education can be considered as standard.

Two years are necessary to obtain the title of *candidat*, and three for that of *licencié en droit*. It takes one more year to obtain the title of *agrégé de l'enseignement secondaire supérieur*, bearing in mind that access to the corresponding courses is open, not only to such students holding the title of *licencié*, but also to those who registered for basic second *cycle* studies; in other words, the *agregé* degree may be obtained the same year as the *licence*. One more year is again necessary to obtain a *DEC*, *DES*, *DEA* diploma and *licence en notariat*. The drafters of the bill did not make any provisions concerning the duration of studies to obtain the title of *docteur* or *agrégé de l'enseignement supérieur*.

Similar to the situation in the Flemish-speaking Community, one of the major changes introduced by the draft bill to apply to the French-speaking Community is the loss of the distinction made between "legal" and "scientific" degrees. It is as a rule up to university authorities to create and structure studies, establish curricula, determine the form of corresponding exams, provided that students did go through the minimum number of study years required to obtain the academic degrees at the end of courses and *cycles*.

It should be underlined that the texts currently under discussion allow for agreements with other Belgian or with foreign institutions, allowing for some courses and practical work to be performed and the exams to be taken in these institutions, in compliance with the regulations prevailing there. Teaching staff exchange can also be organised.

## Ø.5. THE SITUATION WITH THE GERMAN-SPEAKING COMMUNITY

There is at the moment no higher education institution in the German-speaking part of Belgium.

But the German-speaking Community has all the rights necessary to make their own arrangements concerning university education.

## Ø.6. LEGAL EDUCATION : PRESENT-DAY SITUATION

It would not be realistic to claim that we could give here a comprehensive description of the structure of courses offered by the 11 Belgian institutions authorised to provide the whole range of legal education or part of it. There is also a risk of just providing a long and trite list of denominations given to courses, practical work classes, seminars, tutorials, readings and other forms of instruction offered by the various academic institutions.

It seems preferable to mention some of the main lines that give the tone for the structuring of courses designed to provide adequate legal education and training to students.

# 1. THE EDUCATION AND TRAINING OF JURISTS

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## 1.1. HIGHER EDUCATION

### 1.1.1. GENERAL

Legal education is provided over a period of 5 years subdivided into 2 *cycles*; the first *cycle* has a duration of 2 years – corresponding to *candidature en droit* – and the second 3 years – corresponding to *licence en droit*.

#### 1.1.1.1. Contents

A. Both in the French-speaking and the Flemish-speaking community, the education provided for *candidature* is multidisciplinary in essence, offering courses opening up to all facets of social reality (Philosophy, Psychology, Sociology, Political economy, History) and serving as an introduction to legal disciplines (various courses related to Roman law and an introduction to "modern" law). As a rule, some classes designed to improve skills in the mother-tongue and the acquisition of a foreign language are part of the curriculum for *candidature*.

Most courses are mandatory for all students. One or more elective courses to be chosen from among a list established by the board of the faculty or borrowed from other syllaby – especially the first *cycle* program – may also be added to the list of compulsory courses.

Various practical work classes and tutorials can complement lectures. The total number of full-hour classes in which the students have direct contact with the teaching staff is no less than 600.

It could be observed in the past few years that the number of purely legal disciplines has increased in the *candidature* programme.

It should also be mentioned that there exists bilingual *candidature* programmes : a French-Dutch *candidature* organised jointly by *Katholieke Universiteit Brussel* and *Facultés universitaires Saint-Louis*, and a French-English *candidature* organised by the latter institution.

B. The courses offered for the *licence en droit* programme concern all aspects of public law, private law, business law, social law criminal law, and international law. Awkward to say nearly subjects for which the material to be taught that focuses on national regulations are in some way influenced by international – mostly European – standards and decisions. This reality is obviously taken into account in the information provided by teachers.

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As a rule the first two years of the *licence en droit* programme offer courses that have to be taken by all students; some of them are supported by practical work and seminars. Some freedom is left to third-year *licence* students as to the composition of their programme. There is generally a *tronc commun* (= set of courses common to all) composed of a limited number of compulsory courses or a certain number of subjects from among various possible lists and allowing the students to start specialising (e.g. in the judiciary, or property matters, or economics and social matters, or public law, etc.).

There is more flexibility to the system in the Flemish-speaking community. For instance, the students of *Katholieke Universiteit te Leuven* can make up a large share of the programme for their second-year and third-year *licence* studies. During these last two years each student must choose five compulsory courses from a list of ten and this programme must be complemented with elective courses to be selected from various possible lists.

### 1.1.1.2. Course Structure

Apart from special cases, the *candidature en droit* programme is two years long and end up with two exams. The *licence* programme covers three years and has 3 exams.

Theoretical and practical courses are distributed over the two semesters or four-month terms composing the academic year (from mid-September to the beginning of July). Exams are organised twice during the year : first at the end of the first semester or term, second at the end of the summer vacation. In some universities, an additional round of exams can also be set up – for all disciplines or only for some of them – at the end of the first semester or term (January exam session). Students can write their papers on subjects for which instruction has been completed.

The general course programme is offered in all universities in the form of day classes. Some universities also offer *candidature* and *licence en droit* courses according to other schedules. The number of courses is then somewhat lower and this system is designed mostly for such students who have some professional activity and can take courses only as evening or Saturday classes.

### 1.1.1.3. Impact of European Programmes

The Belgian universities have participated very actively in the various EC-sponsored programmes (Erasmus - Tempus - Lingua , etc.).

The Erasmus programme had obviously pride of place for the exchange of students in law faculties.

Most Erasmus exchange students are second-*cycle* students. More specifically, they are most often third year *licence* students spending one semester or four-month term abroad.

Universities have made all necessary arrangements so that courses taken abroad can be integrated into the regular programme of instruction and evaluation (equivalence and exemption system).

## 1.1.2. POST-GRADUATE STUDIES

Some universities, especially those authorised to provide second *cycle* courses, also offer various courses for complementation, specialisation or continuation, each of them with its specific features. It is obviously impossible to go into the details of the structure of such courses and the corresponding curricula. We can merely provide a survey.

In the French-speaking community, the three fully structured universities organise, beside a *licence en notariat* , various special *licences* and courses accessible to *licencié(e)s en droit* and leading to the title of *diplômé(e)* or *maîtrise*.

The *Université de Liège* organises five courses accessible only to holders of the title of *licencié(e) en droit* :

- *Licence spéciale en droit administratif* (administrative law) – 1 year, the programme can be distributed over 5 years, 1 exam; at least 300 hours
- *Licence spéciale en droit économique et fiscal* (business and fiscal law) – 1 year, the programme can be distributed over 5 years, 1 exam; at least 360 hours; elective courses in business law and social law
- *Licence spéciale en droit social* (social law) – 1 year, the programme can be distributed over five years, 1 exam; at least 300 hours
- *Diplôme d'études supérieures en droit européen* (European law) – 1 year, the programme can be distributed over five years, 1 exam; at least 315 hours
- *Maîtrise en droit européen* – 1 year, the programme can be distributed over 5 years, at least 350 hours; 1 exam, 1 final research paper

The *Université catholique de Louvain* offers four special courses open only – except for special cases – to graduate of the title of *licencié(e) en droit* :

- *Licence en droit et économie des assurances* (insurance) – also open to third-year students in the *licence en droit* programme 1 year; 1 exam; 420 hours; 1 thesis
- *Licence en droit économique* (business law) – 1 year; 1 exam; 400 hours
- *Licence spéciale en droit international et européen* (international and European law) – 1 year; 1 exam; 345 hours; elective courses in European law and International law
- *Maîtrise en droit international et européen* (international and European law) – open to *licencié(e)s* in international and European law, 1 exam; programme with complementary courses and short dissertation

The *Université libre de Bruxelles* offers a wide range of courses open to students from the first year of studies in the *licence en droit* programme. Special mention should be made of :

- *Licence spéciale en droit administratif* (administrative law) – 1 or 2 years; one comprehensive exam
- *Licence spéciale en droit et économie des assurances* (insurance) – 1 ou 2 years; one or two (maximum) exams
- *Licence spéciale en droit économique* (business law) – 2 years; 2 exams
- *Licence spéciale en droit fiscal* (fiscal law) – generally 1 year; with 1 exam
- *Licence spéciale en droit maritime et en droit aérien* (maritime and air law) – completed 1 year and 1 exam. The programme can be distributed over 2 years
- *Licence spéciale en droit social* (social law) – 1 exam; 1 year; the programme can be distributed over 2 years. The title of *maître* can be awarded after defending a short dissertation.
- The *Licence spéciale en droit international* (international law) is accessible only to holders of the title of *licencié(e) en droit* (or, on specific conditions, the title of *licencié(e) en sciences politiques*).

The universities authorised to award all academic degrees also provide various courses. Following the provisions of the Decree of June 12, 1991, those courses are open only to holders of the title of *licenciaat in de rechtgeleerdheid* and, in some cases, a *licence* in another discipline.

The *Vrije Universiteit Brussel* (Brussels) proposes :

- Five one-year courses for specialisation in the following areas : Social law; International and European law; Fiscal law; Business law; and the *Program on international legal cooperation* taught in English.
- A *licentie in het notariat*
- Two complementary courses : Law and the management of public institutions; and International and European law. These two complementary courses are also accessible to holders of a *licence* in another discipline than law.

The *Katholieke Universiteit te Leuven* (Louvain) organises :

- A course for specialisation called *Master of Law* programme designed for Belgian and foreign students; duration 1 year in standard situations; most classes are held in English.

- A complementary course called *Aanvullende studies fiscaliteit* (= complementary studies in fiscal law and taxation) also open to students having graduated in disciplines other than law, lasting 1 year in standard situations.
- A *licentie in het notariat*.

The *Universiteit Gent* (Ghent) organises :

- 2 one-year courses for specialisation in European law and Economic analysis
- A one-year supplementary course on Business and social law
- A *licentie in het notariat*.

The *Universiteit Antwerpen* (Antwerp) organises :

- A course for specialisation in Corporate Law open to *licencié(e)s en droit* – 1 exam; 300 teaching hours
- A *Master of Law* course designed specifically for the holders of a foreign degree considered as having a value similar to the *licencié en droit* degree.

The academic institutions which are not authorised to award the *licencié en droit* degree also organise complementary courses and training for specialisation. We could mention in this respect the *Académie européenne de théorie du droit* founded by the *Facultés universitaires Saint Louis* and la *Katholieke Universiteit Brussel*. They offer a *Master's* programme in Theory of Law open to holders of a *licencié en droit* degree (1 exam; 1 year; classes and seminars taught in French and English).

Numerous universities have specialised programmes designed specifically for foreign students. This is obviously connected to the existence of Community programmes such as ERASMUS.

### 1.1.3. DOCTORAL STUDIES

Most of the above-mentioned universities also offer doctoral courses.

There is at the moment only one academic degree awarded in the Flemish-speaking territory : the *docteur* degree. As a matter of principle, this title can be obtained only two years after passing the degree that gives access to doctoral studies. These studies entail the preparation of a doctoral thesis to be defended in public before a jury.

There are two distinct titles in the French-speaking Community : *docteur*, and *agrégé(e) de l'enseignement supérieur*. The former includes the writing of a thesis in a period of time that cannot be less than 2 years after obtaining the *licencié* title; the work is to be defended in public before a jury. The latter also entails the writing of a dissertation to be defended in public, together with appended theses and questions and followed by a public lecture on a theme given by the jury. This degree cannot be obtained if the candidate has not been awarded a *docteur en droit* title at least two years earlier (with the exception of students of medicine who receive the title without defending a thesis). It seems that *agrégation de l'enseignement supérieur* has become obsolete in practice. However the draft bill to apply to the French-speaking community maintains it whereas it has been abandoned in its Flemish counterpart.

## 1.2. TRAINING

### 1.2.1. ADVOCATES

We should first make a note of the fact that advocates (or, for that matter, *licencié(e)s en droit*) in Belgium do not have a monopoly for legal consultation.

Any person having the *licencié(e) en droit* degree and registered at the *Barreau* (= 'Bar Association') or appearing on the list of candidates to become a member of the *Barreau* is entitled to practice the advocate profession in Belgium; the latter condition implies some form of control by the *Conseil de l'Ordre des Avocats* (= 'Board of the Bar Association'). There is

therefore no exam to be passed to have access to the Bar, nor any specific academic title required to practice the advocate profession.

However it appeared very soon that it was necessary to have some specific form of training for the profession.

In compliance with Article 494 of *Code judiciaire*, the *Ordre National des Avocats de Belgique* has adopted a set of regulations imposing professional training and final exams to all candidates in the country. Tutelage is provided nearly exclusively by advocates, mostly during the first year of the traineeship. In case of success, a *Certificat d'aptitude à la profession d'avocat*, (= 'Certificate of Competence for the advocate profession') is issued; it is necessary for registration on the list held by the Association; each Bar has full mastery and control on the list corresponding to its jurisdiction.

With a view to improving the training of students striving for a position as an advocate or a judge view a Bar-University Joint committee founded by the *Ordre National des Avocats de Belgique* has recently proposed the creation of an interdisciplinary course on contentious matters (45 hrs) in the three French-speaking universities..

Each Bar is in charge of continued education. It is often organised in cooperation with universities, in particular in connection with the further education courses that the latter offer on a regular basis.

## 1.2.2. JUDGES

Up to 1991, access to the bench was not submitted to passing a specific competitive exam. From that time onwards, the *Code judiciaire* has created two ways of entering the career.

The first one is via a *stage judiciaire* (= traineeship in the judiciary). Candidates selected after a competitive exam start a 3-year traineeship with theoretical courses and practical work. Theoretical educational is provided in 270 hours, with a programme set up by the Ministry of Justice upon proposal by the *Collège de recrutement* (= 'Recruitment Committee'). Teaching is provided by members of the bench and university professors.

According to the second systems, judges and magistrates can be appointed directly by the Ministry. Appointments are subject to passing an exam to give proof that candidates have acquired all necessary professional skills.

Continued training for judges has essentially the form of attending seminars and full-day courses organised in most cases by universities. Incumbent costs are covered by the Ministry of Justice.

The *Collège de recrutement* has expressed a wish that continued training be reinforced.

Recruiting members of *auditorat* for the *Conseil d'Etat* and *Bureau de coordination* is made by competitive exam. This provision also applies to *referendaires* (= 'public auditor') to be appointed at *Cour d'arbitrage* (= 'Arbitration Court')

## 1.2.3. OTHERS

### 1.2.3.1. Notaires

The condition to be appointed as a notary is to hold a *licence en droit* (5 years) and *licence en notariat* (1 year of complementary studies). The corresponding courses are provided by universities. Education is following by a compulsory three-year traineeship.

Continued training is provided by the *cercles d'études* created by the *Chambres d'arrondissement* (= 'County courts') and the *Conseils régionaux de la Fédération Royale des Notaires de Belgique* (= 'Regional councils of the Royal Federation of Notaries in Belgium'). We should also mention the *Journées notariales* organised every year on the initiative of *Fédération des notaires* (= 'Federation of Notaries').

### 1.2.3.2. Bailiffs

The condition to be appointed *huissier de justice* (= 'bailiff / writ-server') is holding a *licence en droit* and being an on-the-job trainee for two years (article 510 in *Code judiciaire* amended by the Act of April 6, 1992). The programme of this training period was described in the Royal Decree of June 30, 1993. When the programme has been completed, the candidat must pass a certification exam before a jury composed of a *Conseiller* at *Cour de cassation* or in a *cour d'appel* (= 'appellate court'), an officer of the Minister of Justice and three writ-servers.

### 1.2.4. CORPORATE LAWYERS

All companies have complete freedom to provide preparation and training to the legal staff they may hire.

Though continued training is left to the discretion of each company, it should be noted that corporate lawyers often participate in seminars and symposia organised by their employers, or the *Fédération professionnelle* (= 'Union') to which they belong, or the *Association Belge des Juristes d'entreprise* (= 'Belgian Association of Corporate Lawyers'), or universities.

### 1.2.5. CIVIL SERVICE

Access to civil service, whether it is under the control of the Federation, or Communities, or Regions (federated authorities), depends upon successfully passing an exam or a competitive exam.

As a rule, exams are organised by the *Secrétariat permanent au Recrutement*. (= 'Permanent Office for Recruitment'). Some of the tests are specifically designed for law students.

The students passing the exam receive a grant to work as trainees and thus receive theoretical and practical training.

For continued education, some civil servants participate in full day tutorials organised either by the universities or by the Department concerned with the assistance of the Ministry of Civil Service.

Access to civil service at local authority level (province or municipality) is subject to passing an exam.

Standard or continued education falls within the scope of the relevant administration; however, it can be observed that the training courses organised by *Union des villes et Communes* or by universities are found increasingly attractive by civil servants working for local authorities.

## 2. NEW NEEDS AS TO EDUCATION AND TRAINING

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### 2.1. SHORTCOMINGS AND LACKS

#### 2.1.1. FROM THE POINT OF VIEW OF THE CHANGES IN LAW

There is a dual challenge to be met.

On the one hand, we can observe that the number of acts and regulations is steadily growing and this legislation is increasingly mobile. It is therefore more and more difficult to identify the ruling in force and the value of the results of research are often very short-lived.

We should be aware of that fact.

As a consequence, educational programmes cannot be comprehensive: we must restrict ourselves to what is essential and be prepared to use on a constraint basis such juridical tools as legislative collections (in practice, the *Codes* circulated by various private publishers).

On the other hand, the importance of the general principles applying to law should be underscored and enhanced. Pride of place should be granted to human rights, and issues relating to the rights and liberties granted by the Constitution.

In this respect, it is important to make a clear difference as to the contents of courses between legal education relating to the general university programmes and professional training in judicial matters. The young lawyers will be up to the expectations of their "employers" only if this difference is clearly maintained and if educational programmes are first rate.

### **2.2.2. FROM THE POINT OF VIEW OF THE BUILDING UP OF THE EUROPEAN UNION**

The various bodies of the European Union (Council of Ministers, Commission) produce a sizeable amount of normative legislation and the impact on the legal system of each member state is dramatic. At the same time, the jurisprudence from the High Court of Justice in Luxembourg deserves greater attention.

Legal education will have to take such factors into consideration.

The law of Member states is less and less a "foreign" law. Studying private international law has already changed our thinking habits and we have got used to reason along these new lines. This movement is currently accelerating.

## **3. MEASURES TO BE TAKEN IN ORDER TO MEET THESE REQUIREMENTS**

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### **3.1. MEASURES TO BE IMPLEMENTED IN UNIVERSITIES**

- Make sure that programmes are properly adapted to needs
- Maintain a high rate of quality for education in spite of the constant rise of the number of students and the levelling off of financial resources allotted to the universities by the Administration
- Promote the exchange of students

The ERASMUS programmes should not only be maintained, but also be enlarged so that the number of scholarships granted be more numerous than it is at present times.

Concerning legal regulations, the Belgian public authorities have made all necessary decisions so that studies made abroad in the framework of ERASMUS programme be validated in Belgium.

As for the Belgian Universities, they have taken numerous initiatives to implement student exchange programmes. It is then necessary that the amount of resources provided by the European Commission be raised too.

- Promote cooperation between institutions.

As an example, we may mention the initiative taken by the *Centre belge pour l'application du droit communautaire en matière pénale et financière*. (= 'Belgian Office for the Application of Community Law in Criminal and Financial Matters'). The Centre was created upon request from the European Commission with a view to reducing evasion at Community level; it organises lectures on this topic in cooperation with the academic institutions; lectures are given in university premises.

- Facilitate the mobility of courses in real practice.
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### **3.2. MEASURES TO BE TAKEN IN TRAINING ORGANISATIONS**

- Take steps to have a better coordination between university education and professional training.

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## Remarques générales

Conformément aux instructions données par le comité d'organisation et le comité scientifique, les rapports nationaux ont été soumis en anglais ou en français, à la seule exception du rapport allemand (présenté en allemand).

Certains rapports ont nécessité un travail plus ou moins conséquent de remise en forme ou même de réécriture, en particulier (mais pas seulement) lorsque la langue maternelle du rapporteur n'était pas l'une ou l'autre de ces langues. Dans tous les cas, les propositions de modifications ont été soumises aux auteurs qui ont donc pu valider les changements suggérés.

Toutes les versions traduites ont également été soumises aux rapporteurs pour validation avant impression.

## Options retenues pour la traduction

L'équipe des traducteurs a pris les options suivantes dans son travail et les a appliquées de façon systématique à tous les rapports nationaux (textes originaux et traduits), dans un souci de cohérence et de bonne compréhension

- le premier terme des expressions désignant une discipline porte une capitale lorsqu'un s'agit de renvoyer au nom d'un enseignement (cours, modul, unité de valeur, etc.)
- les termes donnés dans la langue originale du rapporteur sont écrits en italiques; il s'agit essentiellement de désignations de diplômes, titres, ou encore d'institutions et d'organismes propres au pays. Les italiques sont également employés pour les mots pleins ou en abrégé repris du latin.

En conséquence, un terme ou une expression pourra apparaître en italique même s'il s'agit, par exemple d'un mot français dans le rapport français ou belge.

## General

Following the guidelines provided by the organising committee and the scientific committee, all national reports were submitted in English or French, with the sole exception of the German report (drafted in German).

Some reports required more or less extensive editorial work or even re-writing, especially –but not exclusively – when the rapporteur's mother tongue was neither of these two languages. In all cases, proposals for amendments were submitted to the corresponding authors who were thus given the opportunity to validate the suggestions for changes.

All translated versions were also submitted to rapporteurs for validation before printing.

## Decisions made for the translation

The translation team made the following decisions for their work and then systematically applied them throughout the national reports (original and translated texts) for the sake of greater consistency and readability

- the first term of phrases referring to a specific discipline is capitalised whenever they identify a part of a curriculum (course, module, study unit, etc.)
- terms provided in the rapporteur's original language have been italicized. This holds true in particular for references to degrees and diplomas, or for the names of institutions and organisations proper to the country concerned. Full words or abbreviations in Latin have also been italicized.

Consequently, a term of expression can be italicised even if, for instance, it is an English word found in the English or Irish report.

Dans certains cas, les traducteurs proposent – entre parenthèses – une traduction du terme original. Cette traduction est mise entre guillemets simples lorsqu'il s'agit d'une approximation plus ou moins grossière.

- certains éléments de la terminologie employée dans les traductions peut paraître artificiel. Il ne pouvait pas en être autrement. On citera comme exemple l'emploi systématique du mot *advocate* pour traduire *avocat*, alors que ce terme n'est pas le plus courant dans la pratique anglaise ou irlandaise.
- la table des matières est en principe identique pour tous les rapports. Il peut se faire que certaines rubriques, jugées sans objet par les rapporteurs, n'ont pas donné lieu à un quelconque texte. La numérotation peut alors présenter des lacunes. Certains rapporteurs ont ajouté des explications et des rubriques, généralement en introduction. Ces paragraphes ont été numérotés logiquement, en respectant la structure de base et en usant du Ø... lorsque cela était nécessaire. D'autres rapporteurs se sont éloignés du plan-type qui leur avait été proposé. L'équipe de traduction a pris la liberté de chercher à rapprocher les plans proposés du plan type en question.

In certain cases, the translators suggested – in parentheses – a translation of the original term. This suggestion is in single quotation marks when it is only a tentative approximation.

- some elements of the terminology used in translated texts may appear as artificial. But it could hardly be otherwise. A typical example is using the word *advocate* to translate the French *avocat*, even though this term is not so common in English or Irish practice.
- the table of contents is supposed to be identical for all reports. But it can happen that some items were deemed not applicable by rapporteurs and that there is no corresponding text. Consequently, there can be some gaps in the numbering sequence.

Certain rapporteurs provided some additional information and inserted new items, in most cases in the introduction. These paragraphs have been numbered in logical order, following the basic structure and using Ø... when necessary. Some other rapporteurs departed from the suggested outline, in which case the translation team took the liberty of making the proposed structures conform to this reference structure as closely as possible.