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Editorial



The Associated Center to the UNED of Malaga has been our host in the tenth edition of the Summer School that OPEN of The Netherlands, Fern UNI German and UNED, have hold through their Faculties of Law.

Around 350 students from the three countries have lived together for two weeks in the last ten summers. The special profile of the distance university student does not allow in most of the cases a conventional Erasmus stay, but it does allow a shorter period of one or two weeks (until the 2015 edition of the graduate and postgraduate degrees they lived together for two weeks. In 2016 and 2017 a week has hosted the postgraduate students and the following week has held a group of students of Bachelor level). To date , we have been in Madrid (2008, 2011, 2014) Berlin (2010, 2016), Maastricht (2009, 2012) Cologne (2013) Las Palmas de Gran Canaria (2015) and Malaga (2017).

My feeling, as organizer of all these activities together with the rest of the professors that have participated from the beginning, is that we have placed an important brick in the framework of the coexistence of Distance university students within the framework of the European construction. Someone said that Erasmus has done more for Europe than the European Parliament or the Commission. Possibly we

have not done more, but we have not done less or with less importance in the framework of the collaboration of hundreds of universities in the Europe of the 28.

We have spoken and discussed -the basis of the ten editions has been the open debate of students and teachers- on issues of EU Law, International Public Law, Constitutional Law, Commercial Law, Consumer Law, Criminal Law, Civil Law. Some mixed topics that had to do with Public Debt in Europe, Brexit, large migrations have also been discussed ... always topics that were of great interest.

I hope someone writes in ten years that this experience turns twenty years old. I am proud to have been an active part of this unique experience, between Universities at Distance and their Law Faculties. And in the near future we want to be more ... we will be informing in the E-Library News

Prof. Dr. Pablo de Diego

Deputy to Dean - UNED Faculty of Law.

Erasmus + Project, 2017 Moot Court



During the first week of the Erasmus + Summer Course, which was held in Málaga (3rd -7th July 2017), some Profesors from Hagen University (Germany), Open Universitait (The Netherlands) and Uned (Spain) , offered a week Course to Ph students. The Summer Course was hold in Instituto de Estudios Portuario (Malaga Harbour), Instituto that was suggested as the Institution to celebrate the Summer Course by Uned Malaga (Concepcion Travesedo, Head of Uned Malaga and Juan Ramirez, Uned Academic Coordinator).

The students, coming from the three Partners Universities within the Erasmus+ Project in which the Summer Course is developed, received several lectures dealing with Legal English (Prof. Wanda Macedo), Arbitration, International sale contract and Viena Convention applicability (Prof. Karl August von Sachen G.), Formation of the International sale contract (Prof. F. Jiménez), Rights of the buyer within the International sale contract (Prof. Eva Dominguez), Obligations of the buyer withing the international sale contract (Prof. Vanessa Jimenez), Liability and remedies within the international sale contract according to the Viena Convention, Intercultural legal kwnolodge (Prof. Juan Garcia Blesa), and Rethorics (Prof. Christian Niewehause).

The lectures, which dealt with the main issues of the mentioned subjects, were offered mostly in a dynamic approach, allowing the students to participate during the

lectures, not only asking questions, but also offering the rest of the students their point of view according to their legal and cultural own approach.

On Wednesday 5th July, a cultural visit to Pompidou Museum was organized, which was really interesting as this Museum shows modern Art in a very nice bulding, which is located at Malaga Harbour.

The students also had free time after lectures to prepare the Moot Court Trial –according to the Moot Court case that was provided to the students, and which dealt with an international sale-, which was hold on Friday morning at 9.30 in Tribunal Superior de Justicia de Andalucia, located in Málaga. For more than two hours, the students –divided in two groups-, had the chance to explain their main arguments to the Arbitration Board (Frank Sponheimer, Chair; Eva Dominguez), in order to defend their own position according to the Moot Court case.

After the Board Arbitration Decision was given, the students and the Professors had lunch together in Club de Botes, located at Malaga Harbour, as the end of a wonderfull academic Summer Course week!.

Prof. Dr. Eva Dominguez
UNED Faculty of Law.

Obligations in the international sales agreement



Within the Erasmus + Program Ph Summer Course, hold in Malaga, 3rd-7th July 2017, **Prof. Vanessa Jiménez** from Salamanca University (Salamanca, Spain), dealt with the obligations of buyer within the international sale agreement according to the 1980 Vienna Convention related to international sale agreement.

Prof. Jiménez focused her lectures on the obligations that the buyer has to attend within the international sale agreement according to the Vienna Convention. She focused her lectures, for example, on the period time the buyer has to check the non conformity with the merchandise, and also which are the liability remedies the Vienna Convention offers the buyer relating to a merchandise non conformity situation. Some main ideas dealing with arbitration were also offered to the students.

Rights in the international sales agreement



Within the Erasmus + Program Ph Summer Course, hold in Malaga, 3rd-7th July 2017, **Prof. Eva Domínguez** (Uned, Madrid, Spain), dealt with the rights of buyer within the international sale agreement according to the 1980 Vienna Convention related to international sale agreement.

Prof. Domínguez taught about the rights the buyer have after signed the international sale contract; firstly, it was explained the main requirements for the Viena Convention to be applied, mainly focused on the kinds of goods wich are considered to be an offer; secondly, Prof. Dominguez focused on the delivery of the merchandise as agreed on the contract (delivery time and place) , and also, thirdly, on the right of the buyer to ckeck the merchandise in order to notice any default (non conformity) that the merchandise could shows.

This inspection constitutes both a right and also an obligation for the buyer to be aware of in order for him to be entitled to ask the seller for damages compensation and/or breach of contract.

Formation of contract



Part II of the CISG sets out rules for the formation of an international sales contract: a contract is concluded when an acceptance of an offer becomes effective, accordingly to the so called “offer-acceptance paradigm”.

In this lecture we talked about these issues: offer (when a proposal to conclude a contract constitutes an offer), when offer becomes effective, revocability of offer (rules for the effective revocation of an offer, and when it is not possible; withdrawal and revocation, and their differences), rejection of offer, acceptance of offer (what constitutes the acceptance of an offer, and when it is effective), modified acceptance of offer, time fixed for acceptance of offer, late acceptance of offer, withdrawal of acceptance of offer, time of conclusion of contract (when an acceptance of an offer becomes effective), and when a communication “reaches” the other party.

Prof. Dr. Francisco Jiménez
UNED Faculty of Law.

The balance between democracy and the rule of law



The lecture addressed the issue of the balance between democracy and the rule of law, a question that highlights the eternal dialectical tension between power (and democracy can be defined as the power of the people) and right. In fact, the rule of law cannot consist only in that it is observed the law in the exercise of power..

The rule of law must incorporate the ideas of justice and limit and control of power by the law as a guarantee of political freedom. In that way, I presented the special relevance of the constitutional justice as the ultimate guarantor both of fundamental rights and public freedoms, and of the supremacy of the Constitution.

Thereafter, I introduced its origin and justification of its existence as well as its two main models (the diffused constitutional jurisdiction model and the concentrated constitutional jurisdiction model). After my presentation, I generated a discussion about the positive and negative aspects of both models, pointing out the current problems of its implementation in countries such as the USA and Spain. In short, I made a brief introduction of the political and institutional context of the case-study B to try to help students to resolve the case with success.

Prof. Dr. Leyre Burguera
UNED Faculty of Law.

Case study: Political reform of the Republic of Transdanubia



With this case study about the transition of an European country from a communist regime to democracy, students should use the tools that allow them to make this political change to a democratic one, in order to become a full member of the Council of Europe, a task that would require a strong change and a deeper revision of the old Constitution.

This hypothetical political order ought to be built regarding several principles, absolutely necessary on a democratic political order, as following:

- Separation of powers among legislative, executive and judicial powers, would prevent the abuse of power, proscribing it. To this end, the division among them impeded the concentration of power.
- Jurisdiction of the law, because liberal democracy considered this principle as the expression of the general will in a representative Assembly, so if the sovereignty embodied in the people and exercised by means of their representatives, law which underpins these assemblies must itself be sovereign and subject to it.
- The recognition of rights, as benefits applicable to individual being and at the same time essential elements in the objective legal order of a social and democratic state.
- Besides these main principles, students should think on the different institutions and electoral systems suitable to the NEW REPUBLIC OF TRANSDANUBIA, choosing between a proportional or absolutely majority electoral system: among other issues they must decide on whether to establish a two or a one house Parliament, how many seats in each of them, if must be the Parliament who elect the Government, if the Executive power should be a Republic or a parliamentary monarchy, and how many re-elections can the Prime Minister of the Republic present.
- From my experience, this is a clever and nice method to make the students to think on a practical and very useful way.

Prof.Dr. M^a Victoria García-Atance

UNED Faculty of Law.

Introduction to the CISG and applicability



At the 2017 Summer School at Málaga, I gave a lecture “Introduction to the CISG and its applicability”. The UN-Convention on Contracts for the International Sale of Goods (CISG) was approved in Vienna in 1980. It was elaborated by a team of international experts under the leadership of the United Nations Commission on International Trade Law in order to unify the substantive law for international sales.

The CISG is the outstanding example for the unification of private law because it deals with the most important type of contracts, the sales contract. It exerted a dominating influence on several national codifications as in Germany, China and Russia, but also on EU-law. Among the main principles can be underlined the introduction of a unique liability for breach of contract which in case of damages is not fault-based.

The CISG is applicable to sales contracts between parties who have their place of business in different States, if those are Contracting States or when the rules of private international law lead to the application of the law of a Contracting State, unless the parties have

excluded the application of the CISG. Actually, 88 States joined the CISG, among them all the countries of the EU, with the remarkable exception of the UK, Ireland, Malta and Portugal. Therefore, I invited a colleague from the Open University UK, M. Rhonson Salim, to explain the reasons, why the UK did not ratify this Convention. On the basis of several cases were discussed problems of the applicability of the CISG.

Prof. Dr. Karl August von Sachsen Gessaphe
FernUniversität Hagen

Some notes from the Associated Center to UNED in Malaga



Last July 2017 the centre of the Spanish State Open University (also known as UNED) in Málaga hosted for a fortnight the Summerschool jointly organized by the Law School at Spanish UNED; the German FernUni; and the Dutch Open Universiteit within the Strategic partnership that these three academic institutions share under the Erasmus Plus scheme coordinated by the German institution above mentioned.

Throughout the different sessions and lectures scheduled for this edition, distinguished scholars and guest lecturers from several universities and academic institutions taught on comparative Law adopting a mainly practice-based approach. Apart from Legal English, different issues and current problems of the EU legal system were examined and discussed using a case-study methodology.

Within this approach, both professors and students worked together with other future law professionals from different backgrounds, holding detailed discussions aimed to shed light on the current complex legal and political scenarios.

Last but not least, both students and Faculty had the opportunity to walk along the streets of this cosmopolitan and Mediterranean city that prouds itself of its acknowledged hospitality and cultural offer. The venue of the Summerschool, the port and the marina of the city, welcomed and embraced all the participants who not only made the most of this academic activity both also took home an unforgettable experience.

Málaga boasts an intense cultural and educational agenda in which the UNED Centre “María Zambrano”, the best known intellectual in the 20th Spain with Ortega y Gasset, plays a key role by offering a wide academic offer including 28 majors and 2 MA programs for its 5,400 graduate and postgraduate students as well as other cultural activities for anyone interested. The UNED Centre “María Zambrano”, thus, contributes significantly to the academic cultural life of both the city and the province promoting debates, conferences and courses of the greatest and public interest.

Dr. Juan Ramírez Arlandi

Associated Center to UNED `María Zambrano` - Málaga

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