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Editorial



In this picture you can see the members of the EDELNet group visiting the European Central Bank in Frankfurt as a complement to the week of work that took place in the Study associated Center of the FERN UNI in that city. The photograph was taken in January 18th, 2018.

For five days (15th to 19 January 2018) 15 professors and 16 doctoral students from the three institutions that make up the EDELNet Network: Fern UNI Hagen, Open University and UNED (their Law Schools) attended the brief public exposition of their students' doctoral theses. To all, both teachers and students, suggestions were made to improve their work. In the evenings, the dinners in common and the walks around the city helped a magnificent time among all of us who are now already friends. This is the third time that the EDELNet Network carries out this activity. The first two rounds were in Madrid in December 2016 and December 2017. We trust that the future can continue to develop this activity.

In this electronic bulletin, E-Library (in two issues) is informed of the summaries that the students who aspire to obtain the PhD in their institutions have contributed to the content of this bulletin.

Prof. Dr. Pablo de Diego
Deputy to Dean - UNED Faculty of Law

Citizenship, suffrage and political ideologies



A citizen is a member of a political community, who accepts the rights and duties that derive from this status and who participates in the political decision making of his community. Citizenship is a complex concept. Different political ideologies will give different weight to the various elements of citizenship: community, membership, rights, duties or political participation.

My assumption is that the approach of the suffrage – the right to vote – , as a crucial expression of political participation, will vary accordingly from one ideology to the other. My goal is to examine the constitutional legal arrangements of the suffrage in several cases in order to check this assumption.

Michael Van Oosterzee
Open University of The Netherlands

The right to music education: the historical and legal creation of the concept and perspectives for the future



Music education as a science, and especially as a “social science”, studying its historical evolution, its academic consideration as university studies or not, its legal aspects and its recent configuration as a “right” are the main objectives of this research project, which is being carried out at the UNED, in Madrid, under the supervision of Dra. Remedios Morán, as part of the program of Doctorate in Law and Social Sciences.

The historical and legal evolution of music education has followed different routes according to social status in the culture of a community. Music is a well-known and world-wide natural phenomenon, with a wealth of possibilities to be studied and legalised in order to be used as an education tool.

The selection of specific content responds to a scale of priorities which have their origin in a historical and legal analysis of music education in Spain, their current situation in the European context and the evolution of legal and educational criteria in the teaching of music performance. Previous legislation did not contemplate the existence of Doctorates in music performance. As a

result, the number of teachers in conservatories with such a degree is very small, and in other disciplines, compared to the real needs if the performative research is implanted. Apart from this, master studies in this area can be undertaken using two different routes: conservatories and university.

In this point, the European Higher Education Area has enabled communication and common criteria with respect to the individual characteristics of each country, with an analysis of law and social impact. A multidisciplinary methodology is needed to take in the historical, administrative, constitutional and philosophical content.

M^a Ángeles Blanco
UNED Faculty of Law.

The Constitution of Cadiz (1812) – Spains jump into modern times, compared to the Constitution of the Electorate of Hesse of 1831



The Constitution of Cadiz was born during the rebellion of the Spanish people against the occupation by Napoleon Bonaparte's troops. It was promulgated on March 19th, 1812, being the first written Magna Charta elaborated by an elected Spanish parliament for the Spanish people. The Constituent Assembly took away the sovereignty from the King and transferred it to the Nation, at the same time declaring the National Parliament the only representative of this nation.

The 1812 Constitution ruled quite strictly the separation of executive, legislative and judiciary powers, and it granted every Spaniard the fundamental rights of freedom, property, equality before the law, fair trial, nulla poena sine previa lege, habeas corpus, public trial, the sanctities of the home, freedom of press and of opinion and the right to public education. The only exception in this otherwise very liberal constitution is the lack of religious liberty. Altogether, the constitution can be classified as the base for a constitutional monarchy with a dominating parliament.

What follows is a brief description of the reception of the Constitution of Cadiz in Germany, distinguishing four main tendencies.

Then the Constitution of the Electorate of Hesse is discussed, again following the same scheme: historical context, sovereignty, separation of powers, fundamental rights, classification. Both constitutions are compared to each other, concentrating on what they have in common and where they differ.

The second last chapter introduces the harsh critic of the most important creator of the 1831 Hessian Constitution, Marburg University professor Sylvester Jordan, reproaching the 19 years older Spanish constitution as too excessive in limiting the monarch's power. The last chapter resumes the results of the comparison conducted earlier, showing how liberal/progressive/modern the Spanish Constitution of 1812 was, compared to the Hessian Constitution of 1831.

Olaf Kroon

Rechtsanwalt (Attorney at Law), Madrid

On the way from bail-out to bail-in



The research has a multidisciplinary character. It contains legal and economic elements. An analysis of the legal framework of the recovery and resolution of (system) banks and the bail-in tool shall be made. The central question will be answered using five sub-questions. In that context, an intensive study will be made of expropriation and compensation, the usefulness and necessity of the No-Creditor-Worse-Off- principle, the tax-law structure of banks and the adequacy of the bail-inable capital.

The operation of the bail-in system will be investigated on the basis of a number of cases including the expropriation of SNS Reaal bank and the rescue of Banca Monte dei Paschi di Siena.

Literature research will take place using literature, legislation and scientific articles. As a comparative reference point, the US legal framework will be used, which has been of great importance for the European model. Empirical research takes place through case studies and the collection, analysis and interpretation of business macro economic data on bank balance sheets and the economic damage of the financial crisis that started in 2007.

Hendrik P. A. (Henk) Boogaard LLM
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Law on the border



Obtaining an understanding of the influence of law in the success or failure of cross border partnerships and cross border cooperation according to the concept of legal pluralism.

Obtaining insight in the question whether it is possible to create from the selected case studies a list with legal critical variables which are mandatory for the success of a cross border partnership in which different governments of different countries participate.

The two previous aims contribute to legal pluralistic research, because this study focuses on whether and how different legal norms, regional, national and supranational (i.e. norms of the European Union) nature interact in a cross border region.

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