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Edelnet E-Library News

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Editorial



The eleventh edition of the Summer School has premiered stage. This year we went to Rotterdam, where we were welcomed by the local Open University Center and its staff, located in the center of the city.

The development of work with 12 German, 8 Dutch and 4 Spanish students was intense during the week. The structure this year of the Summer School meant that the last week of June was dedicated for Bachelor students. In the first week of July the Master level students were expected to be a total of 17 (8 from Holland, 6 of Germany, 5 of Spain) with a novelty this year and is that the students were divided for the exercises of Moot court into two groups: one for the usual practical exercise of private law and another for the practical exercise of Criminal matter Law, which was the new development in this edition for the Master Level (the Bachelor Level already had this subject in the first eight editions)

The Bachelor Level, very well organized by Michiel Van Oosterzee, was structured as always around three practical cases (case study, on the basis of the idea of "Students Oriented Teaching") all with the central theme of

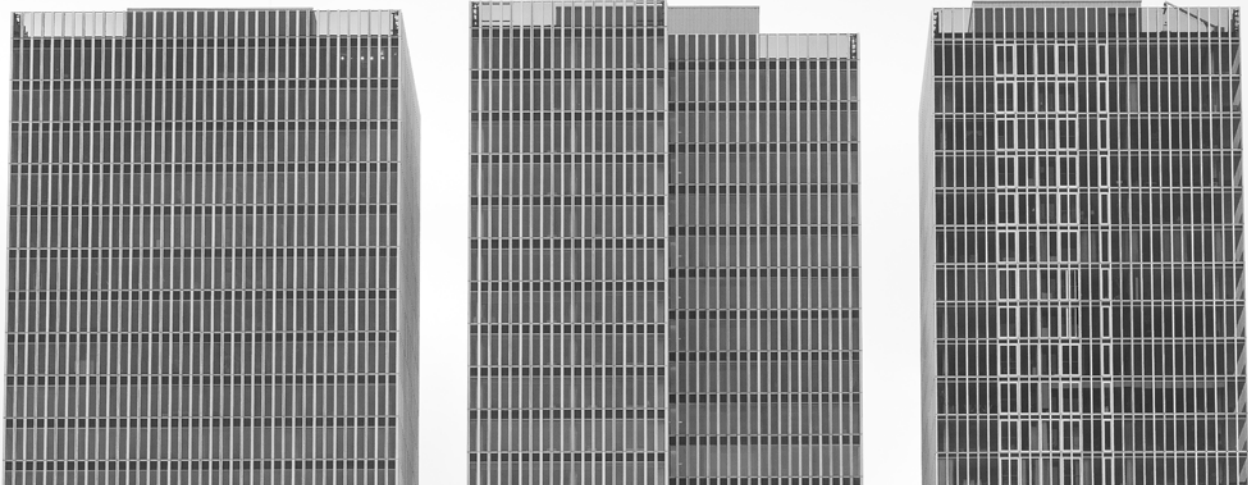
Transdanubia, imaginary country, with different constitutional problems that the students tried to solve. Different professors from the three participating Law Faculties were directing the teaching tasks. Since Berlin 2016 we were assisted by Professor Dimitris Melissas, from Greece, professor of several subjects at one of the Athenian Universities and who told us in Rotterdam about the different significance that a referendum can have. The third case study was precisely about the problems of separatism in Europe, so the ideas of referendum and the events of Scotland, Catalonia, Corsica, etc ... were the protagonists of the debate.

In the following pages some of the protagonists write about the highlights of this Summer School Bachelor level. They are the ones who can best describe it.

Prof. Dr. Pablo de Diego

Associate Professor UNED Faculty of Law
Vicedean of the Faculty

EDELNet Summer school LLB Rotterdam 2018



German, Dutch and Spanish students, 24 in total, spent an intense week in the middle of Rotterdam in the 2018 EDELNet Summer school LLB. They started Sunday evening 25th June with a drink in the bar of the hotel where everybody was staying, getting to know each other, meeting some teachers and discussing where to watch the upcoming football matches of Spain and Germany. The following days, as the weather got better and better, the real work got going.

Central to the program was the imaginary country of Transdanubia and its constitutional order, which was discussed extensively. If we could make a new design for the constitution of this state, what would it look like? Would it have a centralized or a federal system, a parliamentary or a presidential system, one or two chambers of parliament? If the government of Transdanubia would constrain the independence of the constitutional court, why would that matter, and what could be done about it? If one of the richer regions of Transdanubia would aspire independence against the will of the national government, should it be allowed to do so? The cases were introduced and supported by lectures from Spanish, German, Dutch and Greek professors.

To support the collaboration between students from different countries, the program also contained a training in Legal English and in intercultural communication. How do I present myself and my legal arguments in English? How do people express their consent or objections? How do they balance the focus on relations and tasks? And how do they

react when other members of their group behave differently? These trainings gave an enriching and entertaining extension to the otherwise mostly legal character of the week.

The mixed groups of students discussed the problems and prepared presentations, and it was in these preparatory discussions that many students learned the most: they would explain each other the constitutional rules of their own countries and in doing so they discovered which differences exist between the nations, which in turn offers a deeper understanding of the nature of the constitutional order.

The students went to great lengths in their presentations in order to impress the teachers and the other groups. One presentation had the form of a parliamentary debate and this was the most exciting event of the week. It even started with one of the groups, showing their true patriotism, singing a newly composed national anthem of Transdanubia on the melody of 'A Yellow Submarine'!

It is needless to explain that this week was not only hard work but a lot of fun too, ending Friday afternoon 29th June with a trip on very fast water taxi's through the harbor of Rotterdam, followed by a delicious Italian lunch outside.

Michiel van Oosterzee
Open University
The Netherlands

SUMMARY OF TRANSDANUBIA I CASE



The case of Transdanubia I during the Summer School LLB from the 25th June until the 27th June in Rotterdam, had the purpose to explore together, students and teachers the elements to build a Constitutional order of an hypothetical Democratic State of Transdanubia, its functions and the different ways in which they can be arranged in order to revise an old communist framework, to belong at democratic European circles, and finally, to become a Full Member of the Council of Europe.

And hence this means a clear break with the old political order on changing one communist system into an European democratic one through modern and stable institutions on matters of the executive, legislature and electoral system, and also, on the Judiciary power.

The general idea on the lectures, was the intention of transmitting the rules laid down required or allowed in a social and democratic society, and its duties.

So, where should be the Principles that underlying one democratic order?

The Constitution is a kind of main Code that guarantees the principle of legality, the normative order, the publication of laws, the non retroactivity of punitive provisions which are unfavourable to, or restrict individual rights and liberties, at the time that prohibits the arbitrary exercise of public powers.

So this, we have to understand the essence of a Constitution in terms of fundamental decision with regard to determined form of political life and understanding its instrumental way of functioning as a Code to limit and control political power.

Based in this fundamental ground work a series of circumstances arise:

- The existence of a series of specific orders, whose contravention is sanctioned by organs expressly granted the power to do this.



- The existence of precise formal limitations to achieve a wide variety that require specific procedures to be followed.
- The permanence in a kind of constitutional sentiment of stability that has been recognised as the “Constitutional sentiment” that implies the internal adhesion to the regulations and fundamental institutions of a country.

In summary the fundamental law of the Constitution is expressed according the following:

1. The Constitution presents itself as the expression of an order of values.
2. The Constitution is an essential structure of this order.
3. The Constitution supplies the fundamental order or base point which provides the support for the rest of the legal order.

In the light of which we can conclude, what defines the Constitution in terms of a code that regulates the political organisation and government of a people: the collection of rules that establish and regulate the government of the State.

A Democratic Constitutional System should then reflect three principle keys:

1. A legal limit set to the power of the State.
2. The specific protection of rights and liberties as enshrined in the Constitution.
3. A democratic representative system of government that respects the rule of law.

In accordance with these premises, the task is to see how the notion of law abiding State manifests its self in the constitutional context with regard to two aspects:

- The social element that assumes that the notable absence of state intervention so characteristic of the liberal State has been replaced by a socially concerned State regime.
- The democratic element in the State of Law in general meaning is in essence, the legal limitation of power and the recognition of rights and liberties.

In the light of this affirmation, one can predicate the following premises as regards the nature of law abiding State:

1. The jurisdiction of the law: law as the expression of the popular will;
2. The division of powers: legislative, executive and judicial;
3. Administrative legality;
4. Fundamental rights and liberties with recognition and effective guarantees.

The characteristics of the exercise of rights can be summarised on its direct applicability and on its interpretation of them in conformity with the international declaration of human rights and the international treaties and agreements on those matters.

Prof. Dra. María Victoria García-Atance
UNED Faculty of Law

SUMMARY OF TRANSDANUBIA II CASE



One more year the EdelNet Bachelor Summer School was held in Rotterdam, from June 25 to 29, 2018, in which professors and students from three countries of the European Union participate: Holland through the Open University, Germany through the FernUniversität in Hagen and Spain through the UNED.

The work developed by the faculty of the three institutions and aimed at students from the three countries, has had a strong content both theoretical and practical in order that students can apply this theoretical knowledge acquired in the resolution of cases and situations useful to adapt to the requirements of the institutional legal reality, ordinarily in the week of study three cases are raised and resolved. In the case at hand, the legal simulation exercise was based on a case from a fictitious country called *Transdanubia*, a country that is common to the three cases that are used for simulation. Case study II, the case has been titled: „order, order, please“.

On June 22nd 2018 the Government of the Republic of Transdanubia forwards a draft bill to the members of the House of Representatives of Transdanubia. Within the draft, the Government put down an explanatory statement on the aim of this bill. The chairman of the

Opposition, the Democratic Party, gave a brief interview on this draft bill the same morning.

The next meeting of the House is scheduled for July 28th 2018. The Government plans to hold a ballot on the bill during this meeting, so that the bill can be passed by the senate (in which the Government holds a solid majority) on June 29th 2017 and can be signed by the President (member of the Government's party as well) on June 30th 2018.

This time plan would mean that the proposed law would be effective from July 1st 2018, if passed by both chambers of the Parliament.

The House of Representatives consists of 260 Members (each Summer School Student represents 10 votes of the House). The Majority of votes needed to pass the law is 140 (or 14 students). The Parliament is divided into the following caucuses: Party of the People (carrying the Government): 120 members (12 Students) Democratic Party (Opposition): 90 Members (9 Students) Independent Party: 50 Members (5 Students).

Traditionally, the meetings of the House of Representatives in Transdanubia are led by a board of three independent persons, who are not members of



the Parliament (the teachers of the summer school).

Although these persons are independent they have to execute the rules, which the house has given itself in its rules and regulations

These rules deal with the following aspects:

- List of speakers / and speaking time.
- Sequence of speakers / Giving of the floor.
- Admissibility of Interposed Questions / Interventions and Direct Replies.
- Regulatory Measures.
- Voting Rules.

The tasks of the students are divided into two central activities:

1. After receiving some contributions from the legal point of view in the second session of the Case Study by two lectures by Professors Ronald Janse and Luis Miguel González De la Garza, the group separates into its caucuses and discusses the strategy for the House meeting. It is up to each group to discuss the case, find arguments to defend their position and try to anticipate the arguments of the other caucuses. The caucuses have to act on the rules and regulations decided by the house, so they have to nominate the speakers for the assigned times to speak, and so on. There are no pre-set adjustments, but a

flexible organization of the meetings.

2. On June 28, 2018, the meeting of the Chamber took place. The main panel guided through the meeting, executing the rules decided by the plenary in the preparatory phase. Depending on the students, members of the Transdanubia Parliament had an interesting and enriching discussion, exchanged arguments and publicly ignored them.

In this practical theoretical process, a very useful learning is developed for the student, since he can debate and argue about his legal positions, receiving feedback from the teaching staff so that his learning is consolidated in an effective manner and on adequate legal bases.

Luis M. González de la Garza
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Imprint

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