



**Report from the first study visit to the Europa Institute
in Saarbrücken within the CABUFAL project**

12th July – 16th July 2017.

From July 12th to July 16th representatives of the Faculty of Law University of Montenegro have visited Europa Institut – Saarland University in Saarbrücken-u (Germany). This was a first study visit within Erasmus+ project managed by the Faculty of Law University of Montenegro - Capacity Building of the Faculty of Law, University of Montenegro - curricula refreshment, boosting of international cooperation and improving human, technical and library resources (CABUFAL). Bearing in mind the duration of this study visit, the report will present activities I have been involved during the three days of the visit, with some conclusion and remarks.

First day – 13th July 2017

The first day began with the welcoming speech of prof. Dr. Tomas Gigerich, Director of the Europa Institute, who gave a lecture on the topic "Teaching Concept of the Law Faculty and the Europa-Institut".

Within this topic, the professor commented his teaching methods. He explained that lectures are based on "power point" presentations, created with the intent of presenting actual cases, which are available to students after the conclusion of the lectures. He also emphasized that his teaching method is highly interactive and that during the lecture he is often asking questions and is presenting problems to his students. This activities are then followed by the discussions with students during the course of the class.

The second part of the presentation was dedicated to the education of lawyers in Germany. The professor paid special attention to the differences in the education of lawyers in



the Saar region and other German states. He explained the complex concept of legal education of German lawyers based on the cooperation between universities and state in this process.

He especially emphasized that the entire education of lawyers in Germany is based on the idea of educating a judge, i.e. the training of each student to perform this function according to a program that includes education in all fields of law. He pointed out that the average length of legal studies in Germany is five years.

The progress of students at the faculty is conditioned by achieving a certain number of credit points during the previous school year. At Saarland University, students are required to acquire at least 50 of the maximum 80 credit points during the previous school year to be able to advance to the next academic year. If the student does not acquire enough credit points, he is obliged to repeat the year, but he must also re-submit the examinations he had passed the previous year. However, the professor emphasized that this is a tradition of Saarland University, and that that practice is not mandatory in other German states.

After two years of university education, students have the first mandatory examination. This exam consists of a part that conducted by university professors and a part that is being organized by the state. In almost all German states, students who fail this exam lose the right to continue their studies. The first exam consists of one tutorial in private law, one tutorial in public law and one tutorial in criminal law, all in the form of a written exam which must be successfully completed.

Nevertheless, in Saraland, the students are not required to take this exam immediately after the two years have passed, so they can pass up this exam. Thus, there is a practice that a certain number of students from other German states who cannot prepare this exam within the deadline will try to switch to the Saarland University before being obliged to take this exam in order to avoid losing the status of a law student. The transfer has to be performed before taking



this exam, because the University does not allow the transfer to students who didn't pass this exam, because they have lost the status of a law student.

The first state exam is organized in the fifth year of study which consists of a state part that makes up about 70% of the exam and university part which makes about 30% of the exam.

The state exam relates to the areas of law that are established by law as mandatory and which all law students in Germany have to pass. Thus, areas of private law, public law, criminal law and English legal terminology are obligatory courses on the state exam. The elective fields refer to the study of international, economic, tax law and similar subjects. The state part of the exam consists of written and oral parts of the exam. Students take six written exams: three in the field of private law, two in the field of public law and one in the field of criminal law. In each written exam, candidates receive a description of the problem on one page and are given a specific task that can be to write an opinion in that specific case from the perspective of the prosecutor, the respondent, the administrative body, and sometimes the lawyer. Oral state exams are placed before the commission in groups of three to five students, with about 45 minutes each devoted to student.

The university part also consists of a written and oral part of the exam. Students take two written exams lasting five hours, as well as an oral part in groups of three to five students, where about 20 minutes dedicated to each student. Upon successful completion of both exams, a student is awarded a university degree that may be plain and qualified. Qualified diplomas are granted to a student who during the studies has passed specific subjects from the field of economics, which is a lag of the time when law and economics in Germany were being studied at the same faculties. Nevertheless, the professor concluded that German law students still opt for the study of some economic subjects in order to obtain a qualified diploma.

Upon completing the studies, in order to enter the legal profession, all graduates are undergoing compulsory practical training organized by the state. Each student must spend a



certain period of time in each of the institutions that are conducting the state compulsory practical training program, so they spend a number of months in civil courts, criminal courts, state prosecution offices, law offices. Also, some of the institutions that are not mandatory such as: Non-governmental organizations, European Union institutions, foreign legal offices, etc. can also conduct the practical training, but their attendance is not required for taking the mandatory state exam.

After the completion of the practical training, the graduate lawyers will be obliged to pass the second state examination. The written part consists of three private law exams, one public law exam, one criminal law exam and one exam from an optional subject. Each written exam lasts for five hours.

In each written exam, candidates are presented with a real case file with all the actions taken during the procedure, on the basis of which they have to complete a specific task that usually consists of writing a judgment or indictment. The oral part of the exam takes place in front of the commission where every candidate is devoted two hours for the examination. Oral exam questions always have a procedural aspect. Within the oral part, candidates must present one case for a maximum of 15 minutes.

The next part of the visit was dedicated to getting to know the library of the Europa Institute, led by the librarian Katrin Luck who spoke on the topic of “Introduction to library research”. We got acquainted with the basics of the Europa Institute library and the principles of interlibrary loan between German libraries. Special attention was paid to the common problems of modern libraries and procurement of e - publications.

The library of Europa Institut was founded at Saarland University at the same time as the Institut in 1951. It is the center of information about European and International Law, with numerous printed materials and electronic services. It serves as the information provider for our students, academic researchers, professors and the general public.



This library is since 1972, one of 40 European Documentation Centers (EDC) in Germany. Every EDC: offer support for university and academic institutions in researching and teaching the European integration process; offer free access to the printed publications and databases of the European Union; is providing the users with assistance through literature search and information sourcing.

Katrin Luck especially emphasized the number of science literature databases available to students, visiting researchers to the Europa Institute, and all its employees.

Second day – 14th July 2017

The second part of the day was dedicated to practical aspects of teaching at Europa Institut. We had a chance to observe the Lecture on Human Rights Protection, by prof. Dr. Jörg Polakiewicz, the Director of Legal Advice and Public International Law (Jurisconsult), Directorate of Legal Advice and Public International Law, Council of Europe, Strasbourg, and Honorary Professor at the Europa-Institut of Saarland University.

During the three hours, we had a chance to observe the teaching methods of prof. Polakiewicz, and presentations of the students. This was a mandatory part of the course on human rights, where student had the assignment as a group of three to present the recent cases that were discussed at the European court of Human rights. The themes for the presentations were previously determined by the prof. Polakiewicz and were briefly discussed on the first class in the semester. Then, students had to prepare a 45 minute presentation (15 minute each), and answer all the question and comments of their classmates and prof. Polakiewicz.



After students have finished their presentations, we had a debriefing session on teaching methods and concepts with prof. Polakiewicz. Special attention was given to the grading aspect of his work, since this part of the exam was conducted via student's presentations, so we were particularly interested to his grading style, as there are many aspects of the presentation that could be graded. The students are obliged to prepare a one page summary on their case and to prepare their presentations.

He explained that he is grading three aspects of the presentation. The 50 % of the grade is earned thru the content of the presentation and its accuracy and relevance. Next, 30% of the grade is earned on the presentation preparedness and 20 % for the presentation on visual aids during the presentation. He explained that in previous year a effectiveness and style of the presentation had an extra 20 % of the grade, but that he abandoned that practice, since not all students are native English speakers so the student that were had an unfair advantage, since they were the ones always getting the extra point on the presentation style.

This activity was the last one planned for the first day of the study visit to the Europa Institut.

The second day was dedicated to the Visit to the Court of Justice of the European Union in Luxembourg. After the tour of the Court one of the lectures was dedicated to the role of the Court of Justice of the European Union in ensuring EU law is interpreted and applied the same in every EU country; and ensuring countries and EU institutions abide by EU law. This presentation was a basic one, with the purpose of presenting basic organization and jurisdiction of this court.

The Court of Justice of the European Union (CJEU) interprets EU law to make sure it is applied in the same way in all EU countries, and settles legal disputes between national governments and EU institutions. It can also, in certain circumstances, be used by individuals,



companies or organizations to take action against an EU institution, if they feel it has somehow infringed their rights.

The CJEU is divided into 2 courts. Court of Justice deals with requests for preliminary rulings from national courts, certain actions for annulment and appeals. General Court rules on actions for annulment brought by individuals, companies and, in some cases, EU governments. In practice, this means that this court deals mainly with competition law, State aid, trade, agriculture, trademarks. Each judge and advocate general is appointed for a renewable 6-year term, jointly by national governments. In each Court, the judges select a President who serves a renewable term of 3 years.

The most common types of case are:

- interpreting the law (preliminary rulings).
- enforcing the law (infringement proceedings).
- annulling EU legal acts (actions for annulment).

Private individuals can also ask the Court to annul an EU act that directly concerns them.

- ensuring the EU takes action (actions for failure to act).
- sanctioning EU institutions (actions for damages).

The second lecture was dedicated to the Opinion 2/15 of the European Court of Justice on the Competence of the European Union in Trade Policy.

The second lecture was the last one planned for the second day of the study visit to the Europa Institut.



Third day – 15th July 2017

The third day was dedicated to the practical aspects of teaching at Europa Institut, so in that regard we have attended the master course lecture on the Judicial cooperation in the Civil Matters in the European Union II, by the Dr. Cristian Oro Martinez, a lawyer at the Research and Documentation Directorate at the Court of Justice of the European Union in Luxembourg.

This course was designed as a follow up of the course on Judicial cooperation in the Civil Matters in the European Union offered in the first semester. This course was designed to provide an analysis of the other EU instruments, besides the Brussels I regulation covered in first semester, dealing with judicial cooperation in civil matters. The focus of this course is on the other regulation and examination of their relationship to the Brussels I bis Regulation. This course also explores the role of these regulations as regards to overall objective of the creation of the Area of freedom, Security and Justice, characterized by the freedom of movement of judgments and other decisions, as well as the progressive abolition of exequatur.

By the syllabus plan lectures were divided into three parts. The first lecture planned was on the abolition of exequatur: European procedures – The European small claims Procedure: the European Enforcement order Regulation: the European Payment order procedure Regulation. The second lecture planned was on Family law – the Brussels II bis Regulation; the maintenance Regulation; the regulations on matrimonial property regimes and on the property consequences of the registered partnerships. The third lecture planned was on Judicial cooperation, in particular the Evidence Regulation.

After the lecture of the professor Martinez we have discussed the difficulties in conducting this type of course having in mind the rules of the master course. First potential



problem can occur since all the students that have been attending this course are not lawyers, since by the rules of the master course student of the humanities and economy can also attend this course. The second difficulty arises from the fact that attendance of this course was not preconditioned by the attendance of the course on Judicial cooperation in the Civil Matters in the European Union offered in the first semester.

Also we have discussed the challenges of the final exam bearing in mind the previously mentioned circumstances. Professor Martinez have been so kind that he allowed us to have the access to one of the exams that he had prepared for the previous generation of students of this course at Europa Institut.

The exam is comprised of the two types of the questions. Five mandatory semi essay questions collectively make the 20 points on the test, by each question gives the same amount of points. There is one more question on the exam, an optional question, for two extra points.

Mandatory questions can be directed to description of similarities and differences between two Regulations (example: European order for payment procedure Regulation (Reg. 1896/2006) and the European Enforcement Order for uncontested claims Regulation (Reg. 805/2004)), students understanding of the relationship between two regulation, or to practical application of the rules of the regulations. Practical example is usually given in no more than 15 lines with all relevant facts and rules, and student has to justify their answer in ten lines.

The optional question is usually given in the form of the task to read a two page excerpt from a Regulation and then to describe in no more than twenty lines how this Regulation deals with some issue. For example, in the last test the assignment was to read the excerpt from Regulation 2016/1103, of 24 June 2016, implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes, consisting of paragraphs 36, 37, 24, 44, 45, 47, 48, 49, 50 and 51 and to describe in no more than twenty lines how this Regulation deals with the issue of



recognition and enforcement, especially compared with other Regulations in the area of judicial cooperation in civil matters that you have studied. Students had a special notice on the exam that they don't need to describe the content of the Articles that they have read, but rather to assess them from the perspective of the system of recognition and enforcement that they establish.

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