Claas Friedrich Germelmann (ed.)

Innovative Teaching in European Legal Education

International Conference within the Framework of the 2019 ELPIS Network Meeting

HART PUBLISHING

Nomos

Claas Friedrich Germelmann (ed.)

Innovative Teaching in European Legal Education

International Conference within the Framework of the 2019 ELPIS Network Meeting

Nomos

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at http://dnb.d-nb.de

ISBN: HB (Nomos) 978-3-8487-7950-5
ePDF (Nomos) 978-3-7489-2333-6

British Library Cataloguing-in-Publication Data
A catalogue record for this book is available from the British Library.

ISBN: HB (Hart) 9781509954421

Library of Congress Cataloging-in-Publication Data
Germelmann, Claas Friedrich
Innovative Teaching in European Legal Education
International Conference within the Framework of the
2019 ELPIS Network Meeting
Claas Friedrich Germelmann (ed.)
176 pp.
Includes bibliographic references and index.

ISBN 9781509954421 (hardcover Hart)

Onlineversion
Nomos eLibrary

1st Edition 2021

Preface

Modernising legal education is a daunting task. Finding a common ground for legal education in Europe, let alone in an international perspective, is even more difficult. Nevertheless, the challenges of the modern world, the complexity and interconnectivity that globalisation is bringing about for the law and the legal professions, and the technological progress in the field of digitalisation require changes in the traditional patterns of domestic legal education. University education as a whole is facing challenges, but it is also experiencing new opportunities as not only the current health crisis and the forced change to a variety of online tools replacing and complementing traditional lectures and classroom work have shown. More generally, the requirements of legal professions and the needs of law students are changing, and legal education has to address these changes.

Hence, in recent years, modernising legal education has become an endeavour of growing interest in the academic world. Both the international point of view and the digitalisation issue are core topics in the discourse. It was therefore obvious to bring the question of innovative teaching in law up within the framework of the ELPIS network, which has been assembling a significant (and growing) number of scholars from European and non-European law faculties since its founding by professor *Hilmar Fenge* of Hanover university in the 1980s. Throughout its history, the network's focus has always been on an active exchange on questions of legal education. The collective volume takes up this topic and assembles several essays of scholars of the ELPIS network on different topics of modern legal education. The contributions are based on the talks and discussions as well as on the ideas developed at the annual conference of 2019. It took place in Hanover in December, at a time when no one would have thought that the global health crisis that broke loose only a few weeks after would have a catalytic effect on the changes and challenges in legal education throughout the world.

The contributions take different points of view on the topic of modern legal education, combining comparative, European and global perspectives. They focus on the value of international exchange, on questions of law curricula and on employability requirements in a globalised world, on students' needs and on modern teaching methods, and especially on various instruments of digitalised learning, teaching and publishing. While by

no means intending to deliver a final concept for modern legal education, the book wishes to show the diversity of the fields as well as the variety of challenges that have to be addressed. It will hopefully be offering some guidance in this area and contribute to the continuing debate which not only the health crisis has proven to be an important and timely one.

I would like to thank our publishers, NOMOS and Hart Publishing, and in particular professor *Johannes Rux*, for the support and assistance in the publishing process. I furthermore wish to thank Dr *Dimitrios Parashu* for his help in organising the conference as well as for his assistance with the work for this volume. Finally, I would like to express my gratitude to all the participants of the Hanover conference where many of the ideas have been discussed and tested. The continuing exchange within the network has proven to be particularly fruitful in times when online teaching has become the new normal.

Hanover, January 2021 *Claas Friedrich Germelmann*

Table of Contents

Challenges and Approaches to Modern Legal Education in a European Perspective

Claas Friedrich Germelmann[*]

A. Legal methodology and legal education: A relationship determined by tradition and stability?

The fact that the world has been becoming more and more interconnected and complex during the last decades and the observation that this development has taken up an immense speed by way of globalisation and technical progress notably in the field of digitalisation is a mere commonplace. That does not mean, however, that the challenges and consequences of these developments have already been fully ascertained with a view to the different fields of university education. It is probably not even possible to realise and to describe in a clear-cut pattern and with a predictable timeframe all the new opportunities and new conflicts that these changes are about to create in the years lying immediately ahead and in the medium-term future. Even if it were conceivable to formulate a "mission of the university" today as *José Ortega y Gasset* described it in 1930[1], or to develop an "idea of the university" as *Karl Jaspers* put it after the two major catastrophes of the 20th century[2], it would have to remain open to significant changes because of these new challenges.

---

* Prof. Dr. Claas Friedrich Germelmann, LL.M. (Cantab.), Gottfried Wilhelm Leibniz University of Hanover (Chair for Public Law and European Law).

1 Ortega y Gasset, José, *Schuld und Schuldigkeit der Universität*, Munich, Verlag R. Oldenbourg, 1952 (original Spanish version: *La misión de la universidad*, Madrid, 1930).

2 Jaspers, Karl, *Die Idee der Universität*, Berlin and Heidelberg, Springer-Verlag, 1946. A previous edition dates back to 1923. Last edition: Jaspers, Karl and Rossmann, Kurt, *Die Idee der Universität für die gegenwärtige Situation*, Berlin and Heidelberg, Springer-Verlag, 1961.

I. The role of tradition in legal education

These changes will be noticeable in legal education too, although this area of university studies tends to be a particularly traditional field[3]. Even taking into account the challenges, which the universities and their study programmes had to meet during the last decades, as *e.g.* in the form of the realignments by the Bologna process in Europe[4], and despite the growing numbers of students, an increasingly diverse policy framework and severe financial cuttings, legal education remains, in its core, a rather stable field. That follows mainly from its being dependent on texts like legal acts, court decisions and treaties which themselves stem from longstanding traditions of law making and administering justice. In some jurisdictions, notably in those that are based on the common law system, tradition and traditional approaches necessarily play a highly important role, which is connected with a long-standing approach of interpreting and "learning the law"[5]. The civil law jurisdictions do not represent a strong contrast to that by definition. Tradition and stability are undisputed values here as well. In German legal methodology *e.g.*, the approach and the methods that *Friedrich Carl von Savigny* established in the middle of the 19th century[6], still represent the core standards of legal interpretation[7]. Similarly, in international law, the interpretation and application of legal rules rest, for a major part, upon longstanding international custom and have not changed significantly throughout the last century[8].

Law *in its nature* therefore tends to be a rather immobile subject irrespective of how lively and modern some areas might appear. The speed in

---

3 Borman, Deborah L. and Haras, Catherine, *Something Borrowed: Interdisciplinary Strategies for Legal Education*, (2019) 68 Journal of Legal Education 357, 358: "Law, known for its reticence if not conservatism with regard to innovating classroom instruction […]".

4 See, for an outline of the process, the official European Higher Education Area website (http://www.ehea.info/index.php; 2.1.2021).

5 *Cf.* the title of the classic book of Glanville Williams, *Learning the Law*, 17th edition by A.T.H. Smith, London, Sweet & Maxwell, 2020.

6 Von Savigny, Friedrich Carl, *System des heutigen römischen Rechts*, Vol. 1, § 33, pp. 212-6, Berlin, Veit und Comp., 1840.

7 See, e.g., Larenz, Karl and Canaris, Claus-Wilhelm, Methodenlehre der Rechtswissenschaft, 3rd edition, Berlin and Heidelberg, Springer-Verlag, 1995, Ch. 4.

8 Cf. the articles 31 to 33 of the Vienna Convention on the Law of Treaties of 1969, which reflect international customary law. See, in more detail and with further references, Shaw, Malcolm N., *International Law*, 8th edition, Cambridge, Cambridge University Press, 2017, pp. 706-11.

which modern administrative law concerning trade, industry and regulation is developing leaves legal scholars and practitioners with but little time in order to create convincing general dogmatic structures and foreseeable patterns. One particularly striking example is the sector of environmental law[9], but the same applies to other comparable modern fields as *e.g.* energy law[10], where the complex multi-level structure is encompassing international law as well as domestic and (potentially) European law and is, on top of that, constantly expanding.

That does not mean, however, that these modern developments and the pace of change in these legal areas would necessarily have led to significant changes in legal teaching. On the contrary, the basic approach in these subjects is mostly still more or less similar to legal teaching in traditional areas of law. That follows, at least in part, from the fact that the legislator as well as the courts quite rightly treat those fields like "normal" areas of law and therefore subject them to the same patterns of interpretation and application as law in general. From a constitutional point of view, it would not be possible to distinguish between different sets of legal norms that are formally on the same footing, address in a similar way questions that have to be settled in a conclusive manner and require to be followed in the same way. A different approach might be conceivable only in the area of non-binding standards and soft law[11], which, at least in Germany, however, still do not play a significant role in legal education[12]. When legal practise does not distinguish between different of areas of law, it requires a similar treatment of them also in the field of legal education.

---

9 For an overview of the legal rules after the Paris Agreement of 2015, see Bodansky, Daniel, *The Paris Climate Change Agreement: A New Hope?*, 110 (2016) AJIL 288; Rajamani, Lavanya, *Ambition and Differentiation in the 2015 Paris Agreement: Interpretive Possibilities and Underlying Politics*, 65 (2016) ICLQ 493; Bodansky, Daniel and Rajamani, Lavanya, *The Issues that Never Die*, [2018] CCLR 184; van Asselt, Harro, Kulovesi, Kati, and Mehling, Michael, *Negotiating the Paris Rulebook*, [2018] CCLR 173. Furthermore, see the *Paris Agreement Work Programme (PAWP)* included in the decision 1/CP.21 *Adoption of the Paris Agreement*, FCCC/CP/2015/10/Add.1.

10 See, for an overview, Roggenkamp, Martha, Redgwell, Catherine, Rønne, Anita, and del Guayo, Iñigo (eds.), *Energy Law in Europe. National, EU and International Regulation*, 3rd edition, Oxford, Oxford University Press, 2016.

11 See, for an overview from the European perspective, Senden, Linda, *Soft Law in European Community Law*, Oxford and Portland (Oregon), Hart Publishing, 2004; Knauff, Matthias, *Der Regelungsverbund: Recht und Soft Law im Mehrebenensystem*, Tübingen, Mohr Siebeck, 2010.

12 For a critical recent assessment, Knauff, Matthias, *Soft Law vor Gericht*, jM 2018, p. 71.

II. European Union law as an example of a modern legal order

A challenge that could have prompted a fundamentally different approach in legal education was the introduction of the law of the European Communities, which is, today, the law of the European Union. While the choice of the example might seem astonishing at first, European Union law can still be considered a rather modern form of law. It not only combines different approaches of rulemaking for a variety of substantially diverse legal orders in sometimes rather controversial areas, but it is also significantly influencing the law and policy of the Member States and is shaping their response to actual legal problems. Despite its age and success, it therefore can still serve as an example for some basic challenges, which modern legal orders and modern legal education have to face. In this respect, it is obviously less about the substantive law contents of European Union law. Rather, the main emphasis is on the general competences and skills that it is requiring from a modern lawyer. In other legal orders outside the European Union, the globalisation of the law will create similar challenges to law students and practising lawyers[13].

1. The specific features of European Union law in legal education

According to the well-known phrase of the European Court of Justice, European Union law is a "new legal order"[14]. Hence, it has its own structures and commands specific features that distinguish it from both the legal orders of the Member States and from public international law. Nevertheless, by its nature, it remains law and thus has to be treated as such not only by its addressees, *i.e.* especially the branches of government in the Member States, but also by legal education. The way in which law curricu-

13 See, for the US, the UK and China, respectively, Flood, John, *Global Challenges to Legal Education*, in: Gane, Christopher and Huang, Robin Hui (eds.), *Legal Education in the Global Context*, London and New York, Routledge, 2016, p. 31; Xiaohong, Liu, *Cultivating High-Quality Internationalized Legal Talents under Legal Globalization*, in: Gane, Christopher and Huang, Robin Hui (eds.), *Legal Education in the Global Context*, London and New York, Routledge, 2016, p. 87.

14 ECJ, 5 February 1963, Case 26/62 (*van Gend & Loos*), [1963] ECR 12; 15 July 1964, Case 6/64 (*Costa* v. *ENEL*), [1964] ECR 593; 18 December 2014, Opinion 2/13 (*Accession of the European Union to the ECHR*), para. 157; 10 December 2018, Case 621/18 (*Wightman*), para. 44.

la in the Member States have incorporated it rightly stresses its being a part of the family of legal rules and embraces its particularities in the existing patterns of legal education. The same applies to those extra-European countries in which European Union law is being taught as an example of a special legal order of international law. In German legal education, however, the appearance of EU law did not give rise to a fundamental shift neither in methodological teaching nor with regard to the basic didactic instruments. Quite to the contrary, European Community law (as it then was) mostly used to be treated from a perspective either of traditional public international law or (regarding the institutional parts) in the tradition of German constitutional law. Given the specific dogmatic tradition of European law, however, neither seems to have been inappropriate. Modern legal education has to take into account the holistic approach that the extensive competences of the Union permeating the entire legal orders of the Member States undisputedly require[15].

Its special characteristics and its specific situation in legal education, however, are evident even if one ignores, for that matter, the details of how European Union law has managed to impose itself on the legal orders of the Member States. Its unique choices relating to the institutional structure of the Union, the repartition of competences and its relationship to the constitutional orders of the Member States[16] are just parts of the substantive law contents of European legal teaching. The specific methodological features of European Union law that are particularly relevant for a competence-based legal teaching tend to distinguish themselves from some traditional points of view in domestic law.

2. Multilingualism

Among the most obvious characteristics of European law are the challenges connected with multilingualism[17]. Even if the institutions of the

---

15 One of the first victims is the strict public-private law divide that the German legal tradition still holds dear.

16 See, *e.g.*, Hartley, Trevor C., *The Foundations of European Union Law*, 8th edition, Oxford, Oxford University Press, 2014, Ch. 7 and 8.

17 See, for more details, Pingel, Isabelle (ed.), *Le multilinguisme dans l'Union européenne*, Paris, Pedone, 2015; Juaristi, Patxi, Reagan, Timothy and Tonkin, Humphrey, *Language diversity in the European Union. An overview*, in: Arzoz, Xabier (ed.), *Respecting Linguistic Diversity in the European Union*, Amsterdam, John Benjamins Publishing Company, 2008, pp. 47-72.

European Union cannot always fully maintain an equal treatment of the official languages in their day-to-day work, article 55, para. 1, TEU sets a clear statement as to the requirements concerning legal acts[18]. The regime relating to the use of languages in the European Court of Justice is a similar example[19]. According to article 41, para. 4, CFR and article 24, para. 4, TFEU, the equality of languages even is a fundamental right. However, the equality of the Member States' languages is not a general principle of law, which claims to be absolute. Quite in contrast, the European Court of Justice has accepted on several occasions that, under certain circumstances, restrictions may apply if they are necessary in order to maintain the proper functioning of the EU institutions and if they prove proportionate with a view to the interests of the parties involved[20].

3. Comparative law

Apart from that, European Union law is not only decisively influenced by multilingualism, it is also marked by the impact of the different legal orders and the diversity of the legal cultures of the Member States. That necessitates, in some fields, a comparative legal approach in the strict sense of the word[21]. The prime example has been the traditional shaping and interpretation of European fundamental rights prior to the enactment of the Charter of Fundamental Rights of the Union. Article 6, para. 3, TEU still maintains this approach as an additional strand of protection besides the Charter[22]. The same applies to other areas in the case law of the European

---

18 See, for the corresponding rule in general international law, article 33 of the Vienna Convention on the Law of Treaties of 1969.

19 See articles 36-42 of the Rules of Procedure of the Court of Justice, [2012] OJ L 265, p. 1.

20 ECJ, 9 September 2003, Case C-361/01 P (*Kik* v. *OHMI*), [2003] ECR I-8283, para. 92; 12 May 2011, Case C-410/09 (*Polska Telefonia Cyfrowa*), [2011] ECR I-3853, para. 38; 5 May 2015, Case C-147/13 (*Spain* v. *Council*), paras. 31-48.

21 Concerning the comparative law method, *cf.*, *e.g.*, Kischel, Uwe, *Rechtsvergleichung*, Munich, Verlag C.H. Beck, 2015, Ch. 3.

22 See General Court, 6 February 2014, Case T-27/10 (*AC-Treuhand AG* v. *Commission*), para. 170. For that reason, comparative law elements can still influence indirectly the interpretation of the Charter of Fundamental Rights, which, according to article 6, para. 1, TEU is on an equal footing. The same applies to the influence of the European Convention of Human Rights owing to article 52, para. 3, CFR; see ECJ, 26 February 2013, Case C-617/10 (*Åkerberg Fransson*), para. 44; 16 July 2020, Case C-311/18 (*Schrems no. 2*), para. 98.

Court of Justice where it is developing legal concepts in accordance with the traditional legal orders of the Member States[23]. An example is the liability for breaches of European Union law committed by the Union[24] and by the Member States[25].

On top of that, a comparative technique in a broader sense can be relevant in the development of legal texts in European secondary legislation. This might not be indispensable for technical issues and in fields where the European legislator sets out to create an entirely new branch of regulatory rules. Compromise solutions, however, that try to insert new European law impulses into more established areas of domestic law might increase their acceptance if they are at least informed by or leave room to the legal traditions of the Member States[26]. This example of a broader comparative perspective, which pays attention to national peculiarities and traditional legal cultures, becomes most important when dealing with fundamental constitutional principles or, for the lack of a more precise description, constitutional identities of the Member States[27]. The primary law of the Union supports this approach with a view to article 4, para. 2, TEU and article 22 CFR.

---

23 For the principle of proportionality, see ECJ, 17 December 1970, Case 11/70 (*Internationale Handelsgesellschaft*), [1970] ECR 1125. For the comparative law influence, especially of German law, *cf.*, in more detail, Craig, Paul, *EU Administrative Law*, 3rd edition, Oxford, Oxford University Press, 2018, Ch. 19 and 20.

24 Article 340, paras. 2, 3, TFEU makes a direct reference to the legal orders of the Member States in terms of state liability. Concerning the question of liability for lawful acts, see ECJ, 9 September 2008, Cases C-120/06 P and C-121/06 P (*Fabbrica italiana accumulatori motocarri Montecchio – FIAMM*), [2008] ECR I-6513, paras. 170-9.

25 See ECJ, 5 March 1996, Cases C-46/93 and C-48/93 (*Brasserie du Pêcheur and Factortame*), [1996] ECR I-1029, paras. 28-32.

26 See, by way of example, concerning the transposition of the Distance Selling Directive into German law, Flume, Werner, *Vom Beruf unserer Zeit für Gesetzgebung – Die Änderungen des BGB durch das Fernabsatzgesetz*, ZIP 2000, 1427.

27 *Cf.*, by way of example, the recent controversies between the European Court of Justice and, respectively, the Italian and German constitutional courts: Corte costituzionale, 23 November 2016, ordinanza 24/2017, ECLI:IT:COST:2017:24; 10 April 2018, sentenza 115/2018, ECLI:IT:COST:2018:115 *("Taricco" case)*; Bundesverfassungsgericht, 18 July 2017, 2 BvR 859/15 *et al.*, BVerfGE 146, 216; 5 May 2020, 2 BvR 859/15 *et al.*, BVerfGE 154, 17 *("PSPP" case)*.

4. Case law and methods of interpretation

The case law of the European Court of Justice is another, particularly rich source for identifying the challenges of modern legal methodology. It starts with the increasing importance of case law in general, which is affecting even the European civil law jurisdictions. Further elements are the abovementioned challenges as to multilingualism and comparative law, which particularly relate to the Court's case law. It goes on with the methods of interpretation, which the European Court of Justice is using and which transcend the traditionally predominant limits of textual interpretation in the decisions of international courts and tribunals[28]. Owing to its style of drafting its decisions, the Court still leaves significant room for debates in the legal doctrine. Finally, it has created several interpretative rules that, like the principle of effectiveness or *effet utile*, have gained a cross cutting relevance as some of the most notable teleological specialities of European Union law[29].

B. Challenges to modern legal education

The short, necessarily fragmentary and cursory description of the challenges with which European Union law is confronting traditional legal methods and ways of legal teaching highlights some of the substantive legal innovations that cannot only be found in this particular area of law,

---

28 See, for more detail of the methods of interpretation used by the European Court of Justice, Lenaerts, Koen and Gutierrez-Fons, José A., *To Say What the Law of the EU Is: Methods of Interpretation and the European Court of Justice*, (2014) 20 Colum-JEurL 3; Conway, Gerard, *The Limits of Legal Reasoning and the European Court of Justice*, Cambridge, Cambridge University Press, 2012, Ch. 3.

29 *Cf.*, *e.g.*, ECJ, 4 December, Case 41/74 (*van Duyn*), [1974] ECR 1337, para. 12; 9 March 1978, Case 106/77 (*Simmenthal*), [1978] ECR 629), para. 20; 20 March 1997, Case C-24/95 (*Alcan II*) [1997] ECR I-1591, para. 37; for a more detailed analysis, Tomasic, Lovro, *Effet utile: Die Relativität teleologischer Argumente im Unionsrechts*, Munich, Verlag C.H. Beck, 2013. The principle of effectiveness plays a significant role in public international law as well, as the ICJ pointed out correctly in its *Fisheries Jurisdiction (Spain v. Canada)* case, ICJ Reports, 1999, p. 432, 455. However, the European *effet utile* goes even further than that given the much higher degree of integration in the European Union. See, on this matter, Bobek, Michal, *The Court of Justice of the European Union*, in: Arnull, Anthony and Chalmers, Damian (eds.), *The Oxford Handbook of European Union Law*, Oxford, Oxford University Press, 2015, pp. 153, 173-5.

but which appear on a broader international scene. Domestic legal orders as well as transnational law making and adjudication have to consider them and to offer solutions. So has modern legal education. Examining the European legal challenges can possibly help to find a path to understanding and further developing modern international and European legal education.

I. Multilingualism and different legal cultures

That applies, first, to the growing importance of multilingualism and of the awareness for different legal cultures. Under the current system, domestic law is just one element in the large jigsaw of the legal orders in the international community. It is heavily influenced by foreign legal decisions be it from the international or from the supranational legal sphere. Understanding the structure of these connections and, ideally, of some basic influential concepts helps a lot when interpreting domestic law and, obviously, when shaping domestic choices that will enter into the international competition of legal instruments and concepts[30]. The challenge for modern legal education is therefore to enable future lawyers to be able to follow and to understand international influences on domestic law. The more international the education becomes the more influential its ideas can possibly get since it will be able to encompass the legal positions of other legal cultures and understand their interrelationship. That, however, requires sound competences in the field of languages as well as some comparative skills.

II. Increased factual complexity

The second challenge is the increasing factual complexity that requires a basic understanding for the relevant situations governed by the legal framework. Hence, not only traditional, but also new methods of regulation will have to be included in modern legal teaching. In several instances, the experiences not only of European Union law, but also of international law show that traditional legal instruments often reach their lim-

30 For the political controversies in the field of climate change law, see, *e.g.*, Bodansky, Daniel and Rajamani, Lavanya, *The Issues that Never Die*, [2018] CCLR 184.

its and have to be supplemented with alternative means of regulation and dispute settlement. The examples for this are manifold; among the most prominent is the international, European and domestic combat against climate change with the Paris Agreement[31] and the EU governance system[32], which, notably, do not exclusively contain legally binding rules, but also alternative approaches of soft law[33]. In a similar way, modern administrative or economic laws show the tendency to regulate by way of influencing rather than by way of ordering and compelling. The challenge for modern legal education consists in explaining and classifying these alternative ways of regulation and in highlighting their potential, but also their dangers with a view to the repartition of competences, fundamental rights and basic legal principles.

III. Systematic approaches and the role of case law

A third challenge can be seen in the increasing role of case law originating from different levels in the international sphere, like it is especially, but not exclusively the case in the area of human rights, concerning the decisions of the European Court of Justice, the European Court of Human Rights and domestic jurisdictions. International arbitration plays an additional important role, particularly in the field of economic law. Case law is shaping the international and supranational legal orders and has a major impact on domestic law making and the application of legal rules. In order to know the law, it is indispensable to know an ever more complex and rich case law that sometimes even the legislator uses as a model for policy decisions. Naturally, this development is by no means a new and unprecedented one. Quite on the contrary, the decision of courts and tribunals have always shaped the law even in civil law jurisdictions. It is, however,

---

31 Decision 1/CP.21 *Adoption of the Paris Agreement*, FCCC/CP/2015/10/Add.1.

32 Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, [2018] OJ L 328, p. 1.

33 See, more generally, on these issues from an international law perspective, Brunnée, Jutta, *COPing with Consent: Law-Making Under Multilateral Environmental Agreements*, 15 (2002) LeidenJIntL 1; Germelmann, Claas Friedrich, *Moderne Rechtssetzungsformen im Umweltvölkerrecht – Entwicklung und Perspektiven sekundärrechtlicher Regelungsmechanismen*, 52 (2014) AVR 325. See also Micklitz, Hans-Wolfgang, *The Bifurcation of Legal Education – National vs Transnational*, in: Gane, Christopher and Huang, Robin Hui (eds.), *Legal Education in the Global Context*, London and New York, Routledge, 2016, p. 43, 56.

the complexity and the diversity that are constantly growing and that are creating more and more fields of sometimes-intricate specialisation. The knowledge of case law is indispensable in legal education because of the high influence of the judiciary on both the lawmakers and those who apply the law like public administrations. The growing degree of special expertise and the increasing role of case law in an environment where legislators often openly leave complex legal questions for the courts to decide, encounter the need to reduce complexity in legal education in order to prevent the time of studies from wearing on indefinitely. It therefore seems necessary to keep a focus on the general and basic skills and competences from which a specialised knowledge can develop. This, however, requires a sound methodology in dealing with case law, which, obviously, is far more refined in common law traditions than in civil law systems or, for that matter, in European Union law.

IV. Methods of teaching

Modern legal education thus faces a vast number of challenges as far as substantive and methodological questions of law and the law curricula are concerned[34]. Practical methods of teaching, in fact, are another highly important field when talking about modernising the common standards of legal studies.

It is true that the digitalisation has brought several new opportunities many of which have become even more apparent during the pandemic of the years of 2020 and 2021. While digitalisation thus presents enormous chances in modern legal education not only concerning the accessibility of sources[35], but also relating to new opportunities in teaching, as several of the articles in this volume will show[36], it comes along with problems that

---

34 See, for an overview, Heringa, Aalt Willem, *Legal Education: Reflections and Recommendations*, Cambridge, Antwerp and Portland, Intersentia 2013, especially Ch. 7-12.

35 Concerning this matter, *cf.* the contributions focusing on course materials in: Rubin, Edward (ed.), *Legal Education in the Digital Age*, Cambridge, Cambridge University Press, 2012.

36 See the contributions in this volume by Pereira da Silva, Vasco, *"My Fair Lady": Introductive Lecture*, p. 41; Balaguer Callejón, Francisco, *Modern Teaching Methods in European Legal Education*, p. 53; Jovanov, Kire, *'Jigsaw Classroom' and Law Teaching*, p. 87; Künnecke, Arndt, *The Flipped Classroom Approach in Legal Education*, p. 97; Hugg, Patrick R., *Perspectives from the United States: Pioneering in Legal Education as Innovation Advances*, p. 129; Guerra da Fonseca, Rui, *Distance Learn-*