

New Challenges for Law Faculties: The View of a Private Law School

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1. Preliminary considerations

1a) Talking about governance, autonomy and finance of faculties cannot cut off the question of faculties' tasks in general. The present discussion about legal education should not only focus on preparing students for their future profession but must also include legal research.

1b) Modern faculties ought to be sufficiently developed for international cooperation. This task requires more effectiveness of faculties' organisation and financial independence.

1c) Faculties will have to cope with national and international competition. They must no longer be content with merely acceptable conditions for providing the legal education of domestic students. The aim of a faculty should be to attract the brightest students (from its own country and abroad).

2. Governance

2a) Governance of Law Faculties requires professionalism both on the academic and on the business fields of governance. The Dean as academic head of the faculty should be assisted by an experienced director in charge of the organisation and finance of the faculty. Effective performance of the faculty will depend on the cooperation of the dean and the business director.

2b) Faculties will have to put more emphasis on their representation outside their domestic universities. Networking is no longer a privilege of the university presidents but a task of the faculties and their heads, too.

2c) The tradition of German state faculties was characterized by strong academic chairs and institutes and less influential Deans. It was the individual chairs rather than the faculties which created / formed the academic image of the respective faculty. Sharpening the profile of a modern faculty requires more consolidated activities without touching the research independence of academics.

2d) Strengthening the Dean's role should go hand in hand with enhancing transparency and participation of faculty members and student's representation.

3. Autonomy

3a) Autonomy includes academic and financial independence. If autonomy is more than a mere demand the faculty must prove that it deserves this privilege. This requires

- strength of the faculty's headship and
- convincing academic performance.

3b) Strengthening the head of the faculty without neglecting the research independence of academics will help to ensure the faculty's autonomy vis à vis the university president and the state.

4. Finance

4a) Finance is the counterpart of autonomy and governance. The constitution of universities should provide a maximum amount of faculties' financial independence and responsibility.

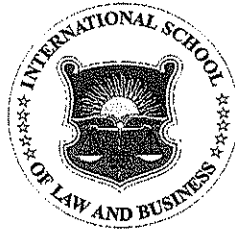
4b) The ideal private faculty requires no public money. This state of liberty is the best precondition for competing with state universities. There are, however, a number of successful "private" faculties based on mixed financing including financial support by the state.

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Karsten Schmidt is President of the Bucerius Law School. A doctorate in 1972 was followed 1975/76 by a post-doctorate in Bonn in the subjects of civil law, commercial law, business law, cartel law and civil procedural law.

Following a professorship in Göttingen (1976) he held a professorial chair at the University of Hamburg from 1977 to 1997 and was Director of the Department of Commercial, Maritime and Economic Law. From 1997 to 2004 Karsten Schmidt was professor at the University of Bonn and Director of the Institute for Commercial and Business Law (retired 2004). He became President of Bucerius Law School in 2004 (Vice President from 2000 to 2004). Up to the foundation of the „Akademie der Wissenschaften in Hamburg“ in 2005, of which he became senior member, he was a member of the former “Joachim Jungius Gesellschaft der Wissenschaften”, Hamburg. He is also a member of the Academia Scientiarum et Artium Europaea, Salzburg, as well as Honorary Fellow of the Institute for Advanced Legal Studies, London. He is a corresponding member of the Academia Nacional de Derecho y Ciencias Sociales, Cordoba/Argentina and serves as a member of the academic board of the “Institut für Wirtschaftsverfassung und Wettbewerb” (FIW), Cologne. Since 2002 he holds the honorary doctorates of the Universities of Athens (Greece) and Vienna (Austria). In 2006 he was awarded the Order of Merit of the Federal Republic of Germany (Bundesverdienstkreuz Erster Klasse). In 2009 a volume of 1854 pages was published in his honour and presented in an academic birthday ceremony (Bitter et al., Festschrift für Karsten Schmidt, 2009).

From 1987 to 1999 Prof. Schmidt served as vice-chairman and chairman of the “Zivilrechtslehrervereinigung” and he was an assessor for the German Research Association from 1988 to 1996. He sits on the supervisory board and the Kuratorium of the ZEIT-Stiftung Ebelin und Gerd Bucerius, Hamburg. He is publisher and editor of the “Zeitschrift für das gesamte Handels- und Wirtschaftsrecht”, joint publisher of the “Zeitschrift für Wirtschaftsrecht” (ZIP), as well as sitting on the editorial board of the International and Comparative Corporate Law Journal. He has written textbooks on commercial and company law, as well as monographs, commentaries and numerous academic articles.



NEW CHALLENGES FOR LAW FACULTIES AT PRIVATE HIGHER EDUCATION INSTITUTIONS: AUTONOMY OF LAW FACULTIES

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ABSTRACT

Nowadays, discussions about the autonomy of universities and higher education institutions in the higher education systems on national and international level has become a key factor in ensuring a high quality of studies in EU society. The Bologna process and processes of globalization in higher education area have intensely been going. Impact of globalization to the higher education is clearly visible when we talking about the competition between private and public higher education institutions, the dominant role of private higher education institutions in the higher education area, the autonomy of higher education institutions. Today, we could discover key problems of the implementation of the Bologna standards in study processes at higher education institutions in the Member States and, especially, non – EU countries, which are determined by political, economical, social, cultural, legal and other conditions.

The autonomy of Law Faculties at private higher education institutions is related with the particularity of law studies and training of lawyers. Traditional study program named as a “Law” hardly realized in the European context. Law Faculties of public or private higher education institutions are looking for a new, exciting and implemented at international level curriculum. We can see that the Law Faculties of private higher education institutions are more flexible in this way and can respond more quickly to market changes in legal education and training. For example, in 2010 at the Faculty of Law of International Scholl of Law and Business (Vilnius, Lithuanian) has successfully launched a new international study program “Law for International Business and”.

The autonomy of Law Faculties at private higher education institutions is the one of the prerequisites to ensure a high quality of law studies and to compete successfully in the higher education market. In the Law Faculties at higher education institutions comes more dashing,

curious, demanding for themselves and for us young people, who knows what they want – high-quality, genuine, deep, practical and new knowledge transferred to an attractive, interactive teaching methods, professional teachers, necessary in real life and interesting curriculum. All of this for us is ambitious but achievable. Each Law Faculty of higher education institution assumes these needs as aspiration and responsibility.

The autonomy of Law Faculties should be based on the principle of self-government, which is the main strategical goal for each higher education institution in European level. A higher education institution is free up to set its strategy, operational guidelines, organizational and management structure. Very important, that Faculty of Law as a governmental authority of higher education institution must be assigned a function to take decisions on financial resources and other assets used in its mission. We would meet the prevailing views and discussions among the leaders of higher education institutions, that autonomy of Law Faculties is the responsibility and risk. But, I think, the autonomy doesn't mean arbitrariness, but is an assumption of responsibility and new challenges. The success of each Faculty of Law at higher education institution depends on how the openness, transparency, social integrity, focus on the needs of students principles will be implemented.