

## Student Participation in Legal Education in Germany and Europe

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### A. Introduction

In Germany, the possibilities of students to participate in and contribute to legal education are generally quite limited. Compared to the legal education systems in the USA and Canada, the course of studies is rather theoretical and quite anonymous.<sup>1</sup> Communication between students, faculty staff and deans is rare, and classes are fairly big. As to the abstractness of the curriculum, several changes have been made to improve the situation. For example, a reform in 2003<sup>2</sup> was supposed to increase foreign language competence and provide for more specialization and practical relevance. However, the system can still (or again) be considered to be “under construction”. Many important skills are not being taught, and the awareness of the international, social and cultural contexts is largely neglected or lacking reference to the subject matter.<sup>3</sup> There is an ongoing debate about further changes to the legal educational systems<sup>4</sup> especially about the adoption of the Bologna Process<sup>5</sup>. While some consider it inapplicable to the German system<sup>6</sup>, others have

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<sup>1</sup> Manuel J. Hartung, *Die Klagen der Juristen*, vol. 22, DIE ZEIT ONLINE (2005).

<sup>2</sup> Critical opinions: Peter Ströbel, *Reform der Juristenausbildung*, in NOTES OF THE GERMAN FEDERAL BAR, BRAK-MITT. 4(2003), available at: [http://www.brak-mitteilungen.de/media/brakmitt\\_2003\\_04.pdf](http://www.brak-mitteilungen.de/media/brakmitt_2003_04.pdf) (at 146); Konrad H. Jarausch, *Amerika -- Alptraum oder Vorbild? Transatlantische Bemerkungen zum Problem der Universitätsreform*, available at: <http://geschichte-transnational.clio-online.net/forum/type=diskussionen&id=204>.

<sup>3</sup> Ingmar Höhmann, *Sozialkompetenz als Pflichtfach – Der neue Lehrauftrag der Unis*, vol. 102, HOCHSCHULANZEIGER FRANKFURTER ALLGEMEINE ZEITUNG 76, 77 (2009).

<sup>4</sup> For the ongoing debate in Germany, see: JOACHIM BUDDÉ, INTERVIEW WITH THE SECRETARY-GENERAL OF THE BENEFACITOR ASSOCIATION FOR GERMAN SCHOLARSHIP ANDREAS SCHLÜTER, *Kein Grund zur Klage*, ZEIT ONLINE, vol. 44 (2006) (homepage of the German newspaper “Die Zeit”), available at: <http://www.zeit.de/2006/44/C-Gefragt-Jurabachelor>. Jan-Martin Wirda, *Am Ende des Sonderwegs*, vol. 05, DIE ZEIT ONLINE (2009), available at: <http://www.zeit.de/2009/05/C-Juristenreform?page=1>.

<sup>5</sup> For more information about the Bologna Process in legal education see the homepage of *The European Law Faculties Association (ELFA)*: <http://elfa-afde.eu/aboutelfa.aspx>.

already started transferring it at their university.<sup>7</sup> Several federal states have meanwhile started endorsing a basic reform. However the next rulings will not be until 2011.<sup>8</sup> Presently scholars, policy-makers in the field of education and economists face the challenge of devising strategies for legal education that meet the needs and interests of all "stakeholders" while being compatible with the traditional German system.<sup>9</sup> Students are curious and concerned about the future of their curriculum. Their means of participation include a) passively evaluating teachings<sup>10</sup>, b) actively engaging in a student parliament<sup>11</sup> or self-governed student councils of a special field (so-called *Fachschaften*<sup>12</sup>) and c) actively involving in student organizations.

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<sup>6</sup> CHRISTIAN SEIDLER, JURA STUDIENREFORM: EINE GUTE AUSBILDUNG IST DA AUSGESCHLOSSEN, INTERVIEW WITH THE DEPUTY GENERAL MANAGER OF THE GERMAN LAWYER'S ASSOCIATION (*DEUTSCHER ANWALTVEREIN*) CORD BRÜGMANN, SPIEGEL ONLINE (2007), available at: <http://www.spiegel.de/unispiegel/studium/0,1518,475299,00.html>. Christian Lauenstein, *Staatsexamen, adé*, DIE ZEIT ONLINE (2007) available at: <http://www.zeit.de/campus/online/2007/19/jura-studienreform..>

<sup>7</sup> Universities that have adopted the Bachelor system are the University of Mannheim; the Technical College of Dresden and the Bucerius Law School in Hamburg; see also: (Jochen Schönmann, *Angriff auf den Dinosaurier*, SPIEGEL ONLINE – UNISPIEGEL (2008), available at: <http://www.spiegel.de/unispiegel/studium/0,1518,542687,00.html>).

<sup>8</sup> Soehring, Maren, *Fachbeschreibung Jura/ Wirtschaftsrecht*, DIE ZEIT ONLINE (2008), available at: <http://ranking.zeit.de/che10/CHE?module=WasIst&do=show&esb=5>.

<sup>9</sup> Currently there is a discussion on a concept for adopting the Bologna Process through of a four leveled model (the so-called "Bologna Model") promoted by the minister of justice of the *Bundesland* (federal state) Schleswig-Holstein and other supporters, The "Bologna Model" is illustrated at: <http://www.neue-juristenausbildung.de>; to see the discussion: Hanna-Lotte Mikuteit, *Jura Reform: Hamburger Notar behauptet - Kieler Justizminister hat bei mir abgeschrieben*, DAS HAMBURGER ABENDBLATT (NEWSPAPER OF THE CITY OF HAMBURG), available at: <http://www.abendblatt.de/region/norddeutschland/article558438/Kieler-Justizminister-hat-bei-mir-abgeschrieben.html>; The Ministry of Justice, Labor and Europe of the Federal State of Schleswig-Holstein, Germany, available at: <http://www.schleswig-holstein.de/MJAE/DE/Service/Presse/Pl/2008/080730mjaeJuristen-ausbildung.html>; Statement of the German Lawyers' Association (*Deutscher Anwaltverein*) of 28 May 2008: <http://www.anwaltverein.de/downloads/Stellungnahmen-08/SN24.pdf>.

<sup>10</sup> This participation and quality varies however in intensity among the respective faculties. This is shown by the survey on student participation in evaluation on teaching, which was part of the ranking of German law schools made by the Center for the development of universities (CHE), published by the German newspaper "Die Zeit". Available at: [http://ranking.zeit.de/che10/CHE?module=Hitliste&do=show\\_11&esb=5&hstyp=1](http://ranking.zeit.de/che10/CHE?module=Hitliste&do=show_11&esb=5&hstyp=1). (To see the ratings on participation in evaluations chose a university and go to "student ratings").

<sup>11</sup> There are various forms of organized student bodies in Germany due to the existence of Federal States (*Bundesländer*). Examples for the different organized forms of student bodies are the *ASTA* (*Allgemeiner Studentenausschuss* – general student board), *UStA* (*Unabhängiger Studentenausschuss* – independent student board); *Studentischer Konvent* (student council), *StuRa* (*Studentenrat* – student organization) *StuPa* (*Studierendenparlament*- student parliament). They all constitute the collective body of students which has an elected council or board and which is supposed to represent student interests. In this article I will speak of student parliament meaning student body, as the HRG is also generally speaking of the student bodies.

<sup>12</sup> The *Fachschaft* is the collective body of students belonging to a special field of study. The *Fachschaft* is run by the *Fachschaftsrat*, which constitutes its elected representative body.

## B. Student Participation in European Legal Education, illustrated by Germany

The most common way for students to play an active part in Germany's legal education is to join an organized student body or the council for law students (*Fachschaft Jura*). Both organizations are linked with the university. The responsibilities and duties of the student parliaments are set out in the German Framework on Higher Education (HRG: *Hochschulrahmengesetz*). According to the HRG, their duty is to serve social and cultural needs of the students and to represent them in matters of higher education. Additionally, the student parliament is supposed to foster the national and international relationship between students and realize the needs of the students concerning the different tasks of the university.<sup>13</sup> The student parliaments and *Fachschaften* are, however, traditionally filling the role of a council. The work is focused on taking care of important student needs like the procurement of subject related information and providing support and advisory service. This engagement is extremely important and needed for a functioning educational system; however there is barely any contribution to legal education and international and cultural exchange. Even if the HRG sets out these tasks, the role of the student parliaments and *Fachschaften* is a different one. Their structures are not designed in a way that is suitable to fulfill the task of providing European and international aspects and fostering cultural exchange. The *Fachschaft* of law students, for instance, exists locally only. Its function and activities are limited to the faculty or university it belongs to. Since both organizations do not have an international umbrella organization, association or network or any noteworthy co-operation with other law faculties abroad or similar organizations, they can hardly provide for the international aspect set out in Sec. 41 (1), Sec. 2 HRG.<sup>14</sup> This situation is akin to most European law schools. While there are many interdisciplinary international student organizations that engage in higher education, their work is not focused on the special needs of law students and the procurement of higher education in the legal field, but broadly addresses general student needs.<sup>15</sup> There are either educational, legal or international aspects missing in most student organizations – the only notable exception being ELSA, the European Law Students' Association.

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<sup>13</sup> Regulated in Sec. 41 (1), Sec. 2 HRG.

<sup>14</sup> According to the information listed at the homepage of the German national student addresses reader, there is no national or international governing body, umbrella organization or co-operation with the *Fachschaft* of law students nor an international form of the *Fachschaft* and the student parliaments, student addresses reader available at: <http://www.adressreader.de>.

<sup>15</sup> In Europe the ESU (European Students' Union) engages in higher education for all fields of study, available at: <http://www.esib.org/index.php/About%20ESU/what-is-esu>; besides there is AEGEE, which is engaged in promoting cultural exchange, peace and stability, active citizenship and higher education in Europe, available at: <http://www.karl.aegge.org>. On an international level, AIESEC as the world's largest interdisciplinary student association is engaged in higher education for all areas of studies is AIESEC, available at: <http://www.aiesec.ca/en>; besides there is WISE (World Initiative of Students for Exchange) which focuses on promoting understanding and interaction among students of all subjects on an international and local level, information available at: <http://www.wise-global.org>.



### C. The European Law Students' Association (ELSA)

Twenty-eight years ago in Vienna students from Poland, Austria, Hungary and West Germany founded ELSA to take an initiative in shaping and supplementing the legal education in Europe by joint commitment of students from all over Europe.<sup>16</sup>

#### *I. The Philosophy of ELSA*

The idea of ELSA from its inception was to promote international contacts and mutual understanding among law students on both sides of the iron curtain. The vision of ELSA is to promote "a just world in which there is respect for human dignity and cultural diversity". This vision has played a major role in all of ELSA's activities ever since.<sup>17</sup> Furthermore, the goal of ELSA is to contribute to legal education, to foster mutual understanding and to promote social responsibility of law students and young lawyers.<sup>18</sup> In order to achieve this goal, ELSA strives to enable law students and young lawyers to learn about other cultures and legal systems in a spirit of critical dialogue and scientific co-operation, to assist law students and young lawyers in being internationally minded, professionally skilled and encouraged to act for the good of society.<sup>19</sup>

#### *II. The International Structure of ELSA*

ELSA was set up with a permanent executive body, called the International Board (IB), and a main decision body, called the International Council Meeting (ICM), which convenes twice a year and consists of delegates from all national groups. In order to coordinate the activities of the association in Germany<sup>20</sup> all local ELSA groups are united under an umbrella organization with a permanent executive body, the *Bundesvorstand* (the federal board - *Buvo*). Each of the national groups reiterates the structure of ELSA International. Local groups implement ELSA at the law faculties, while national groups are mainly supposed to give assistance and advice, and to be the link to the International network. The aim is to provide for cosmopolitan education through practical work as well as teaching social and professional skills at local law faculties, to administer the network and most importantly to organize national and international meetings, seminars and conferences.<sup>21</sup> On the International level the board of ELSA International (IB) consists of

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<sup>16</sup> Wolfgang W. Mickel /Jan Bergmann, in *HANDELEXIKON DER EUROPÄISCHEN UNION*, VOL. 3, (2005).

<sup>17</sup> Available at: <http://www.elsa.org/about/history.html>.

<sup>18</sup> Available at: <http://www.elsa.org/about/#anchor1>.

<sup>19</sup> Available at: <http://www.elsa.org/about/index.html#anchor2>.

<sup>20</sup> ELSA Germany together with ELSA Poland are the only groups that have a federal board.

<sup>21</sup> Available at: <http://www.elsa-germany.org/de>.



seven members who work full-time at the international headquarters in Brussels on a voluntary basis. The International Board is responsible for the overall coordination of the organization as a whole; including the support of member groups both locally and nationally, the collection and redistribution of information throughout the network to ensure the fullest participation possible at all events. Furthermore, the IB co-ordinates and develops ELSA's collaboration with various international organizations and institutions, governments, law firms and companies across Europe.<sup>22</sup> They are assisted by appointed directors who are responsible for specific areas of activity. These are students who work several hours a day from their homes, also on a voluntary basis. All members of the International Team gather several times a year in Brussels, to plan and co-ordinate their work with the International Board.<sup>23</sup>

### *III. The Development of ELSA: A Brief Historical Outline*

Soon after its foundation in 1981 ELSA grew rapidly and expanded to the northern part of Europe. In 1984 the first international office of ELSA was situated in Oslo and soon the association received its multileveled structure. In 1986 the major activities (so-called key areas) of ELSA were defined, being Seminars and Conferences (S&C), Academic Activities (AA) and the Student Trainee Exchange Program (STEP).<sup>24</sup> 1994 saw the construction of an international board situated in Brussels.<sup>25</sup> ELSA soon launched its homepage.<sup>26</sup> The network was expanding quickly: while in 1988 there had been 15 national groups,<sup>27</sup> by 1995 around 250 representatives from over 30 countries had joined the association.<sup>28</sup> The council meetings started to grow in size and the association went from a European to an International network in co-operating with law schools in Arusha and Tanzania<sup>29</sup> and law student organizations in North America, Japan, Australia, South Africa and in Ivory Coast.<sup>30</sup> In 1998 ELSA committed itself to Human Rights by incorporating the Human Rights

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<sup>22</sup> Information about the International Board available at: <http://www.elsa.org/members/elsaint.html>.

<sup>23</sup> Information about the appointed directors of ELSA International available at: <http://www.elsa.org/members/elsaint.html#appointed>.

<sup>24</sup> Available at: <http://www.elsa.org/about/history.html>.

<sup>25</sup> Available at: <http://www.elsa.org/about/history.html>.

<sup>26</sup> See <http://www.elsa.org/> for more information.

<sup>27</sup> Available at: [http://www.elsa-germany.org/ueber\\_uns/geschichte/en](http://www.elsa-germany.org/ueber_uns/geschichte/en)

<sup>28</sup> Available at: <http://www.elsa.org/about/history.html>; Article about the stage of development of ELSA in Christoph Teichmann, *Neue Wege in Europa – Die Europäische Jurastudentenvereinigung (ELSA)*, vol. 9, JURISTISCHE SCHULUNG (JUS) 776, 776 (1990).

<sup>29</sup> Available at: [www.elsa.org/about/history.html](http://www.elsa.org/about/history.html).

<sup>30</sup> Available at: <http://www.elsa.org/about/index.html#anchor2>.

Program (HRP) as a permanent program into the ELSA work.<sup>31</sup> A major step was taken when ELSA started its co-operations with the international organizations. It was granted Consultative Status (Category C) with UN UNESCO in 1994, followed by Special Consultative Status with UN ECOSOC (United Nations Economic and Social Council) and the UNCITRAL (UN Commission on International Trade Law) in 1997. In 2000 the Association had been granted participatory status with the Council of Europe and in October 2005 obtained Observer Status with the WIPO (World Intellectual Property Organization). In addition a co-operation agreement with UNHCR (UN High Commissioner for Refugees) was concluded recently<sup>32</sup>

Apart from these co-operation agreements ELSA gained support by other patrons and partners, including the International and European Young Bar Association, and several renowned law firms and companies who in part provide for the teaching of professionals and support in auditing, administration etc.<sup>33</sup> In addition, ELSA has started co-operation agreements with media partners.<sup>34</sup> With the entry of the newspaper, "The European Voice"<sup>35</sup>, which constitutes the essential reading for the EU regulatory and political affairs communities, ELSA has gained another valuable supporter.

The association has just had marked its twenty-eight anniversary, coming a long way since its inception. It continues to grow and connect law students from all over Europe. Four new countries recently joined the network which now includes Armenia, Bosnia and Herzegovina, Luxembourg and the United Kingdom.<sup>36</sup> ELSA constitutes the world's largest independent law students association with forty<sup>37</sup> member countries with approximately 30.000 members.<sup>38</sup> Our broad base on participants ensures that new ideas and momentum are brought to the network.

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<sup>31</sup> About the Human Rights Program: [http://www.elsa-germany.org/ueber\\_uns/struktur/hr/warum/en](http://www.elsa-germany.org/ueber_uns/struktur/hr/warum/en).

<sup>32</sup> Available at: <http://www.elsa.org/about/index.html#anchor2>.

<sup>33</sup> Available at: <http://www.elsa.org/partners/index.asp>.

<sup>34</sup> Available at: <http://www.thelawyer.com>; about ELSA's media partners: <http://www.elsa.org/news/index.asp?external=yes>.

<sup>35</sup> The mission of European's Voice is to promote informed debate, openness and progress in the EU and the newspaper has become essential reading for the EU regulatory and political affairs communities – Europe's most important decision-makers. Available at: <http://www.europeanvoice.com>.

<sup>36</sup> Available at: <http://www.elsa.org/news/newsitem.asp?newsID=4735>.

<sup>37</sup> Map of all ELSA groups available at: <http://www.elsa-germany.org/network/de>; list of all groups available at: <http://www.elsa-germany.org/network/liste/en>.

<sup>38</sup> Available at: <http://www.elsa.org/news/newsitem.asp?NewsID=4736>.

#### *IV. The future of ELSA*

The rapid growth of the association has, however, not only brought advantages. The administrative complexity has become difficult to manage. Too much time and energy is dedicated to administrative tasks such as membership administration, IT services and attendance, communicating with and assisting members etc.

Taking into consideration the fact that the term of office of ELSA board members is only one year, ELSA resources should be used in a more effective way so that these members have the opportunity, during their short tenure, to effect more changes that improve ELSA substantively. The current structure, for all of its benefits, prevents ELSA from developing more rapidly. The large, and mostly passive, number of ELSA members has furthermore come to affect its efficiency and freedom of action. These new challenges are calling for structural reforms in the future if ELSA wants to strive to continually innovative along with the changing international landscape.

#### **D. The Value of ELSA for transnational legal education**

The official stated purposes of ELSA are to contribute to legal education, to foster mutual understanding and to promote social responsibility of law students and young lawyers.<sup>39</sup> These aims are realized through providing opportunities for law students and young lawyers to learn about other cultures and legal systems in a spirit of critical dialogue and scientific cooperation, in assisting them to be internationally minded and professionally skilled, and in encouraging them to act for the good of society.<sup>40</sup> ELSA has found new and innovative ways to meet its goals. As a model for the legal education at universities, ELSA provides practice-orientated extracurricular experience and activities, including international (work) experience abroad, international communication, the organization of various projects and the teaching of soft skills.<sup>41</sup> ELSA is following up on each of the three purposes set out in its purpose statement through different means.

##### *1. Contributing to legal education*

ELSA has faced the challenge to contribute to legal education in the fields of writing, research, professional education by giving students the possibility to apply their knowledge by putting theory into practice. This application occurs through several means including writing articles, research, professional education and mooted competitions.

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<sup>39</sup> The Philosophy statement of ELSA, available at: [http://www.elsa-germany.org/ueber\\_uns/philosophy/de](http://www.elsa-germany.org/ueber_uns/philosophy/de).

<sup>40</sup> The Means of ELSA: <http://www.elsa.org/about/index.html#anchor1>.

<sup>41</sup> Wolfgang W. Mickel/Jan Bergmann, in *HANDELEXIKON DER EUROPÄISCHEN UNION*, VOL. 3 (2005).



### 1. Writing, as the primary medium of jurisprudence

ELSA produces several high quality publications that are read by law students, lawyers, universities and institutions across the world. The aim and scope of the different publications is to give law students and young lawyers a possibility to publish their articles and academic work, as well as provide them with information about other legal systems and cultures. Furthermore, some publications aim at gathering information in order to help law students with their choice of legal studies across Europe and to gather information about past and present projects of ELSA and ELSA's involvements in different international organizations.<sup>42</sup>

ELSA Selected Papers on European Law (ELSA SPEL) periodically provides a compilation of legal papers in the field of Private and Public European Law. ELSA SPEL is published continuously on the website of ELSA International to provide an international readership with a source of literature that rarely finds its way to the regular legal periodicals: papers of high quality written by students in the scope of their legal courses as well as academics. ELSA SPEL contributes to legal education as students throughout Europe are offered an incentive to enhance increasingly important academic and language skills. The demand for a high quality standard of the publication is ensured through the participation of the Editorial Advisory Board, which is made up of prominent European academics.<sup>43</sup>

ELSA also publishes a traditional members' magazine: Synergy. The magazine is a publication, regularly informing ELSA members on topics of interest to them and to the association. It also gives members an opportunity to publish articles, promote events and to share experiences. Synergy also enables ELSA International to communicate important projects and developments in ELSA to the entire network.<sup>44</sup> Besides Synergy, some national ELSA groups are publishing their own country-specific magazines like the German magazine *inside. ELSA*. These country specific magazines are helpful for countrywide communication with all local groups and for the documentation of national legal developments and both national and international events, meetings etc.<sup>45</sup>

Besides these publications, ELSA organizes essay competitions in collaboration with their co-operation partners. These competitions encourage students to develop scholarly

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<sup>42</sup> Information on ELSA publications available at: <http://www.elsa.org/publications/index.html#anchor1>.

<sup>43</sup> Information about SPEL, including current issues and archive available at: <http://www.elsa.org/publications/papers.asp>.

<sup>44</sup> Available at: <http://www.elsa.org/publications/synergy.asp>.

<sup>45</sup> "*inside.ELSA*" (previously *Juropean*) is ELSA Germany's magazine for law students and young lawyers. It is published three times per year as an interactive PDF. Available at: <http://www.elsa-germany.org/publikationen/inside.ELSA/en>.

writing skills in English and to become engaged in a particular field of law.<sup>46</sup> Last year's winning essay was published at a prestigious International Review of the subject matter.<sup>47</sup> In addition, every other winning essay was awarded a WIPO Academy Scholarship. The essays are judged by a high profile judges' panel, such as (as was the case for the last year's competition on Intellectual Property Law) the European Patent Office and The Max Planck Institute for Intellectual Property, Competition and Tax Law.<sup>48</sup> Besides the essay competition of ELSA International, several national ELSA groups organize their own essay competitions like ELSA Slovakia<sup>49</sup> and ELSA Germany<sup>50</sup>.

## 2. Research – The ELSA Legal Research Groups (LRG)

Besides its publishing and writing activities, ELSA supplements its efforts in legal education by promoting a skill that is essential in the legal profession: conducting research. ELSA assists law students and young lawyers in performing legal research in various areas of law by giving them the chance to form Legal Research Groups. The groups work independently but report about their work to ELSA. They carry out the research according to the plan and timeframe they have set for themselves. LRGs are an important educational tool since the skill of proper scholarly legal is a prerequisite for a successful career in every legal field and for every legal profession and is already essential while studying. Universities do not always give students the necessary practice in carrying out a research. ELSA Legal Research Groups provide students with opportunities to improve their academic skills, as well as increase their knowledge and know-how.<sup>51</sup>

## 3. Professional Education

In addition to promoting writing and researching skills, ELSA is also engaged in teaching students. Apart from the establishment of an International Trainer Pool, which organizes workshops and trainings, ELSA has set up a special key area for the purpose of professional education called Seminars and Conferences (S & C). In addition ELSA is rounding its efforts

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<sup>46</sup>The Essay Competition of ELSA International usually matches the topic of International Focus Programme (IFP), about the current essay competition: <http://elsaessaycompetition.org/sponsors.html>; <http://www.ifpconference.pl/index.php?Name=essay>.

<sup>47</sup> The current topic of the essay competition is Intellectual Property Law; the winning essay will be published in the International Review of IP and Competition Law (IIC).

<sup>48</sup> Information about the Judges Panel available at: <http://elsaessaycompetition.org/judges.html>.

<sup>49</sup> ELSA Slovakia participates as a co-organizer in the competition for the best essay of law students on a given topic. The topics usually focus on tax questions: <http://www.elsa.sk/?q=48>.

<sup>50</sup> Information about the essay competition of ELSA Germany available at: [http://www.elsa-germany.org/ueber\\_uns/aa/essay\\_competition/de](http://www.elsa-germany.org/ueber_uns/aa/essay_competition/de).

<sup>51</sup> Information about the ELSA Legal Research Groups available at: <http://www.elsa.org/research/>.

by providing for practice-oriented aspects. For this purpose ELSA organizes so called LAW Events to enable students to learn about the practical work of a lawyer.

ELSA's S & C key area serves to complement the formal university curriculum by raising students' consciousness and understanding of global, legal, social, economic and environmental issues. The program includes seminars, conferences, law school and study visits. ELSA is organizing international seminars and conferences to deal with a legal topic of high international interest and provide additional skills and knowledge to students. While on a seminar, topics are discussed in a plenary. Because conferences entail more individual participation and scientific contribution, topics are discussed in workshops, with a final edited and revised version to be reported in plenary. An international seminar or conference provides accommodation for the participants and normally lasts three days. More than fifty international seminars and conferences are held each year.

ELSA Law Schools, on the other hand, aim to be annual and have a scientific program with a legal topic. Law Schools are organized in close co-operation with the academic or institutional partner(s), with the law faculty, law institutes etc. The scientific program includes lectures followed by workshops, which deepen and emphasize different areas of the lecture. An example is the Law School on Mergers & Acquisitions organized by Istanbul, Turkey. The one week long programme focuses especially on International Commercial Arbitration Law and Competition Law. Lecturers and professors who are specialized on their own areas from both Europe and Turkey lead these courses.<sup>52</sup>

Furthermore S&C also includes Study Visits. These events are organized by at least one local group. They may be single, bilateral, multilateral, or institutional. During an institutional Study Visit students tour an international governmental or non-governmental organizations, public administrations or private institutions.<sup>53</sup>

Another mode of teaching that ELSA employs is the organization of LAW (Lawyers @ Work) Events. The events are a complement to the theoretical education of law students. It gives students and young lawyers an impression of what the various jobs of a lawyer can look like. The professionals taking part in Lawyers at Work events range from classical legal professions to much less considered options. The aim of organizing Lawyers at Work events is to provide students and young graduates with the opportunity to understand the different career opportunities that are open to them. LAW events thus create a direct link between students and the professional world, which benefits both sides. The participants of such an event have the possibility to interact and receive career information from experts in the various professions. The professions may not be directly related to law, but

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<sup>52</sup> Information about the Law School on Mergers & Acquisitions available at: <http://www.elsa.org/events/EventDetail.asp?eventid=434>.

<sup>53</sup> Information about study visits available at: <http://www.elsa.org/about/activities.html#anchor1>.



may simply be open and attract to law graduates. These events are a major aide for students in finding the legal profession most suitable for them. Furthermore, they prevent the otherwise lack of information on existing opportunities from being an obstacle to finding the right type of job.<sup>54</sup>

#### 4. Putting Theory into Practice – The ELSA Moot Court Competitions

The educational contribution of ELSA to legal education offered by universities is rounded by ELSA's involvement in Moot Court Competitions. The aim of a moot court is to improve the legal knowledge of students. It is of primary importance to prepare and train students in the art of speaking in front of a court. Training in the use of rhetoric gestures, speaking without notes, self-confidence and intellectual flexibility are seldom taught in the standard legal curriculum. A moot court will teach the kind of knowledge that is important for the practical aspects of a lawyer's life - to create links between theory and practice. Students can put the academic knowledge acquired at the universities to practice while enhancing their presentation and public speaking skills.<sup>55</sup> ELSA has been involved in several Moot Court Competitions for a number of years. However the most important one is the "EMC<sup>2</sup>" - The ELSA Moot Court Competition on WTO Law. The EMC<sup>2</sup> was created because the association considered it to be more beneficial to develop the mooting experience into an international moot court competition aimed at contributing towards the development of law students worldwide. The Competition is a simulated hearing in the World Trade Organization (WTO)<sup>56</sup> dispute settlement system. The oral submissions of the competing teams are held in front of a Panel, which consists of WTO law experts. The Competition's aim is to encourage further development on the subject matter in the curriculum of academic institutions and to contribute to the ongoing discussion about globalization in the contexts of the WTO Agreements.<sup>57</sup> Since teams from all over the world meet to participate in this competition it also plays an important role for the international cultural exchange between law students.

#### *II. Fostering Mutual Understanding*

The second official purpose of ELSA is to foster mutual understanding between law students and young lawyers in Europe.<sup>58</sup> ELSA is realizing international cultural exchanges

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<sup>54</sup> About Lawyers at Work Events: <http://www.elsa.org/about/lawyers.asp>.

<sup>55</sup> About the concept of Moot Courts: [http://www.elsa-germany.org/ueber\\_uns/aa/moot\\_court/en](http://www.elsa-germany.org/ueber_uns/aa/moot_court/en).

<sup>56</sup> Homepage of the World Trade Organization available at: <http://www.wto.org/>.

<sup>57</sup> More Information about the EMC<sup>2</sup> available at: <http://www.elsamootcourt.org/?id=66>.

<sup>58</sup> The Philosophy Statement of ELSA, available at: <http://www.elsa.org/about/index.html#anchor1>.

and communication between students by holding several institutionalized international meetings and study visits<sup>59</sup> and through STEP – The Student Trainee Exchange Programme.

The network of ELSA currently comprises forty countries and over two-hundred and twenty universities<sup>60</sup> reaching from Arhus in Denmark to Zurich in Switzerland, from Lisbon in Portugal to Rovaniemi in Finland and even to Turkey and the western parts of Russia.<sup>61</sup> The members are brought together twice a year at the International Council Meetings (ICMs) of ELSA. The International Council Meetings (ICMs) take one week, yet their programme of interwoven workshop and plenary work is similar – aimed at deciding on important issues concerning the association, making plans and defining goals for its further contribution to European legal education and the European community.<sup>62</sup> Guests from countries such as Japan, Australia, USA, Canada, South Africa, and Ivory Coast have repeatedly attended the council work of ELSA. On the national level there are ELSA national meetings, such as the two National Council Meetings (NCM) and two Officers' Meetings are held each year lasting three days with the purpose to elect the federal board (*BuVo*). Students from local groups all over the country (plus international guests) participate in various workshops and training sessions, which teach skills either related to the exercise of an office within the association (president, vice president, treasurer, vice president for marketing STEP etc.) or so-called soft skills (communication, presentation, team working, conflict management, organization, planning skills). The meetings are of great importance for the communication, collaboration and the coherence of the network.

Apart from International meetings the best way for students to understand different cultures is to go abroad. This is the function of ELSA study visits. They are visits of one group to another ELSA group or institution abroad.<sup>63</sup> Another way to realize this purpose is the Student Trainee Exchange Programme (STEP). While study visits only last for a couple of days, STEP enables law students and young lawyers to spend a period of time working abroad in a law related area, thus introducing them to a different legal system and enabling them to gain valuable professional experience. ELSA supplements the traineeship schemes of law firms, companies, banks, universities, public and private institutions, and provides suitable trainees for both short and long-term placements. The students are assisted by ELSA before and during the traineeship with finding accommodation, applying for visas, when necessary, and organizing social events to involve the trainee in the daily

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<sup>59</sup> See prior at D I 3 bb).

<sup>60</sup> Information about the ELSA network available at: <http://www.elsa.org/about/index.html#anchor2>.

<sup>61</sup> List of all ELSA groups available at: <http://www.elsa-germany.org/network/liste/de>.

<sup>62</sup> See homepage for further information, available at: <http://www.elsa.org/>.

<sup>63</sup> About ELSA study visits see prior D I 3 bb).

life of the local community.<sup>64</sup> The aim of the programme is not to just bring one university student or graduate from one country to another and to place them in a job, it is also to include that person in the community and in different ELSA activities.<sup>65</sup> The benefits of a STEP traineeship are immeasurable as students are given increased knowledge of a particular legal system or area of law, thus strengthening the professional skills of the trainee. As important as the academic and professional skills are, the improved language abilities and the experience of another culture that the trainee gains while abroad are invaluable. STEP is a creating a powerful opportunity to learn by interacting with new situations and perspectives. It enables the trainee to acquire valuable contacts, personal as well as professional, and future employment prospects. Consequently the students and young lawyers are better prepared for becoming lawyers of tomorrow, working in an international environment.<sup>66</sup>

### *III. Promoting Social Responsibility*

The third purpose of ELSA is to promote social responsibility. According to the official Philosophy Statement, the vision of ELSA is “A just world in which there is respect for human dignity and cultural diversity”<sup>67</sup>. For this purpose, ELSA has developed three different areas: a special commitment to human rights through the Human Rights Programme (HRG), Institutional Relations through the cooperation with international institutions, and the International Focus Programme (IFP).

Human rights and topics related to human rights have become one main focus of the ELSA work. ELSA considers human rights as the grounds that modern legal systems are based on. Thus, they are indispensable in a detailed legal education.<sup>68</sup> Since 1998 ELSA has had a “Special Commitment to Human Rights”:

“ELSA shall be continuously committed to Human Rights awareness, Human Rights education, the respect of the rule of law and the scientific analysis of the development of Human Rights Law. ELSA shall strive to be recognized for a strictly legal, academic, impartial approach to Human Rights. The above mentioned shall be strictly in line with the guidelines regarding ELSA’s non-political status.”<sup>69</sup>

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<sup>64</sup> About STEP: <http://www.elsa.org/stepdesc/index.asp>.

<sup>65</sup> <http://www.elsa.org/about/activities.html#anchor1>.

<sup>66</sup> <http://www.elsa.org/stepdesc/index.asp>.

<sup>67</sup> About the vision of ELSA: <http://www.elsa.org/about/index.html#anchor1>.

<sup>68</sup> About ELSA’s engagement in Human Rights: [http://www.elsa-germany.org/ueber\\_uns/struktur/hr/warum/en](http://www.elsa-germany.org/ueber_uns/struktur/hr/warum/en).

<sup>69</sup> About the Commitment Statement: [http://www.elsa-germany.org/ueber\\_uns/struktur/hr/warum/en](http://www.elsa-germany.org/ueber_uns/struktur/hr/warum/en).



Human rights have come to be omnipresent in the work of ELSA as it is realized through all of its activities. On the international level the commitment to human rights is being realized by co-operation with several institutions and organizations, such as the UN and its sub-organizations, the Council of Europe and the European Commission. On the local level the observance of human rights is lobbied through education. ELSA provides an academic platform for discussion within the network in order to create human rights awareness. Furthermore ELSA lobbies for the general promotion and development of the law of human rights, thereby using all features available in the three key areas (AA, S&C and STEP) and essay competitions, legal debates and moot courts. Furthermore, other academic means like lectures, penal discussions, law schools and institutional visits and the academic part of study visits are used to create awareness and promote social responsibility among students. The Student Trainee Exchange Programme is also contributing to this purpose as traineeships are offered at organizations that work in the human rights field, thus giving students the possibility to contribute to realization of human rights.<sup>70</sup>

Another aspect of ELSA's cooperation with international institutions is the sending of delegations. ELSA sends delegations to the ECOSOC, to the Assembly of State Parties of the International Criminal Court, to the UNCITRAL and to the WIPO. Within the ECOSOC, ELSA delegations take part in the sessions of the Commission on the Status of Women, the sub-commission on Human Rights, the Commission for Social Development and of the Permanent Forum on Indigenous Issues. Concerning the UNCITRAL, ELSA delegations are attending the sessions of the UNCITRAL itself as well as to the sessions of its working groups (I, II, III, VI). Delegations sent to the WIPO have so far taken part in the sessions of the Standing Committee on the Law of Patents and of the Provisional Committee on Proposals Related to the WIPO Development Agenda.

Student delegates have to professionally represent ELSA at the session. Thus they have to conduct research to prepare for the session as well as to take part in the sessions of the body and possible side or parallel events. Furthermore, students establish contacts with delegations of other NGOs or states, experts as well as any other participants. The student delegates forward these contacts to the international board. The contacts made are available for the whole network. After the session, the delegation has to produce a report, which is also forwarded to the international board and subsequently published in the ELSA online archive. Additionally, delegation members have to give presentations in their country if requested.<sup>71</sup>

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<sup>70</sup> About the realization of Human Rights within the work of ELSA: [http://www.elsa-germany.org/ueber\\_uns/struktur/hr/wie/en](http://www.elsa-germany.org/ueber_uns/struktur/hr/wie/en).

<sup>71</sup> About ELSA delegations at the international organizations: [http://www.elsa-germany.org/ueber\\_uns/struktur/hr/delegationen/en](http://www.elsa-germany.org/ueber_uns/struktur/hr/delegationen/en); to see current delegation: [http://www.elsa-germany.org/events/detail/de?v\\_id=deutschland-delegation5-20090121](http://www.elsa-germany.org/events/detail/de?v_id=deutschland-delegation5-20090121).

In addition to its commitment in Human Rights and in the community, ELSA fosters social responsibility through its International Focus Programme (IFP). The idea of the IFP is to have a wide variety of local, national and international events, such as seminars, conferences, legal research groups, debates, moot court competitions, publications and traineeships that delve into a "hot legal topic" concluded after one year by a final IFP conference.<sup>72</sup> The main objectives of the IFP are to create awareness amongst today's law students and tomorrow's lawyers, and to create a forum where law students and young lawyers can gather and discuss a contemporary theme. The IFP enables law students and young professionals to work with major law-related institutions and non-governmental organizations (NGOs) around the world.<sup>73</sup> The themes of the IFP pick up on current legal topics that are of great importance for the development and use of law and for the society. For example the theme of 1997-1999 "Law of Peace in the Year 2000 - current violations and effective enforcement of international law; the reform of international organizations" dealt with the areas of international law and international humanitarian and criminal law.<sup>74</sup> The IFP is encouraging the whole network to intensively look into a subject important to the society and to make valuable contributions.

#### **E. The Future of Student participation in legal education in Europe**

The value of ELSA to legal education in Europe is considerable, just as much as its activities are essential for the cultural exchange between law students and the development of personal skills. Active engagement contributes to the personality development of students as they learn how to take initiative, how to think and work in a self-reliant and entrepreneurial way, how to communicate, organize, manage conflicts, take on responsibility and act as a role model for others. These aspects are highly important for the legal profession in a globalised world. They are beneficial to international understanding as well as the personal development of students. In many ways, having this experience can be considered a job qualification.<sup>75</sup> To foster cultural and professional exchange between law students, young lawyers and alumni from all over the world, ELSA has devised instruments for European legal education that are urgently needed in a world that grows ever closer together.

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<sup>72</sup>Updated information on the International Focus Programme available at: <http://www.ifpconference.org/>. The current IFP is going to end 31<sup>st</sup> July 2010. The theme from 2007 – 2009 is Intellectual Property Law, information about the theme available at: <http://www.elsa.org/InterFocusProg.asp#anchor3>.

<sup>73</sup> Available at: <http://www.elsa.org/InterFocusProg.asp>.

<sup>74</sup> Previous themes are available at: <http://www.elsa.org/InterFocusProg.asp#anchor2>.

<sup>75</sup> *Die Soziale Ader ist gefragt*, available at: <http://www.e-fellows.net/show/detail.php/16775>; Ingmar Höhmann, *Sozialkompetenz als Pflichtfach- Der neue Lehrauftrag der Uni*, VOL. 102, HOCHSCHULANZEIGER FRANKFURTER ALLGEMEINE ZEITUNG, 76,77 (2009).

The mission to educate, however, still belongs to the universities. Since students have independently taken initiative in creating additional educational options no longer limited to professional education, a dilemma situation has emerged: while voluntary engagement is the only way for students to receive the personal and professional experience and education they want and need, it is time-consuming and frequently clashes with duties set out by the universities.<sup>76</sup> Therefore, students often have to engage half-heartedly, or limit their engagement to a certain period of time to avoid neglecting their studies and scoring badly on their exams. The most striking example is the national board of ELSA Germany: the office of a board member, who manages and administers more than forty local groups and represents ELSA Germany internationally, is too labor-intensive to continue studying at the same time. Thus, the national board of ELSA Germany has to take one year off to exclusively work for ELSA.<sup>77</sup> Since ELSA board members receive neither financial aid by the university nor any other recognition or relief for their engagement, both the financial burden for parents and students and the loss of time figure as enormous deterrents. To atone for that, the six biggest student organizations in Germany have united to fight for having the universities reward honorary work.<sup>78</sup>

To help accommodate these concerns, ELSA offers education that fits into the curriculum of an idealized modern law faculty. Two pillars of ELSA's activities in particular can be easily incorporated into legal curriculums: soft skill teaching and practical orientation. While many universities recognize the significance of both elements as parts of a modern holistic education, their main emphasis still lies on research and its teaching. Thus, they can often afford little attention to promoting soft skills or practical context. In both areas, ELSA has already established promising structures (trainings or L@W events, respectively) and has direct access to professionals (lawyers, mediators, etc.). For instance, law firms supporting ELSA quite commonly express a wish to become better integrated into the educational programmes that the association offers. ELSA could, therefore, support and relieve universities by providing such elements of legal education as supplements to existing programmes.

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<sup>76</sup>Ingmar Höhmann, *Sozialkompetenz als Pflichtfach - Der neue Lehrauftrag der Unis*, VOL. 102, HOCHSCHULANZEIGER FRANKFURTER ALLGEMEINE ZEITUNG, 76, 77 (2009); JULIA BÜTTNER, STUDENTISCHES EHRENAMT – KEINE ZEIT MEHR FÜRS ENGAGEMENT?, available at: <http://www.e-fellows.net/show/detail.php/16282>.

<sup>77</sup>The same is true for the International board of ELSA as all seven board members are working full time. To see more information about the International Board: <http://www.elsa.org/members/elsaint.html>.

<sup>78</sup>Die Kölner Runde, homepage available at: <http://www.koelner-runde.de>.



Hopefully universities will soon realize what politicians, scholars and economists have already identified a long time ago: it is important to have engaged, active student participation for the benefit of the future legal community at large, and for the benefit of the personal development of students and for legal education more generally in Europe and internationally.<sup>79</sup>

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<sup>79</sup> Thomas Henne, *Deutsches Recht und Juristenausbildung in Ungarn*, JURISTISCHE SCHULUNG (JUS) 1037, 1039 (2000); Wolfgang W. Mickel / Jan Bergmann, in *HANDELEXIKON DER EUROPÄISCHEN UNION*, VOL. 3 (2005).

