

POLISH LEGAL EDUCATION IN THE LIGHT OF THE RECENT HIGHER EDUCATION REFORM

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INTRODUCTION

Following the political and economic transition of 1989, the Polish system of higher education, including legal studies, opened to a new world of possibilities. Private law schools started to develop, students were al-

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lowed to freely use international exchange programs, and faculty could learn from and employ Western teaching methods.

Additionally, legal changes affecting access to education expanded the number of students entering Polish universities.¹ Despite these changes, access to the legal profession was still difficult, and the bar associations were very protective of their interests.

New regulations have opened the legal profession to allow more law graduates to gain a license to practice, and beginning October 1, 2011, the most recent overhaul of the law on higher education was implemented.² Public education is still free as guaranteed by the Constitution, but it has undergone important adjustments.³ Importantly, these major new changes to the Polish legal education model are based on foreign examples, including the American model.

This Article will first outline the system of Polish higher education but specifically will focus on legal education as well as access to and different types of legal professions in Poland. It will further discuss the changes implemented by the 2011 reform introducing the problems and ongoing discussion about fundamental principles, including free education and academic freedom.

I. SOURCES OF HIGHER EDUCATION REGULATION AND TYPES OF HIGHER EDUCATION INSTITUTIONS IN POLAND

A. Constitutional Provisions—Principles of Education and Higher Education

The “entirely new” Constitution of the Republic of Poland, drafted after the transformational changes in the region, entered into force in 1997.⁴ Compared to other constitutions in Central and Eastern Europe, it is longer

1. Graduates from high schools directly enter Polish universities. Most majors are divided into two stages: a three-year first degree program, aimed to obtain a “licencjat” degree, which is the equivalent of the U.S. bachelor degree, and a two-year second degree program, aimed to obtain a master’s degree. There are a few majors for which programs are not divided. These include law, medicine, architecture, and psychology. Students in these majors follow a uniform five year study program.

2. Prawo o Szkolnictwie Wyższym [PSzW], Dz. U. 2005 r. Nr 164, poz 1365 (July 27, 2005) (Pol.).

3. Dz. U. Nr 78, poz. 483, KONSTITUCJA RZECZYPOSPOLITEJ POLSKIEJ, art. 70 [Constitution of Poland].

4. K Dz. U. Nr 78, poz. 483, KONSTITUCJA RZECZYPOSPOLITEJ POLSKIEJ [Constitution of Poland]. On the specificity of the constitutions in the countries of Central and Eastern Europe after the fall of Soviet regimes, see Rett R. Ludwikowski, “Mixed” Constitutions—Product of an East-Central European Constitutional Melting Pot, 16 B.U. INT’L L.J. 1 (1998); Rett R. Ludwikowski, *Constitutional Culture of the New East-Central European Democracies*, 29 GA J. INT’L & COMP. LAW 1 (2000).

and more detailed.⁵ The right to education is protected by all the constitutions of the post-soviet bloc in the chapters dealing with citizens' freedoms; only in the Czech Republic is there a separate act, the Charter of Fundamental Rights and Basic Freedoms, which supplements the constitutions in terms of protecting individual rights.⁶ Some of the constitutions only include short statements on the right to education, some have brief statements on the right to higher education, and some basic laws provide more detailed regulation on higher education itself and academic autonomy of higher education institutions.⁷

The Polish Constitution dedicates Article 70 to the principles of education and higher education.⁸ It provides every citizen with the right to education and requires education until eighteen years of age.⁹ Fulfillment of schooling obligations is left to be specified by statute.¹⁰ The same Article, in paragraph 2, establishes the principle that education in public schools is free of charge with a proviso that statutes may allow for payments for certain services provided by public institutions of higher education.¹¹ As such, studies at public (state) universities or other institutions of higher education (academies, schools, et cetera) are tuition-free. In practice, however, it is free for the students of stationary studies (day-time and full-time, five days

5. Poland's constitution is composed of 243 articles. Dz. U. Nr 78, poz. 483, KONSTITUCJA RZECZYPOSPOLITEJ POLSKIEJ [Constitution of Poland]. This makes Poland the leader in the length of the basic laws in the region as other countries decided to be less extensive. Czech Republic and Latvia's constitutions, for example, are half as short consisting of 113 articles and 116 articles respectively. Ústavní zákon č. 1/1993 Sb., ÚSTAVE ČESKÉ REPUBLIKY [Constitution of the Czech Republic], (Czech.); LATVIJAS REPUBLIKAS SATVERSMĒ [LV] [Constitution of Latvia]. The Romanian, Slovakian, Estonian, and Bulgarian constitutions include between 152 and 169 articles, the Slovenia constitution has 174 articles, and the newest version of the Constitution of Hungary is as short as 78 paragraphs. See CONSTITUȚIA ROMÂNIEI [Constitution of Romania]; č. 460/1992 Zb., ÚSTAVA SLOVENSKEJ REPUBLIKY [Constitution of Slovakia]; EESTI VABARIIGI PÕHISEADUS [Constitution of Estonia] July 3, 1992 (Est.); SG 56/13, KONSTITUCIJATA NA REPUBLIKA BŪLGARIJA [Constitution of Bulgaria]; RS, No. 33/91-I, USTAVA REPUBLIKE SLOVENIJE [Constitution of Slovenia]; MAGYARORSZÁG ALAPTÖRVÉNYE [Constitution of Hungary].

6. See Listina základních práv a svobod, ústavní zákon č. 2/1993 (Czech).

7. In the Latvian Constitution, short recognition is made providing everyone with right to education, compulsory and free of charge primary education, and free of charge secondary education. LATVIJAS REPUBLIKAS SATVERSMĒ [LV] [Constitution of Latvia], ch. VIII, art. 112. In addition, the State recognizes freedom of scientific research. *Id.* at art. 113. The term "higher education" does not appear in the Constitution. See generally *id.* The Bulgarian Constitution also guarantees the above-mentioned rights as well as academic autonomy of higher education establishments. See SG 56/13, KONSTITUCIJATA NA REPUBLIKA BŪLGARIJA [Constitution of Bulgaria], art. 53.

8. Dz. U. Nr 78, poz. 483, KONSTITUCJA RZECZYPOSPOLITEJ POLSKIEJ [Constitution of Poland], art. 70 (Pol.).

9. *Id.*

10. *Id.*

11. *Id.*

a week program). Students of nonstationary studies (usually every other weekend, twice a month but also evening or extra-mural studies) pay tuition as it is legally considered as one of the certain services provided by public institutions of higher education.¹² In addition, universities were allowed to establish payments for issuance of the diplomas and for the make-up courses when a student had to repeat the entire class after failing the exam twice.

Paragraph 3 of Article 70 is dedicated to the parents' right to choose schools, other than public institutions, for their children, as well as to the right of the citizens to establish all kinds of schools and institutions of higher education.¹³ The following paragraph guarantees that public authorities ensure universal and equal access to education for citizens and, thus, establishes and supports systems for individual financial and organizational assistance to pupils and students.¹⁴ Finally, in paragraph 5, the autonomy of the institutions of higher education is ensured in accordance with principles specified by statute.¹⁵

B. Statutory Provisions—Types of Higher Education Institutions

The main statute to which the Constitution relates is the Law on Higher Education, which, *inter alia*, explains the types of higher education institutions (HEIs) available under Polish law.¹⁶ According to the latest amendments, a public HEI is an institution established by the State as represented by a competent authority or public administration body.¹⁷ A nonpublic HEI is an institution established by a natural person or a corporate body other than a corporate body administered by national or local authorities.¹⁸

The Law Faculties in Poland are presently operating as both public (Faculty of Law at a given university) and private schools or departments of private schools.¹⁹ State schools are financed from the state budget. The

12. *Id.*; ODPLATNOŚĆ ZA STUDIA, SK 18/99 ZBIÓR URZĘDOWY WYROKI 258 (Trybunał Konstytucyjny [TK] 2000) (Pol.), available at http://www.trybunal.gov.pl/eng/summaries/documents/SK_18_99_GB.pdf. In 2000, the Constitutional Tribunal of the Republic of Poland confirmed the accordance of the statutory laws and school regulations regarding the tuition with the Constitution, noting that the guarantee of the free of charge education in a public institution of higher education is not of an absolute and unlimited nature. *See id.*

13. Dz. U. Nr 78, poz. 483, KONSTITUCJA RZECZYPOSPOLITEJ POLSKIEJ [Constitution of Poland], art. 70 (Pol.).

14. *Id.*

15. *Id.*

16. Prawo o Szkolnictwie Wyższym [PSzW], Dz. U. 2005 r. Nr 164, poz 1365, art. 2 (July 27, 2005) (Pol.).

17. *Id.*

18. *Id.*

19. JOANNA ŚLIWA, REPORT ON THE LEGAL EDUCATION IN POLAND 4 (2010), available at <http://www.google.com/url?sa=t&rct=j&q=&escr=s&source=web&cd=1&cts=>

grants received are calculated with regard to specific factors, including number of students enrolled, number of staff hired, costs of infrastructural maintenance, et cetera. Additional sources come from the school's own initiatives: tuition from nonstationary studies, postgraduate programs, and the like. Day students do not pay for their education and are allowed to apply for various types of scholarships provided also by the Ministry of Science and Higher Education.

The Law on Higher Education follows the constitutional lines and provides for the autonomy of the HEIs, as well as for the freedom of teaching, freedom of research, and freedom of artistic creativity in the governing of the activities of the HEIs in Poland.²⁰

C. Higher and Legal Education Institutions in Historical Perspective and in Contemporary Numbers

To properly understand the dynamics of the development of higher education in Poland, one must consider a regional perspective and rapid changes occurring after the fall of the communist regime in Central and Eastern Europe. Under the "old system," higher education was monopolized by state institutions, and the real scientific research, together with academic progress, was not warmly welcomed by the regime. Struggling with the consequences and losses of World War II, the world of academia and science was not an easy world to encounter and the Soviet regime did not allow for any freedoms in it.²¹ Soon after the collapse of the system, Poland entered a new era in the educational field. The number of both new HEIs

1331267870898&ved=0CC8QFjAA&url=http%3A%2F%2Fpilnet.org%2Fcomponent%2Fdocman%2Fdoc_download%2F45-legal-education-in-poland-building-institutional-will-for.html&ei=64hZT5OfG8W9twel5LyFDA&usg=AFQjCNF8I5mskTyR7EKA2VCdmmAfJ_4Z8A&sig2=PIPCPb76QA5VpFUPiGnong. Public schools are allowed to conduct economic activity, but they stay non-profit. *Id.* at 9. Differences between the public and private schools, based on the Constitutional Tribunal's opinion of 2005, are well explained by Joanna Śliwa who writes:

The relations between the public school, seen as an administrative establishment, and its end users are that of an administrative character. What this means is that the school enjoys some of the State's power which has been passed on to it (decentralized) and exercises that power over those who stay within its scope. Consequently, the acts of the school are subject to the administrative and, subsequently, judicial course of instance. Conversely, the link between the private schools and their end users is grounded on a civil agreement for providing educational services. The mutual relation is, therefore, based in most part on the equality of the participants and governed by contract law.

Id. at 6.

20. Prawo o Szkolnictwie Wyższym [PSzW], Dz. U. 2005 r. Nr 164, poz 1365, art. 4 (July 27, 2005) (Pol.).

21. Richard Hiscocks, *Education in Poland*, 14 INT'L J. 259 (1959) (giving an interesting Western perspective on the situation of education in Poland under communist rule).

and students applying started to grow, academic freedoms were introduced to the regulations, and the new government needed its citizens to be well educated.

Statistical data provided by the Ministry of Science and Higher Education confirms the dynamics. In the academic year 1992-1993, there were 124 HEIs, including 18 nonpublic ones.²² In 2000-2001, the numbers were 310 and 195 respectively.²³ In 2010-2011, they reached 470 and 338.²⁴ The number of students in 2010-2011 is almost 2,000,000 (compared to 403,000 twenty years ago).²⁵

With those numbers, Poland has one of the highest so-called scholarization rates in Europe, as well as the highest number of HEIs in the continent. Almost 40% of 24 to 35-year-olds have attained a tertiary education as of 2009.²⁶ It is also interesting to note that in Poland (along with the European trend) more young women graduate from general programs than young men.²⁷

There are two types of law schools in Poland: the first group includes Law Faculties at public universities (as of October 2011, a total of fifteen state and one church universities offer law degree programs), and the second group includes private schools, which opened law majors within their educational offering (as of November 2011, there are twenty-three private HEIs offering law degree programs).²⁸

Legal studies has been one of the most popular majors chosen by Polish high school graduates for many years. Graduating from a Faculty of Law has guaranteed not only a prestigious education but also a variety of possibilities in the job market. In 2010-2011, there were a total of 593,859 students admitted to the HEIs for bachelor and master degree programs.²⁹

22. *Dane Statystyczne o Szkolnictwie Wyższym*, MINISTERSTWO NAUKI I SZKOLNICTWA WYŻSZEGO, <http://www.nauka.gov.pl/szkolnictwo-wyzsze/dane-statystyczne-o-szkolnictwie-wyzszym/> (last visited Mar. 9, 2012).

23. *Id.*

24. *Id.*

25. *Id.*

26. ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, EDUCATION AT A GLANCE 2011: OECD INDICATORS 30 (2011), available at <http://dx.doi.org/10.1787/eag-2011-en>.

27. *Id.* at 46. "The average OECD graduation rate from general programmes was 55% for young women and 43% for young men. In Austria, the Czech Republic, Estonia, Italy, Poland, the Slovak Republic, and Slovenia, young women outnumber young men as graduates by at least three to two." *Id.* In 2009, out of the first time Polish graduates 38% were men and 62% were women. *Id.* at 60.

28. See *Polish Higher Schools*, REPUBLIC OF POLAND MINISTRY OF SCIENCE AND HIGHER EDUCATION, <http://www.nauka.gov.pl/higher-education/polish-higher-schools/> (last visited Mar. 20, 2012).

29. MINISTERSTWO NAUKI I SZKOLNICTWA WYŻSZEGO, INFORMACJA O WYNIKACH REKRUTACJI NA STUDIA NA ROK AKADEMICKI 2010/2011 I (Oct. 1, 2010), available at

While management and architectural engineering were two of the most popular majors, law ended up fourth with a total of 26,943 first-year students across Poland.³⁰

II. LEGAL EDUCATION—STATUTORY REQUIREMENTS AND STUDY PROGRAMS

Secondary education in Poland (high school) ends with the maturity examination (so-called “matura” exam—standardized national secondary school achievement examination).³¹ It is the final examination required for graduation. The maturity certificate is the graduation certificate and contains the results of particular tests taken during the examination.³² Candidates then send those results to the Law Faculties of their choice. Naturally, the better the results, the better the chances for entering a well-ranked Law Faculty.

Legal studies are based on a five-year uniform program as they departed from the stage-oriented proposal of the Bologna Process.³³ Based on the statutory standards prepared by the Ministry of Science and Higher Education,³⁴ each Faculty designs the curriculum for the legal studies program. According to the statutory requirements for the law program, legal studies may not last less than ten semesters and the number of teaching hours may not be lower than 2,400 with minimum of 300 points of European Credit Transfer System (ECTS).³⁵ The standards also require certain courses to be

http://www.nauka.gov.pl/fileadmin/user_upload/szkolnictwo/Dane_statystyczne_o_szkolnictwie_wyzszym/20110104_WYNIKI_rekrutacji_2010.pdf.

30. *Id.*

31. EURYDICE, THE SYSTEM OF EDUCATION IN POLAND 31 (2008), available at http://www.eurydice.org/pl/sites/eurydice.org.pl/files/the_system_2008.pdf.

32. *Id.* at 48; JOANNA JUNG-MIKLASZEWSKA, THE SYSTEM OF EDUCATION IN THE REPUBLIC OF POLAND: SCHOOLS AND DIPLOMAS 14 (Ewa Kolanowska trans., 2003), available at <http://www.buwiwm.edu.pl/publ/edu/System.pdf>.

33. Aalt Willem Heringa, *European Legal Education: The Maastricht Experience*, 29 PENN ST. INT'L L. REV. 81, 82 (2010) (explaining the Bologna Process and its implementation as well as giving insight on the legal higher education in Europe). Bologna Process is an EU process of harmonizing higher education. *Id.* It is based on breaking each major into the first degree (bachelor), second degree (master), and third degree (doctoral) studies. *Id.*

34. *Standardy kształcenia dla kierunku: prawo, Rozporządzenia Ministra Nauki i Szkolnictwa Wyższego*, Dz. U. 2007, nr 164, poz. 1166 Załącznik 85 (July 12, 2007).

35. INT'L QUALIFICATIONS ASSESSMENT SERV., INTERNATIONAL EDUCATION GUIDE FOR THE ASSESSMENT OF EDUCATION FROM THE REPUBLIC OF POLAND 69-70 (2011), available at <http://employment.alberta.ca/documents/Poland-international-education-guide.pdf>. The ECTS, as applied in the European Union, facilitates the recognition of all studies among EU member states, allows for transfer of credits between the programs. EUROPEAN COMMUNITIES, ECTS USERS' GUIDE 7 (2009), available at http://ec.europa.eu/education/lifelong-learning-policy/doc/ects/guide_en.pdf. The system compares the study attainment

offered with a particular number of teaching hours assigned to them (for example, the constitutional law course may not have less than forty-five hours and civil law no less than ninety hours). During the last year of law school, students attend master seminars where, under the supervision of law professors, they prepare their final master thesis (an essay paper of approximately sixty to eighty pages in length). The defense of the master thesis (in the form of an oral examination) is the final requirement for law school graduation.

The statutory standards are widely criticized as limitations on the autonomy of HEIs. They allow only some flexibility in the creation of the curricula.

Polish law schools, along with all HEIs (as regulated by law), are obliged to obtain accreditation of the National Accreditation Commission (Państwowa Komisja Akredytacyjna) established by the Law on Higher Education as amended in 2011.³⁶

III. HOW IS LAW TAUGHT IN POLAND?

Methodology of legal education in Poland is mostly focused on the theoretical aspects of law and understanding of mechanisms functioning in the different legal disciplines. The idea is to dedicate law school years to theoretical training. A minimum of three weeks of internship is required during the five years of law school, but, in practice, the requirement does not exceed four to five weeks in every school. Statutory standards require that approximately one-third of the teaching hours should not be taught in the form of lectures. For each main course, therefore, students attend a “lecture” (conducted usually by the leading professor in the particular Department) that is open to all the students at a given year and is not obligatory. During the lecture, students listen and take notes, no discussion or questions are allowed. For the same course, a “class” is provided. In classes, students work in groups of twenty to thirty and, as a rule, during the class more interactive methods are used. In practice, however, classes are often dedicated to the further explanation of the problems discussed during the lecture.

Practical skills and experience are left to training during the apprenticeship programs where law graduates narrow their interests and work toward a particular license to practice.³⁷ Even if the idea is right, real life is different. Very often, a law graduate who enters an apprenticeship program is immediately dropped into the deep waters of “real” legal problems, and

and performance of students within the EU. *Id.* at 20-21. For each completed course, a number of ECTS points is assigned. *Id.*

36. Prawo o Szkolnictwie Wyższym [PSZW], Dz. U. 2005 r. Nr 164, poz 1365, art. 8 (July 27, 2005) (Pol.).

37. See *infra* Part IV.

purely theoretical preparation is of no use in the very nontheoretical situations.

Polish law students learn codes and laws. They work on cases, but the analysis of case law is not a popular method. It partly results from the fact that in Poland, as in civil law countries, court judgments do not constitute any source of law. The judgments, however, play an important role and shape the understanding of legal norms, so students should learn the practical skill of using case law in their future work.

Statutory standards also provide for basic information on the content of each course. They do not recommend any methods of teaching but, as a rule, not a lot of time can be dedicated to practical skills training.

Law schools in Poland find ways to introduce other teaching methods in their programs and widely use American examples. The dynamic growth of legal clinics functioning at Polish law schools serve as the best examples. Each of the public law Faculties offers clinical programs to their students and most private schools also follow the rule.³⁸ Some schools developed interesting possibilities based on the cooperation with local courts.³⁹

Summer schools or schools of foreign law gain more popularity nowadays as Polish students understand the necessity of the globalized legal market and are very interested in learning the specifics of other countries' legal systems, especially those from outside the European Union (EU) and those with different legal traditions, such as the common law. Starting in the 1990s, Polish students became mobile during their programs.⁴⁰ They use opportunities for all kinds of study abroad programs, and the EU has financed ones that have become open to anyone who is interested in spending a semester or a year in a foreign school.

It is not unusual for Law Faculties to design a courtroom to use for trial simulations prepared by students, although it has to be emphasized that

38. *Legal Clinics in Poland*, LEGAL CLINICS FOUNDATION, http://www.fupp.org.pl/index_eng.php (History tab) (last visited Mar. 9, 2012) (showing information on legal clinics as well as reports and publications on the clinical legal education in Poland).

39. See, e.g., Marta Janina Skrodzka, *The Judicial Practice Center: The Connection Between Theory and Socially Responsible Professional Practice*, in *THE NEW LAW SCHOOL: REEXAMINING GOALS, ORGANIZATION AND METHODS FOR A CHANGING WORLD* 73, 74-78 (Daniela Ikawa & Leah Wortham eds., 2010).

40. *Statystyki*, ERASMUS, <http://www.erasmus.org.pl/odnosniki-podstawowe/statystyki> (last visited Mar. 9, 2012). An LLP-Erasmus program within the European Union serves as the best example. There are currently a total of 4000 European universities participating in the student and staff exchange. *Id.* Poland joined the program in 1998 (as a candidate country). In the academic year 1998-1999, 1426 Polish students used the Erasmus opportunity to study in one of the partner universities, five years later, in 2003-2004, the number increased to 6278, while in 2009-2010 it reached 14,021. *Id.* At the same time, Polish universities receive foreign students as well—in 1998-1999 it was only 46 students but in 2009-2010 it was 6070. *Id.*

not all of the schools have such possibilities. Textbooks were published on how to use the moot courts as a teaching method, on how to teach legal ethics, and on how to conduct effective clinical programs.⁴¹ Authors of the textbooks used American experience based on their visits to U.S. law schools and contacts with clinical and ethics professors from Columbia Law School or Catholic University of America Law School.

Interestingly, especially in comparison to the ABA requirements for American law schools, Polish curricula do not include obligatory courses in legal ethics. ABA Standards and Rules of Procedure for Approval of Law Schools provide that, among other subjects, law schools shall require that each student receive substantial instruction in the history, goals, structure, values, rules, and responsibilities of the legal profession and its members.⁴² Polish statutory standards for law schools state (in the chapter titled “Other Requirements”) that curricula should include contents extending human knowledge (especially in the field of philosophy, legal ethics, basics of psychology, and sociology) in the amount of not less than thirty hours.⁴³ Legal ethics is offered in the Polish curricula, but usually as an additional or elective course. Students participating in clinical programs, however, are trained on the professional responsibility of lawyers within their clinical seminars and trainings. Slowly but surely, Polish students begin to understand that cheating during their exams is, in fact, unethical and should not be regarded as a symbol of student “solidarity” and a common battle against the instructors. They actually feel embarrassed when, for example, during common courses within summer programs, their American colleagues point out that it is not fair and that future lawyers should not gain their grades based on unfair practices. Competition among Polish students is not as contentious when it comes to grades, as potential employers are usually less concerned with the candidate’s GPA. They prefer to look into their extracurricular activities, practical experience, foreign language skills, et cetera.

Are Polish students satisfied with what and how they learn at law school? The answer may be disappointing. As the surveys conducted by the largest student organization indicate, 73.4% of Polish law students (respondents of the latest polls on legal education) believe that the education they receive at law schools poorly prepares them to apply law in practice,

41. See, e.g., MAŁGORZATA KRÓL ET AL., *ETYKA ZAWODÓW PRAWNICZYCH: METODA CASE STUDY* (2011); ŁUKASZ BOJARSKI & BARBARA NAMYSŁOWSKA, *SYMULACJA ROZPRAW SĄDOWYCH JAKO METODA EDUKACYJNA: MATERIAŁY DO PRZYGOTOWANIA I PRZEPROWADZENIA SYMULACJI* (2008); *METODOLOGIA PRACY W SPP* (Izabeli Kraśnickiej ed., 2009).

42. AM. BAR ASS’N, SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, *STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS* (2011), available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2011_2012_standards_and_rules_for_web.authcheckdam.pdf (Standard 302(a)(5)).

43. See ŚLIWA, *supra* note 19, at 7.

whereas 87.3% believe that law school prepares them very well with theoretical knowledge in different fields of law.⁴⁴ When asked whether legal studies prepare graduates to pick up a legal job, 44.3% of respondents say “poorly” or “very poorly.”⁴⁵ When further asked for the reason for the poor preparation, they indicate not enough practice-oriented courses (71.7%), too many theoretical courses (21.6%), and “massive” education (23.7%).⁴⁶ In addition, every fifth respondent believes that lectures and classes do not differ and are both theoretical.⁴⁷

If five years of legal education in Poland is rather theoretical, the three years of apprenticeship should guarantee future lawyers more practical education.

IV. LICENSE TO PRACTICE LAW—THE APPRENTICESHIP SYSTEM

The procedure to becoming a practicing lawyer in Poland has recently (in the last six years) undergone several important reforms, and access to the profession is now more regulated and, therefore, open to a wider group of candidates.

Law school graduates obtain a master of law degree and are not licensed to practice in any profession. Depending on their professional plans, lawyers-to-be may choose five different paths of further training: advocate apprenticeship, legal adviser apprenticeship, judge apprenticeship, prosecutor apprenticeship, or public notary apprenticeship. Each apprenticeship has a different course of training and aims at providing participants with practical aspects of that particular facet of the legal profession. There are entrance exams to all five apprenticeship programs and final exams after successful completion of each program. Positive results in the final exams guarantee license to practice.

Recent reforms have changed the entire system. Prior to the changes introduced in 2005, access to practice in the legal profession was very limited. Entrance exams to the apprenticeship programs for advocates, legal advisors, and public notaries were governed by the local bar chambers. Each chamber could set a different exam, including test and oral interview. As a result, only a very small number of candidates were admitted, usually those

44. CENTRUM BADAŃ MONITORINGOWYCH, WYNIKI BADAŃ NA TEMAT POSTRZEGANIA RYNKU PRACY PRZEZ STUDENTÓW PRAWA W POLSCE 25-26 (2011), available at http://www.elsa.org.pl/pliki/materialy/badania_rynk_u_2010.pdf.

45. *Id.*

46. CENTRUM BADAŃ MONITORINGOWYCH, WYNIKI BADAŃ NA TEMAT POSTRZEGANIA RYNKU PRACY PRZEZ STUDENTÓW PRAWA W POLSCE 25-26 (2011) available at http://www.elsa.org.pl/pliki/materialy/badania_rynk_u_2009.pdf.

47. *Id.*

whose families were already in the profession.⁴⁸ Changes in the law brought significant changes in the regulation of the entrance exams (they are presently uniform, state-organized exams), and the number of participants in apprenticeship programs has grown dramatically, even though the new examination system has faced some troubles at the beginning as well.⁴⁹ As a consequence, we have more lawyers entering the job market.⁵⁰ At the same time, the system of education throughout the apprenticeship program is still far from being perceived as professional preparation or practical-skills training. In fact, most young lawyers “practice” their abilities in a real client-lawyer situation.

A. Becoming an Advocate or Legal Advisor

Under the Polish legal aid system, there are two groups of legal practitioners who are entitled to represent their clients in the courts: advocates and legal advisers. The division is based on completely different criteria than the British division into barristers and solicitors. The advocates’ profession is regulated by the Law on the Advocates’ Profession of May 26, 1982⁵¹ and the legal advisers’ profession is regulated by the Law on Legal Advisors of July 6, 1982.⁵² Members of both professions are associated with two separate professional self-governmental bodies (similar to bar associations). Advocates have twenty-four local bar chambers⁵³ and legal advisers have nineteen local chambers of legal advisers.⁵⁴ The major difference lies in the scope of client representation: advocates may take all kinds of legal cases and legal advisers are prohibited from representing a party in the criminal proceedings, with some exceptions provided in the criminal procedure.⁵⁵ Statistically, however, advocates will work in small law firms, repre-

48. ADAM BODNAR & DOMINIKA BYCHAWSKA, *THE LEGAL PROFESSION IN POLAND* 8 (Jan. 2009), available at <http://www.osce.org/odihr/36308>. For example, in 2001, only four candidates were admitted to the advocate apprenticeship program in the Podlasie region in Poland (one of sixteen regions). The trend is also seen in the number of advocates dynamically growing since 2005.

49. *Id.* at 5.

50. NACZELNA RADA ADWOKACKA, *RAPORT O DOSTĘPNOŚCI POMOCY PRAWNEJ* 3 (Jan. 12, 2010), available at http://bip.adwokatura.pl/pl/bip/varia/10_02_17_raport_o_liczbie_prawnikow/px_raport_ilu_naprawde_jest_prawnikow_w_polsce.pdf. Between 2005 and 2010 the number of advocates increased by one-third, and it is estimated that by 2013 it will be 83% higher than in 2005. *Id.*

51. Ustawa Prawo o adwokaturze, Dz. U. 1982, Nr 16, poz. 124 (May 26, 1982) (Pol.).

52. Ustawa o Radcach Prawnych, Dz. U. 1982, Nr 19, poz. 145 (July 6, 1982) (Pol.).

53. Ustawa Prawo o adwokaturze, Dz. U. 1982, Nr 16, poz. 124 (May 26, 1982) (Pol.).

54. Ustawa o Radcach Prawnych, Dz. U. 1982, Nr 19, poz. 145 (July 6, 1982) (Pol.).

55. See ŚLIWA, *supra* note 19, at 16-18. Other differences are presently of historical significance. While advocates have been always present in the Polish system of the legal

senting clients in criminal, family, or civil cases, whereas legal advisors are usually associated with big law firms and practice business, trade, or corporate law.

There are similar entrance exams to the apprenticeship programs for both professions—advocates and legal advisers. Once enrolled to the apprenticeship program, the participants are offered similar training, courses, and seminars. Entrance exams consist of 150 multiple choice questions concerning criminal, civil, business, labor, administrative, constitutional, EU law, et cetera. Positive results in the exams open the door to a three-year apprenticeship program. Future advocates and legal advisers have to find a practicing advocate or legal adviser to become their patron throughout the entire apprenticeship program. Local bar associations are responsible for the organization of seminars, workshops, and trainings required by law in order to fulfill the apprenticeship program. Participants pay an annual tuition as an obligatory requirement to continue education. During the three-year training period, there are several exams preceding the completion of the program.

Each of the apprentices has a patron—a practicing lawyer who supervises the work of the young candidate, shows him or her the reality of courtroom work, trains him or her in the practical skills, et cetera. In addition, there are obligatory seminars, workshops, and training sessions organized by each bar. With the number of apprentices growing fast, patrons have more candidates than desks in their law firms. The workshops, seminars, and training sessions are done in big groups, and, very often, they are purely theoretical lectures conducted by experienced judges or lawyers.

There is a final advocate/legal adviser exam at the end of the apprenticeship. Such an exam consists of a multiple-choice test and several tasks amounting to particular court proceedings, including documents such as appeals, decisions, as well as different types of contracts. Positive completion of the final exams constitutes the only requirement to obtain a license to practice law as an advocate or legal adviser in Poland.⁵⁶

profession, legal advisors came into picture under the communist regime as a group of lawyers who advised and represented public enterprises before the courts. *Nabór na Aplikację Adwokacką I Aplikację Radcowską*, Wyrok Z 18 lutego 2004 r., P 21/02, 1 (Feb. 18, 2004) (Pol.), available at http://www.trybunal.gov.pl/omowienia/documents/P_21_02_PL.pdf. Within years, the scope of their representation has been extended. An ongoing debate on the unification of two professions is present in Poland. *Id.* A draft of new solutions was even prepared by experts associated with the Helsinki Foundation of Human Rights.

56. It should be added that there are other possibilities to obtain license to practice law under the Polish regulations. For example, a person with a PhD in law is entitled to take the final examination without the apprenticeship program. The reforms on access to legal profession started in 2005, but they continue based on several difficulties and objections resulting in Constitutional Tribunals' judgments.

B. Becoming a Judge or Prosecutor

The path to becoming a judge or prosecutor has been completely reformed in the last couple of years. Based on the Law on the Polish National School of Judiciary and Public Prosecution, which came into force in 2009, the judge and prosecutor apprenticeships merged into one educational program carried out by the National School of Judiciary and Prosecution under supervision of the Polish Minister of Justice.⁵⁷

The entrance exam is divided into two parts: a multiple-choice test and case analysis. It tests knowledge in many fields of law including: civil, criminal, administrative law and procedure, constitutional, corporate, commercial, and EU and private international law. Candidates with the highest scores become participants of the general training. The general apprenticeship is designed as the first phase of the program and it is a common, one-year training program for both groups—future judges and prosecutors. Candidates attend workshops, seminars, and internships at courts and prosecutors' offices under the supervision of individually assigned coordinators.

Successful completion of the general apprenticeship opens the door to the two specialized apprenticeship programs. The judge apprenticeship lasts for fifty-four months including thirty months of further education in the National School of Judiciary and Prosecution and twenty-four months of internships as a judge's assistant or judicial referee.⁵⁸ Passing the final exam (another test and essay exam) and positive results in every element of the apprenticeship education are required to obtain the necessary rights to become a judge in Poland. The prosecutor apprenticeship lasts for thirty months and is a combination of education at the National School of Judiciary and Prosecution and internships at prosecutors' offices. During the last month of the apprenticeship, a final exam is taken, which is necessary to obtain a license to work as a prosecutor.

Both apprenticeships are carried out by state institutions and, therefore, they are free of charge. In September 2010, the first recruitment procedure was completed. Out of 1,320 candidates, only 589 made it to the second part of the entrance exam⁵⁹ and, finally, 300 candidates with top results were accepted to begin their education at the National School of Judiciary and Prosecution.⁶⁰

57. Ustawa o Krajowej Szkole Sądownictwa i Prokuratury, Dz. U. 2009, Nr 26, poz. 157 (Jan. 23, 2009) (Pol.).

58. *Id.* at art. 31-32.

59. *See Lista Kandydatów Zakwalifikowanych do Konkursu (Praca Pisemna) na Aplikację 2010 r.*, KRAJOWA SZKOŁA SĄDOWNICTWA I PROKURATURY, http://www.kSSIP.gov.pl/info/aktualnosci/lista_kandydatow_iietap_2010 (last visited Mar. 21, 2012).

60. *The Polish National School of Judiciary and Prosecution*, KRAJOWA SZKOŁA SĄDOWNICTWA I PROKURATURY, <http://www.kSSIP.gov.pl/en> (last visited Mar. 9, 2012).

C. Other Licensed Legal Professions in Poland

Advocates, legal advisors, judges, and prosecutors are all traditional legal professions. It must be emphasized, however, that there are other regulated legal professions in Poland. The public notary is the most important. Position and scope of duties of public notaries in Poland (their presence and special documents are required for a majority of legal transactions and contracts to be valid) is unusual compared to most European countries, therefore, there is a separate public notary association (eleven local notarial chambers), which organizes and carries out the public notary apprenticeship.⁶¹

For those interested in international law, the Polish Ministry for Foreign Affairs created the possibility to begin the professional training necessary to work in diplomacy. A one-year diplomatic and consular apprenticeship is the first step on the road to becoming a diplomatic carrier.⁶²

Becoming a debt collector is one of the options for law school graduates in Poland. A separate chamber issues licenses to practice and arranges for the special apprenticeship program.⁶³ It is a rarely chosen path as the debt collector's license is limited to this particular job only. In addition, the job is associated with execution of debts and unpleasant life situations.⁶⁴

There are two other apprenticeship programs, but they are not available to newly graduated law students. If, after graduation, a student works in the civil service, the hiring institution may, send him or her to a training program to become a legislator, that is, a person who drafts legal acts. It is a specific program designed by the Government Center of Legislation to improve the professional skills of civil servants in the field of legislative procedure.⁶⁵

Those who enjoy tax law may choose a different opportunity. It is a fairly new possibility in the legal profession and it was made available together with the free market reform. In 1997, the Law on Tax Advise came in force and introduced the new profession—tax adviser.⁶⁶ There is no apprenticeship program arranged for future tax advisers. Requirement of at least two years of professional legal experience is necessary to take the pro-

61. Ustawa Prawo o Notariacie, Dz. U. 1991, Nr 22, poz. 91 (Feb. 14, 1991) (Pol.).

62. Rozporządzenie Ministra Spraw Zagranicznych w sprawie organizacji aplikacji, Dz. U. Nr 121, poz. 1042 (July 19, 2002).

63. There are eleven local debt collector chambers throughout Poland supervised by the National Debt Collector Council.

64. Ustawa o komornikach sądowych i egzekucji, Dz. U. 1997, Nr 133, poz. 882 (Aug. 29, 1997) (Pol.).

65. Rozporządzenie Prezesa Rady Ministrów w sprawie aplikacji legistacyjnej, Dz. U. 2010, Nr 161, poz. 1079 (Sept. 1, 2010).

66. Ustawa o Doradztwie Podatkowym, Dz. U. 1996 Nr 102, poz. 475 (July 15, 1996) (Pol.).

fessional exam to become a tax advisor. Positive results in the exam, along with the two-year practice, guarantee enrollment on the list of tax advisors in Poland.⁶⁷

V. THE 2011 REFORM OF POLISH HIGHER EDUCATION

There are several ways to evaluate Polish science and higher education. Unfortunately, these evaluations usually place Poland at the bottom of any ranking. Facts reflect the reality quite painfully. Only two Polish universities are placed on the list of 500 best world universities, both of them ranked between 301 and 400.⁶⁸ In the 700 best universities ranking, the highest Polish position is 393.⁶⁹ As M. Żylicz points out, one may like it or not, but such rankings are popular among young people who are to make a decision on their future educational prospects, and he follows with other poor results of Polish science and education from a European and world perspective.⁷⁰ Obviously there are some satisfying evaluations as well. Polish physics, mathematics, and chemistry are internationally well recognized and appreciated, as reflected in the top twenty spots among 160 countries.⁷¹ The number of grants awarded through the EU in the field of security is also very promising.⁷²

For many years, a public debate has developed on the urgent need of reforms for Polish higher education.⁷³ Some of the discussed ideas were in fact revolutionary, probably too revolutionary to be implemented. For example, the introduction of paid higher education would not be accepted by Polish society, and the idea of abandoning the requirement of “habilitacja”

67. *Id.*

68. *Academic Ranking of World Universities - 2011*, ACADEMIC RANKING OF WORLD UNIVERSITIES, <http://www.shanghairanking.com/ARWU2011/html> (last visited Mar. 9, 2012) (rankings of Jagiellonian University and University of Warsaw).

69. *QS World University Rankings 2011/12*, QS TOPUNIVERSITIES, <http://www.topuniversities.com/university-rankings/world-university-rankings/2011?page=7> (last visited Mar. 9, 2012) (ranking Jagiellonian University).

70. Maciej Żylicz, *On the Reform of the Higher Education System*, FOUNDATION FOR POLISH SCIENCE, 1, (Aug. 2009), http://www.fnp.org.pl/files/people/On%20the%20Higher%20Education%20Reform_Prof_%20Maciej%20Zylicz.pdf.

71. Peer Ederer, Philipp Schuller & Stephan Willms, *University Systems Ranking: Citizens and Society in the Age of Knowledge*, THE LISBON COUNCIL, 15-16 (Nov. 5, 2008), <http://www.lisboncouncil.net/publication/publication/38-university-systems-ranking-citizens-and-society-in-the-age-of-knowledge.html> (last visited Mar. 9, 2012).

72. Quirin Schiermeier, *Poland Tackles Science like a Business*, NATURE, May 21, 2008, <http://www.nature.com/news/2008/080521/full/453438a.html>.

73. Need for reform was always discussed in two fields: reform of higher education and reform of science. Both of them have been achieved. This Article focuses on higher education only, but it should be strongly emphasized that the reform of science financing and organization is of a crucial importance and supplements the higher education reform. See Elizabeth Pain, *Polish Science Reforms Bring Fear and Hope*, 327 SCIENCE 1442 (2010).

(a post-doctoral degree necessary for further progress in academia) was highly criticized by representatives of Polish universities, especially by the Polish Rectors Foundation. Still, after a couple of years of public debate and discussion over the strategic reports (including the report of the Polish Rectors Foundation and the report of the Ernst & Young Business Advisory and Institute of Research on the Free Market Economy), changes were introduced and came in force on October 1, 2011.⁷⁴

Throughout the debates and discussions over how higher education should be reformed, many times the U.S. model has been put forth as an example and some American features are clearly seen in the new elements.

The higher education reform addresses three main players in the field: students, professors, and schools.⁷⁵ As the reforms are fresh, only the implemented ideas are presented. Time will evaluate the changes and see the results.

A. Changes for Students

Prior to the reform, it was not unusual for Polish students to pick up day-time studies in more than one major simultaneously, as they are offered free of charge. There were situations where a law student would also study sociology, international relations, and political science. Individual Organization of Studies (IOS) was granted, and students could adjust their schedules, miss some classes, and reschedule exams.⁷⁶ As of October 1, 2011, Polish students are now allowed to study one major free of charge, and the best students of the first specialization will be granted the possibility to study a second major free of charge.⁷⁷ Others will have to pay a nonstationary tuition. Students protested and argued that such a limitation violated

74. See *Strategia Rozwoju Szkolnictwa Wyższego*, KONFERENCJA REKTORÓW AKADEMICKICH SZKÓŁ POLSKICH, <http://www.krasp.org.pl/pl/strategia/strategia> (last visited Mar. 21, 2012); *Strategia Rozwoju Szkolnictwa Wyższego 2010-20, Projekt Środowiskowy*, FUNDACJA REKTORÓW POLSKICH, <http://www.frp.org.pl/?page=strategia> (last visited Mar. 21, 2012). All details of the reform can be found on the website of the Polish Ministry of Science and Higher Education, MINISTRY OF SCI. & HIGHER EDUC., <http://www.nauka.gov.pl/home> (last visited Mar. 9, 2012). However, the major changes implemented by the reforms are discussed below. See *infra* Sections V.A., V.B., V.C.

75. Presented reforms are based on the information provided by the Ministry of Science and Higher Education. MINISTRY OF SCI. & HIGHER EDUC., HIGHER EDUCATION REFORM (2011), available at http://www.nauka.gov.pl/fileadmin/user_upload/ministerstwo/Publikacje/20110801_MNISW_broszura_SW_200x200_EN.pdf.

76. Such possibilities exist for example at the University of Białystok as provided by UNIWERSYTET W BIAŁYMSTOKU, UCHWAŁA 807 SENATU UNIWERSYTETU W BIAŁYMSTOKU: REGULAMIN STUDIÓW UNIWERSYTETU W BIAŁYMSTOKU (May 26, 2009), available at http://www.uwb.edu.pl/pliki/file/studenci/regulamin%20studiow/regulamin_studiow09.pdf.

77. Prawo o Szkolnictwie Wyższym [PSzW], Dz. U. 2005 r. Nr 164, poz 1365 (July 27, 2005) (Pol.).

their right to free education as well as the possibility to deepen knowledge and develop interests.⁷⁸ In practice, however, such a change will hopefully allow students to study the first priority major with full dedication and engagement. It will also enable a higher number of students to pick up day-time studies.

Further, some financial decisions were made. Even though the day-time studies are free of charge, studying still costs money. Student loans will now be easier to obtain for students in particularly difficult situations.⁷⁹ In addition, a major reform of the scholarship system was implemented thereby increasing the need-based grants awarded to students up to 60% of all the state money provided for student aid.⁸⁰ Forty percent will be distributed in the form of Rector's scholarships for the best students.⁸¹ The reform also eliminates the fees students were expected to pay during their education for some university services, such as diploma issuance or make-up exams.⁸² The reform introduces the list of free of charge services obligatory for both public and private schools.⁸³ The top 100 best students in Poland will receive financial support from the Diamond Grant program, and the best 30% of doctoral students will also be financially supported.⁸⁴ Finally, a 51% discount for train and bus travel is guaranteed for all possessing student ID cards and the obligatory e-document programs that have to be used at all schools.⁸⁵

Each school is presently obliged to sign a civil law contract with every student.⁸⁶ The contracts should include the rights and obligations of the parties and, thus, provide legal security for the students.⁸⁷ This solution is already widely objected to by the public universities' rectors who argue that such contracts are and should be signed with nonstationary students, whereas there is no need and possibility to sign them with all day-time students.

78. See, e.g., *Studenci protestowali przeciw opłatom za drugi kierunek*, EPOZNAN (Feb 17, 2011, 6:52 PM) http://epoznan.pl/news-news-23646-Studenci_protestowali_przeciw_oplatom_za_drugi_kierunek.

79. *Id.* at art. 174.

80. *Id.* at art. 173.

81. MINISTRY OF SCIENCE AND HIGHER EDUCATION, HIGHER EDUCATION REFORM (2011), available at http://www.nauka.gov.pl/fileadmin/user_upload/ministerstwo/Publikacje/20110801_MNISW_broszura_SW_200x200_EN.pdf.

82. *Id.* at 6-7.

83. *Id.* at 5-7.

84. *Id.* at 2.

85. *Id.* at 7.

86. *Id.* at 8.

87. *Id.*

B. Changes for the Faculty Members

Some of the reform's elements influence students and their professors. Based on the American model, the idea of obligatory evaluation of the instructor's performance has been implemented. Each faculty member will be evaluated at least every two years and the students' evaluation of his or her lecturing and class performance will be one of the basic elements of the procedure. Negative results of the evaluation will be a basis for the instructor's dismissal, while two consecutive negative results will automatically dissolve the employment contract with the school.

One of the biggest changes addressed to university employees is dedicated to the number of work contracts an instructor may have with higher education institutions. Only two permanent jobs are allowed while acceptance of the second job should be based on the consent of the Rector from the first work-place university. This is to limit the multi-employment in higher education. In addition, the reform fights nepotism. It introduces a prohibition of employing relatives in a direct superior-subordinate relationship.

The crucial changes aim to make the carrier path more flexible and not so formalized and complicated. While, as noted above, the idea of total reform of the academic carrier was rejected, some of the problems were addressed.⁸⁸ An employee of a Polish university must obtain particular degrees to be able to stay at the university. When employed with a master degree, he or she must obtain a doctoral degree within a certain period of time followed by another step known as "habilitacja"—a post-doctoral degree. The requirements and procedures for obtaining the post-doctoral degree have been strongly criticized for many years together with the fact that "habilitacja" guaranteed full-time employment at the home university, practically for the rest of the professor's life.⁸⁹ To simplify the career path, formalities were modified and time limits changed. The post-doctoral degree is now obtained based on the scientific achievements regulated by law and evaluated by a special commission without the long, complicated procedure leading to the consent of the university (Faculty) itself.⁹⁰ Interestingly, one of the criteria taken into consideration is the number and value of articles published in foreign periodicals. The list of periodicals with point valuations

88. See *supra* Part V.

89. Full analysis of the problem can be found in Fryderyk Zoll, *The Challenges of the Mass University and the Civil Law Country Model of Legal Education: How Open Is the Polish University Model to Innovative Teaching and Nurturing of Clinical Programs?*, in PUB. INTEREST L. INST., *THE NEW LAW SCHOOL: REEXAMINING GOALS, ORGANIZATION AND METHODS FOR A CHANGING WORLD* 81, 82-84 (Daniela Ikawa & Leah Wortham, eds., 2010).

90. The procedure is regulated by the Ustawa o Stopniach Naukowych i Tytule Naukowym Oraz o Stopniach I Tytule w Zakresie Sztuki, Dz. U. 2003 r. Nr 65, poz. 595 (2003) (Pol.).

assigned to each of them is published by the Ministry of Science and Higher Education.⁹¹ The list of legal periodicals consists of a great majority of American law reviews and law journals.⁹²

It is yet another issue of how the new requirements are regulated and what will be taken into consideration when contemplating the degree. Lifetime employments past the retirement age were also eliminated thereby leaving the possibility of keeping the best older instructors working at the school.

To open up a hiring system so closed within one university, the Ministry of Science and Higher Education established a special database of all the vacancies available at Polish HEIs so the information on job possibilities is public and easily accessible.⁹³ In addition, all the employment decisions regarding the hiring of professors and lecturers must be taken based on something akin to a contest. All interested persons will be able to see requirements for the particular position, and anyone fulfilling the requirements will be able to compete for the position. Information of each contest, next to the vacancy information, will be collected in the database on the Ministry's website.

The system of scientific grants has been fully reformed with the establishment of new institutions responsible for the distribution of money based on the competitions: the National Science Center (NCN)⁹⁴ and the National Center for Research and Development (NCBIR)⁹⁵.

C. Changes for Schools

What Polish HEIs really need is money; however, money is not the complete answer. A thorough reform of the schools' organization and management is essential, and at the same time, the most difficult to conduct.

What the Ministry achieved in the 2011 reform was a guarantee of increased funding for science in the budget. Money will go to the newly created institutions—NCBIR and NCN. Additional support is provided to the best HEIs in Poland.⁹⁶ The Leading National Research Centers (the abbreviation in Polish is quite English—KNOWs) will be selected via competition

91. See MINISTRY FOR SCI. & HIGHER EDUC., <http://www.nauka.gov.pl> (last visited Mar. 9, 2012) (publishing a yearly list of foreign publications).

92. *Id.*

93. Prawo o Szkolnictwie Wyższym [PSzW], Dz. U. 2005 r. Nr 164, poz 1365 (July 27, 2005) (Pol.).

94. NARODOWE CENTRUM NAUKI, <http://www.ncn.gov.pl/> (last visited Mar. 21, 2012).

95. NARODOWE CENTRUM BADAN I ROZWOJU, <http://www.ncbir.pl/> (last visited Mar. 21, 2012).

96. Prawo o Szkolnictwie Wyższym [PSzW], Dz. U. 2005 r. Nr 164, poz 1365 (July 27, 2005) (Pol.).

in eight knowledge and education areas: liberal arts, social studies, science, technical studies, medical and health-related studies, life sciences, agriculture and forestry, and art. Each field will be represented by at least three KNOWs in a given year, and the best centers will be rewarded with five-year subsidies and will spend the money in accordance with their particular needs.⁹⁷

There are still possibilities to fund academic and scientific developments from EU sources, and the Ministry will manage those programs as well.

Money has to be found outside the state and EU budgets; therefore, provisions of the law on higher education presently allow HEIs to invite practitioners as experts in particular fields to build and implement the study curricula of majors offered at schools in a way that fit the needs of contemporary markets. In other words, students would be educated in the fields necessary for the effective development of the Polish welfare. The idea of joint ventures of science and economics is controversial. It is strongly supported by those who believe that universities have to find their way around outside the academic box and strongly opposed by those who believe that such joint ventures will kill the spirit of academia and turn universities into business enterprises.⁹⁸

Despite the arguments protecting a noneconomic philosophy of higher education, the Ministry goes further in the reforms. Taken from the U.S. is also a possibility and encouragement to establish research spin-offs based on some inventions developed at higher schools. Commercialization of research results will be implemented together with new projects and will be based on experience from the best American universities. The Polish Ministry of Science and Higher Education launched the Top 500 Innovators Science–Management–Commercialization program to train researchers and scientists from all over Poland on how to commercialize their results. The trainings will be conducted by specialists from the U.S. Again, science must pay off in the real world.

Slight reform touched the model of the HEIs' management, the election of the rectors by introduction of some alternative methods of the rectors' appointments (so far they have been elected by the university organs, now there is also a possibility of an open contest to allow outside candidates and foreign candidates as well).

One of the biggest problems of Polish higher education and science is the practical reflection of the principle of HEIs' autonomy. Are the schools really autonomous if their curricula are based on the standards provided by the Ministry? It is well argued that the lack of such autonomy is causing

97. *Id.*

98. *See* Żylicz, *supra* note 70.

major problems in competition with foreign schools.⁹⁹ The 2011 reform introduces a new idea: a National Qualifications Framework. It aims to give schools the freedom to create new majors, study programs, and interdisciplinary curricula.¹⁰⁰ The National Qualifications Framework responds to the EU's recommendations in the European Area of Higher Education.¹⁰¹ It is a complex task which aims to build structures and procedures necessary to describe and recognize qualifications gained at different levels of education so the Polish qualifications are adjusted and well received in other EU countries.¹⁰²

VI. WHAT DOES IT ALL MEAN FOR LAW SCHOOLS?

Polish law schools are in an interesting situation at the moment. The 2011 reform obviously influences their functioning. All the efforts are made to properly understand the details and implement necessary and required changes; to follow the ministerial communications and deadlines; to get ready to compete; to find ways to merge with business and ways to commercialize results of purely academic and theoretical research; and to face the demographic decrease coming to Polish schools in a time where human sciences are not the main focus and where students will be encouraged to choose majors in “real” science. Law professors, especially young ones, have to adjust to new procedures for their academic development. All of a sudden, they are forced to compete for grants and gain points for publications (and get familiar with the Bluebook to try to publish in American periodicals). At the same time, they have to learn to be evaluated and criticized by the students and use the critique to improve their teaching methodology. At the end of the day, it will all work to their benefit, to the benefit of the schools, and, ultimately, to the benefit of the students. The morning of that day, however, has begun with a series of battles, misunderstandings, and reluctance in addition to the variety of interpretations of the new regulations. We should have learned how to handle the chaos of political and economic transformation. This is a first step of a different transformation—transformation in higher education.

99. See *Statystyki*, ERASMUS, <http://www.erasmus.org/pl/odnosniki-podstawowe/statystyki> (last visited Mar. 9, 2012).

100. Rozporządzenie Ministra Nauki i Szkolnictwa Wyższego w sprawie Krajowych Ram Kwalifikacji dla Szkolnictwa Wyższego, Dz. U. 2011, Nr 253, poz. 1520 (2011).

101. The European Higher Education Area project was launched in 2010. See EUROPEAN HIGHER EDUCATION AREA, <http://www.ehea.info/> (last visited Feb. 20, 2012).

102. For more information, see *About the Project*, NATIONAL QUALIFICATIONS FRAMEWORK, <http://www.kwalifikacje.org.pl/eng/about-the-project> (last visited Mar. 9, 2012).