

How global should legal education be? Recommendations based on the compulsory teaching in international aspects taught at Swiss law schools

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Abstract

International aspects play an immense role in the work of most lawyers today. Accordingly, knowledge of how to deal with these aspects is of fundamental importance for the goal-oriented and high-quality training of lawyers. Ideally, these aspects should always be an essential part of the training, but this is only possible if sufficient basic knowledge and skills are guaranteed. The main finding of this article is that most universities (in Switzerland - and this probably applies elsewhere) offer a good choice of courses covering international aspects of law but do not ensure that all their students get the minimum necessary. In addition, the language skills so necessary on the (Swiss) job market are too often left to the student and not guaranteed by the university when delivering a degree. A third finding is that it is not easy for students to find out which universities are more diligent regarding the adequate teaching of international aspects. Without a thorough introduction to the basic foundations and the skills necessary to find and apply non-domestic sources legal education in all areas of law is inadequate.

Keywords: Education, lawyers, international law, European law, languages, Switzerland.

Part I: Introduction

International aspects or the international dimension play an immense role in the work of most lawyers today. Accordingly, knowledge of how to deal with these aspects is of fundamental importance for the goal-oriented and high-

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quality training of lawyers. Ideally, these aspects should always be taken into account in the training, but this is normally only possible if enough basic knowledge and skills have been taught beforehand. The purpose of this article is to inquire whether as of today international aspects are sufficiently taken into account in legal education (in Switzerland) and whether universities guarantee the teaching of the necessary knowledge and skills as required by individual employers and current challenges for society as a whole. The results will be used to formulate recommendations that could be used to assess law schools and programmes in Europe and beyond.

In Switzerland, as in many small open economies, traditionally¹ more emphasis has been (and in some cases still is) placed on this part of the training (Part II). Nevertheless, there are immense differences between the content and skills ('skills') taught (Part III) at the training institutions and in the different programmes (Part IV).² There is certainly no common Swiss approach or concept. At the same time, this seems not too different from other countries – but seems more disturbing in Europe in view of political and legal developments. Certain institutions in Switzerland (and elsewhere) should urgently reconsider their minimum requirements and the purely optional character of most of the respective offer (Part V).

The question dealt with in this article is of course not new. For at least one hundred years, lawyers have struggled with the question of how much time should be allowed to teach foreign and international law.³ There are also (very

¹ See Andreas R. Ziegler, 'Von den Anfängen des Unterrichts des internationalen Rechts in der Schweiz' in Franco Lorandi & Daniel Staehelin (eds), *Innovative Recht - Festschrift für Ivo Schwander* (Zürich 2011) 125 and Andreas R. Ziegler, 'Die Entwicklung der Völkerrechtslehre und -wissenschaft in der Schweiz – eine Übersicht' [2016] SZIER 21.

² Should you be less interested in the detailed description of the Swiss institutions, you can skip Parts III and IV and should still be able to understand the analysis and recommendations in Part V and the Conclusion (Part VI). I found it important to do justice to the exact differences between institutions to justify my recommendations and think this could also be important for the historic analysis of the (hopefully positive) developments with regard to the teaching of international aspects of law (in Switzerland and elsewhere).

³ See, for example, for other German-speaking countries Rudolf Bernhardt (ed.), *Das internationale Recht in der Juristenausbildung - Materialien einer Kommission der Deutschen Gesellschaft für Völkerrecht* (Heidelberg 1981) or for an empirical analysis Ryan Scoville and Mark Berlin, 'Who Studies International Law? Explaining Cross-National Variation in Compulsory International Legal Education' (2019) 30 EJIL 481. More recently also: Stephan Hobe and Thilo Marauhn, 'Lehre des internationalen Rechts im deutschsprachigen Raum – Herausforderungen und Entwicklungspotentiale' in Stephan Hobe and Thilo Marauhn (eds), *Lehre des internationalen Rechts - zeitgemäß?* (Heidelberg 2017). It contains various contributions on the topic, namely, Stephan Hobe

few) contributions to this in Switzerland (as it is a small country with different traditions due to the various languages spoken in different parts of the country).⁴ Of course, this debate has always been a highly political (and emotional) issue where nationalists and cosmopolitans can be played off against each other.⁵ However, it is a fact that the general consequences of globalisation and integration are also reflected in the legal reality and that corresponding knowledge is needed especially today.

The questions and recommendations in this article say nothing about whether a legal solution can be better found at the municipal, cantonal, national, European or global level. However, the multi-level system of legislation and its application is an undisputed reality (in Switzerland⁶ and elsewhere) that must also be taken into account in the (legal) training.⁷ Even if one continues to accept the state as a fundamental building block of the legal system,

and Thilo Marauhn, 'Lehre des internationalen Rechts im deutschsprachigen Raum – Herausforderungen und Entwicklungspotentiale'; Andrea Hamann, 'Die Lehre des Völkerrechts in Frankreich – Überblick und Beobachtungen'; Lauri Mälksoo, 'Die Lehre des Völkerrechts: ein Blick aus Estland'; Volker Röben, 'Die Lehre des Internationalen Rechts in Großbritannien'. For an older appraisal of the situation in France see 'L'enseignement du Droit international Public en France' [1955] *Annuaire Français de Droit International* Année 816.

⁴ See Luzius Wildhaber, 'Die Bedeutung des Völkerrechts, des Internationalen Privatrechts und der Rechtsvergleichung in der Universitätsausbildung der Juristen in der Schweiz' in Bernhardt (n. 3); with an emphasis on comparative law: Peter V. Kunz, 'Einführung zur Rechtsvergleichung in der Schweiz - Ein bedeutsames juristisches Fachgebiet für Studenten sowie für Praktiker zwischen «notwendigem Übel» sowie «Königsdisziplin»' [2006] *recht* 37. With regard to the influence of the French tradition in (French-speaking) Switzerland (influenced mostly by legal education in France (and to a much lesser extent in Belgium) there are no important theoretical contributions to my knowledge.

⁵ See for example, the use of the ICRC to promote education in international humanitarian law, Etienne Kuster, 'Promoting the Teaching of IHL in Universities: Overview, Successes, and Challenges of the ICRC's Approach' (2018) 9 *Journal of International Humanitarian Legal Studies* 61.

⁶ See, for example, Stephan Breitenmoser and Michel Jutzeler, 'Schengen und Dublin im Mehrebenensystem' in Stephan Breitenmoser *et al.* (eds.), *Schengen und Dublin in der Praxis* (Zürich 2018); Nicolas F. Diebold, *Freizügigkeit im Mehrebenensystem eine Rechtsvergleichung der Liberalisierungsprinzipien im Binnenmarkt-, Aussenwirtschafts- und Europarecht* (Zurich 2016) or Friederike Engler, *Steuerverfassungsrecht im Mehrebenensystem - ein Vergleich des Schutzes vor Besteuerung durch EMRK, Grundrechtecharta und die nationale Grundrechtsordnung* (Baden-Baden 2014).

⁷ This article deliberately does not deal with the domestic aspects of this topic (communes, Cantons, Confederation) or general questions of federalism, although it does of course deal systematically and theoretically with analogous questions.

questions of foreign, international, transnational⁸ and supranational law cannot be ignored.

This phenomenon may be weaker in large states than in a small state with traditionally intensive relations with foreign countries such as Switzerland.⁹ In addition, due to the way the ‘Global Community’ operates, there are specific issues of soft law or otherwise formally non-binding rules, which are also important in national law, but which can be found even more often at the international level.

Several international and national associations have recalled on various occasions the importance of a sufficient understanding of international aspects in legal education. Among the more international ones, one can mention the International Law Association (ILA, founded in 1873)¹⁰ and the European Law Faculties Association (ELFA). Other organisations interested in the field are certainly the European Society of International Law (ESIL), the European Law Institute (ELI), FIDE (Fédération Internationale pour le Droit Européen) and the recently created Global Network for International Law (a so far informal gathering of national and regional international law associations). A good example is a recent resolution adopted by ELFA in 2019:

Considering that: ... the ongoing process of legal integration both at the regional level and on a world scale raises new challenges for legal educators, and creates new learning needs that must be satisfied by educational institutions; merely national approaches to legal education are insufficient to prepare legal professionals that can meet societal challenges, serve the needs of the public, and render justice under the law; law schools should better prepare law students for their future

⁸ The concept of ‘transnational law’ which tries to overcome the classic distinction between domestic or national law and international law certainly remains very interesting. There were attempts in Switzerland to use it in legal education (in particular by combining foreign and international aspects of the law). As of today, however, it is (no longer) very important in the programmes of Swiss law schools and is therefore not further analysed in this contribution. See, however, apart from the classic Philip Jessup, *Transnational Law* (Yale University Press 1956) also Alfred C. Aman and Carol J. Greenhouse, *Transnational Law* (Carolina 2017).

⁹ See, for example, Hans Vogel, *Der Kleinstaat in der Weltpolitik* (Frauenfeld 1979) or Joëlle Kuntz, *La Suisse ou le génie de la dépendance* (Carouge-Genève 2013).

¹⁰ See, in particular, the work of the Committee on Teaching International Law (1998-2010). I presented reports in this respect (e.g. in 2002 and 2010). See ‘Committees’ (*International Law Association*) <<https://www.ila-hq.org/index.php/committees>> accessed 8 May 2020.

roles in European and transnational contexts by deepening their formation in those areas of the law that are vital to operate in such contexts, along with the more traditional legal education imparted during law studies; ...

Calls upon its members to: [...]1. Educate students who shall have a firm understanding of the complexity of the sources of law in Europe and possess the methodological skills that are required to deal with the multiple normative orders that are integrated in the European dimension. [...]3. Duly take into consideration the need to develop those linguistic and terminological capabilities and skills that must be acquired to operate in cross border contexts in Europe and beyond, and that are required to guarantee the respect of human rights.¹¹

Another relatively recent resolution of the German Society for International Law (of which many Swiss professors are members)¹² from 2016 is also of particular importance for Switzerland:

Lawyers today have to face challenges in all areas, not only national and European, but also global and transnational. This has changed the demands on young lawyers, who are expected almost everywhere to be able to work in a system of order that extends from national to European to international and transnational law. Legal training has not kept pace with this development to the full extent.

The German Society for International Law therefore appeals to all those responsible in the German-speaking world to work towards ensuring that the basic elements of International Law, Private International Law and Comparative Law become an integral part of basic legal training. In the in-depth studies, students should also be offered the opportunity to learn international law in foreign-language and interactive form.

¹¹ See, for example, the ‘Resolution adopted at the Annual General Meeting in Turin’ (*ELFA*, 11 and 12 April 2019) <<https://elfa-edu.org/event/turin-2019/#b1bc8f2aee6683ea3>> accessed 8 May 2020.

¹² While some Swiss professor are also members of the *Société française du droit international*, its influence of the latter on the debate in Switzerland is less prominent. See, however, Hamann (n. 3) for the work undertaken by the SFDI.

Insofar as the universities are able to initiate a corresponding strengthening on their own responsibility, the Society makes this appeal to their bodies. In addition, the Society encourages law schools in the German-speaking world to develop specializations in international law, including qualified courses in English and, if necessary, other languages, and to expand the deaneries with a dean for international affairs if necessary.¹³

Part II: Relevant institutions and programmes

Institutions

The following educational institutions have been taken into account for Switzerland: all universities with a law school or faculty (Basel, Bern, Fribourg, Geneva, Lausanne, Lucerne, Neuchâtel, St. Gallen, Zurich), the only distance-learning university of Switzerland offering a law programme (Fernstudien Schweiz/UniDistance) and the accredited universities of applied sciences offering a law-oriented programme (Zurich University of Applied Sciences - ZHAW, HES SO-HEG Arc, Private University of Applied Sciences Kalaidos).

These institutions all offer relevant courses to prepare students for mostly legal activities. No mention is made of other programmes that contain (international) legal components but cannot be classified as legal (especially in the fields of economics, political sciences or administrative sciences or technically oriented courses). The (very extensive) international law courses offered by the Graduate Institute of International and Development Studies (IHEID, Geneva), a higher education institution pursuant to the relevant Swiss legislation¹⁴, will

¹³ Translation of the German text by the author. On 16 March 2016, the DGIR organized a conference at the University of Cologne under the title: 'Teaching International Law - Contemporary?' (translation by this author) on the topic of training and teaching in international law. The participants adopted the 'Resolution einstimmig verabschiedet von den Teilnehmerinnen und Teilnehmern der Konferenz 'Lehre des internationalen Rechts – zeitgemäß?' (DGIR) <<http://www.dgfir.de/veranstaltungen/archiv/lehre-des-internationalen-rechts-zeitgemaess/>> accessed 8 May 2020. For older recommendations by this association Hobe and Marauhn (n. 3).

¹⁴ Federal Law on the Promotion and Co-ordination of Higher Education (Bundesgesetz über die Förderung der Hochschulen und die Koordination im schweizerischen Hochschulbereich - Hochschulförderungs- und -koordinationsgesetz, HFKG, SR 414.20).

therefore not be discussed either, since, in particular, it offers no bachelor's programme in law.¹⁵

Programmes

The main focus is on the classic main programmes *Bachelor of Law* (180 ECTS, BLaw)¹⁶ and *Master of Law* (90 ECTS, MLaw), which are still chosen by most students (as they normally offer the direct access to the bar exam and thereby indirectly to most of the regulated legal professions). Wherever possible, it is also indicated in which study section the courses are offered and how. In particular, the information on the division between exercises and lectures or the exact number of attendance hours or semester hours per week is only indicative, since in practice there is often a great deal of flexibility for the teachers.¹⁷ So far there are no specialisations in international law available at Bachelor level, as it is for example the case in France.¹⁸

Where relevant, however, alternative programmes are also mentioned, in particular Bachelor of Arts (180 ECTS, BA), Master of Arts (180 ECTS, MA) and Bachelor of Science (180 ECTS, BSc), Master of Science (180 ECTS; MSc) programmes in law or law and economics (Law and Economics) at universities and universities of applied sciences¹⁹, especially if this basic

¹⁵ See 'Master and PhD Programmes, (*Graduate Institute Geneva*)

<<https://graduateinstitute.ch/Master-PhD>> accessed 8 May 2020. However, it may happen that, for example, an applicant with a BLaw from a Swiss university and a MIL IHEID is admitted to the bar exam, since other universities often also grant full freedom of choice for their MLaw. However, this will not be discussed further here, as in this case at least a broad education in international law would be guaranteed (possibly not to the full extent, as far as private and European Law aspects are concerned).

¹⁶ See Art. 3 of the respective law (Verordnung des Hochschulrates über die Koordination der Lehre an den Schweizer Hochschulen vom 29. November 2019, SR 414.205.1): The universities and other institutions of higher education in Switzerland apply the European system for the transfer and accumulation of credits (ECTS). They award credits for verified study achievements. A credit corresponds to a workload of 25-30 hours (translation by this author).

¹⁷ See the attempt of a comprehensive (but not completely correct and already outdated) representation in Sethe (Fn. 2), 37-38.

¹⁸ See for example the 'Licence Droit, parcours international' available at the Université de Paris (Saclay): 'Ce parcours ... a pour ambition de former des juristes accomplis, dont les compétences sont strictement équivalentes à celles des étudiants de la licence générale, mais présentant une spécificité par leur ouverture internationale marquée.' 'Licence Droit, parcours international' (*UVSQ*) <<http://www.uvsq.fr/licence-droit-parcours-international-342003.kjsp>> accessed 8 May 2020.

¹⁹ See on this topic Article 11 of the relevant law (Verordnung des Hochschulrates über die Koordination der Lehre an den Schweizer Hochschulen vom 29. November 2019, SR

education (Bachelor) is intended to guarantee access to advanced classical legal education (MLaw) and regulated activities (lawyer, judge, notary etc.). In particular, the numerous post-graduate courses (especially CAS, DAS, MAS) are not discussed.

Part III: Relevant compulsory subjects

Only those subjects that are actually compulsory will be credited (compulsory courses). In fact, the larger faculties in Switzerland in particular usually have an impressive range of optional courses in this area. However, it can be seen that it is mostly only offered as an option in the already very freely designed area of specialisation (especially at Master's level). Thus, it cannot be guaranteed that the graduate has been effectively trained in the respective areas. Often it is very few students who are particularly interested in working in Switzerland or those from abroad (in exchange or here for a Master's degree) who take these courses in large numbers. For the sake of completeness, however, a cursory reference is made to these courses (options, electives that can be avoided altogether). The same applies to foreign language courses, which are also offered quite extensively but are still rarely compulsory, which means that they can be (and in reality, will be) easily avoided.

For the following comparison, some disciplines were taken as particularly relevant: Public International law, European Law, Comparative Law (and special comparative law subjects such as Comparative Private Law, Comparative Constitutional Law etc.) and foreign languages.²⁰

Public international law

In Switzerland, Public International Law is usually taught in a separate course and not as an integrated part of public law or general teachings.²¹ It should be noted, however, that parts of it can already be covered in other courses during

414.205.1). At this point, we will not go into more detail about the recognition or transfer to a university master's programme (MLaw) with a bachelor's degree from a university of applied sciences, unless questions of compulsory instruction in international aspects of law play a major role here.

²⁰ In fact, this represents a simplification, because international aspects can of course already be dealt with in other subjects. However, in the compulsory basic training this is the exception (especially with the exception of international human rights protection in public law or certain aspects of the introduction to law).

²¹ See on the development of the education in international law in Switzerland: Ziegler (n.1). For a very general overview on other countries see Hobe and Marauhn (n. 2).

basic training. A particularly good example of this is the fact that the protection of fundamental rights (usually in compulsory lectures on constitutional law) can hardly be taught meaningfully without references to international and regional (European) law (especially ECHR). Nevertheless, in the following presentation, we will refrain from examining the compulsory lectures in public law as to what extent they deal with international sources (especially in the protection of fundamental rights).

European law

In addition, the present study includes European law,²² which is closely related to the law of the European Union (EU) and is also partly combined with bilateral legal relations. Switzerland is a third country. Only rarely are sources from other European organisations (especially the Council of Europe or EFTA) dealt with.²³

Private International Law (and International Civil Procedure Law)

Furthermore, there is a long tradition in this country of teaching certain international aspects of private law (in particular conflict of laws) in separate lectures under the title Private International Law, possibly with special mention of aspects of procedural law (International Civil Procedure Law).²⁴

Comparative law

Comparative law has also traditionally played an important role in Switzerland in order to better identify the supranational context and possible conflicts between state legal systems.²⁵ Most of the lessons are either based on a more theoretical approach (comparative law, in particular with references to private law) or directly oriented towards a specific field of law (especially comparative constitutional law in addition to comparative private law). Increasingly, there is also a return to thematic teaching combining international, European and comparative aspects, as was often the case in the early days of institutionalised

²² See the development of teaching of European law in Switzerland, Ziegler (n. 1).

²³ See for characterisation and delimitation the common textbooks on European Law for Switzerland, e.g. Matthias Oesch, *Europarecht. Band I: Grundlagen, Institutionen, Verhältnis Schweiz-EU* (2nd edn, Bern 2019).

²⁴ See Marc-Philippe Weller, 'Die Lehre des Internationalen Privatrechts im deutschsprachigen Raum – Herausforderungen und Entwicklungspotentiale', in Hobe and Marauhn (n. 2).

²⁵ See on this topic, in particular, Kunz (n. 4).

research in this field.²⁶ However, this is rarely or never the case in Switzerland, at least in basic training or in compulsory education. It is rare to find compulsory lectures on important special areas such as international criminal law, international tax law, etc., already at this level.²⁷

If we take the modern university education of lawyers in Switzerland since the 19th century as a basis, these aspects were fundamentally recognised in the small state of Switzerland from the very beginning. In the development of domestic law, a respectable level of comparative law has been achieved, which has been at least partially incorporated into the training of lawyers, initially in private law in particular, and later also in public law (including criminal law). With the completion of the fundamental codifications, however, a reduction, even impoverishment, could be observed in many places in this area, which was advocated in particular by the representatives of practice-oriented training. The possibility of temporary training abroad (exchange programs, postgraduate programs, joint training courses) could only counteract the consequences of this tendency to a limited extent. In private law, Roman law (and the history of law) played an important role for a long time in tracing current institutions and norms back to common classical predecessors. However, this will not be discussed further in this paper.²⁸

Foreign languages (in particular legal terminology)

A specific issue in many training courses is the extent to which foreign language skills need to be promoted. Although this is often welcomed in principle, the question of whether specific courses (specialist terminology) must be offered and whether these are recognised as academic achievements is usually very controversial. In the following, the stock of such forms of

²⁶ For examples in Germany see the Kaiser-Wilhelm-Institut für ausländisches öffentliches Recht und Völkerrecht, Berlin (founded 1924), the Kaiser-Wilhelm-Institut für ausländisches und internationales Privatrecht, Berlin (founded 1926) or the academic journal 'International and Comparative Law Quarterly' (founded 1952). The Swiss Institute of Comparative Law (SIR) in Lausanne is a documentation and research centre for comparative law, foreign and international law (Art. 2 Bundesgesetz über das Schweizerische Institut für Rechtsvergleichung (SIRG) vom 28. September 2018 SR 425.1).

²⁷ Where this is exceptionally the case, however, it will be pointed out below.

²⁸ In addition to the general discussion on the role of Roman law (and on an obligatory course, possibly even with knowledge of Latin), an optional course at the University of Lausanne should be mentioned here. Professor Hansjörg Peter teaches there a course under the title 'Fondements communs du droit européen' (4 ECTS) at Bachelor level, which is offered in addition to the compulsory lessons in Roman law and history of law.

instruction will be listed, since the question is particularly relevant for Switzerland on the one hand because of its multilingualism and, in addition, access to foreign and supranational law without a certain foreign language (especially English) is no longer easily possible today. The fact that technological tools could change the situation even more in the future (Legal Tech) does not in itself mean that language skills do not remain essential for understanding and actively participating in legal developments.

Specific international aspects of domestic law

A particular problem is that the acquisition of international aspects of law abroad is in principle very desirable and positive. However, it does not guarantee an understanding of how exactly the Swiss legal system deals with international law or European law (rank, direct applicability, consideration of the case law of the European Court of Justice, etc.), or how the Swiss Private International Law or International Civil Procedure Law is presented (e.g. *ordre public* in the case law of the Federal Supreme Court or questions of sufficient domestic relevance in the recognition of foreign decisions or arbitral awards). This problem will not be discussed in detail here (as it is usually not reflected in the teaching programmes but will be included in the recommendations at the end of this article).

Part IV: State of affairs (academic year 2019/2020)

University of Lausanne (UNIL) – Law School

Compulsory subjects

The most comprehensive compulsory programme in international subjects (20 ECTS) and foreign languages (3 ECTS) of all the institutions examined here is currently offered by the Ecole de droit of the University of Lausanne.²⁹ Here, three compulsory courses are offered in the Bachelor's programme (BLaw) in the subjects of Public International Law (first year, Droit international public, 6), European law (6 ECTS, 2nd or 3rd year), and Private International Law/Comparative Law (2nd or 3rd year, 8 ECTS). This results in a minimum of 20 ECTS lessons in international subjects with guaranteed completion of the

²⁹ See 'Faculté de droit, des sciences criminelles et d'administration publique: Plan d'études (BLaw) 2019' (*Université de Lausanne*) <<https://www.unil.ch/ecolededroit/fr/home/menuinst/enseignement/bachelor-en-droit/reglements--plans-detudes.html>> accessed 8 May 2020.

subjects Public International Law, European Law, Comparative Law and Private International Law.³⁰

Foreign languages (in particular legal terminology)

The acquisition of 3 ECTS (1st or 2nd year) in German legal language (Langue juridique allemande) is also compulsory.

Electives (optional subjects)

At Bachelor level a course in Social Law can alternatively be taken in German instead of French. For the Master's programme, as in most law faculties, there is currently still a free choice of courses. Among other things, a specialisation in International and Comparative Law (Droit international et comparé) can be acquired. It is chosen by a large number of foreign students who are denied access to courses focusing on Swiss law. It should also be pointed out that there are still special programmes in German law, but these are mainly used by German students on exchange. There are also English-language continuing education programmes such as an LLM in International Business Law (MAS).

Universität Luzern (UNILU) – Law Faculty

Compulsory subjects

At the University of Lucerne³¹, the international subjects ‘Public International Law’ (4 ECTS in the 2nd semester)³² and ‘European Law’ (4 ECTS, in the 3rd semester)³³ are currently prescribed in the Bachelor's programme. A separate subject ‘Comparative Law’ or a lecture on comparative private law or

³⁰ See on the development Andreas R Ziegler and Jérôme Reymond, ‘L’enseignement lausannois du droit international public, de Barbeyrac à nos jours : un exemple de diversification’ in Denis Tappy *et al.*, (eds), *300 ans d’enseignement de droit à Lausanne: Mélanges offertes en honneur du Tricentenaire de la Faculté de droit et des sciences criminelles de l’Université de Lausanne* (Zurich 2010).

³¹ See ‘Fakultät III für Rechtswissenschaft: Studien- und Prüfungsordnung vom 28.9.2016’ (*Universität Luzern*) <https://www.unilu.ch/fileadmin/fakultaeten/rf/0_Dekanat_RF/Dok/reglemente/Studien-_und_Pruefungsordnung_2016.pdf> accessed 8 May 2020 and ‘Musterstudienplan’ (*Universität Luzern*) <https://www.unilu.ch/studium/lehrveranstaltungen-pruefungen-reglemente/rf/reglemente/#section=c75058> accessed 8 May 2020.

³² ‘Public International Law’ (*Universität Luzern*) <<https://vv.unilu.ch/details?code=FS201159>> accessed 8 May 2020.

³³ ‘European Law’ (*Universität Luzern*) <<https://vv.unilu.ch/details?code=HS191039>> accessed 8 May 2020.

comparative constitutional law is not compulsory, nor is Private International Law. This results in a total of 8 ECTS in international subjects.

Foreign languages (in particular legal terminology)

The compulsory acquisition of legal terminology in a foreign language is no longer required.

Electives (optional subjects)

At Master's level, there is once again complete freedom of choice.³⁴ Private International Law (5 ECTS) is offered here, but also International Family and Inheritance Law (5 ECTS), an Introduction to the Common Law System (5 ECTS) etc. In addition, a Master's profile 'International Law and Human Rights' is also offered.³⁵

Universität Freiburg (UNIFR) – Law Faculty

Compulsory subjects

At the University of Fribourg³⁶, the Faculty of Law at Bachelor's level (BLaw) requires a course in 'European and Public International Law' amounting to 9 ECTS to be completed in the first year. The courses are offered in German and French (students choose one of them) during two semesters (1st year of study). Private International Law and Comparative Law are not examined at this level.³⁷

Foreign languages (in particular legal terminology)

As far as foreign language teaching is concerned, it is possible within the framework of the BLaw to optionally obtain the additional qualification

³⁴ See § 19 'der Studien- und Prüfungsordnung der Rechtswissenschaftlichen Fakultät der Universität Luzern' (*Universität Luzern*, 28 September 2016) <<https://www.unilu.ch/studium/lehrveranstaltungen-pruefungen-reglemente/rf/reglemente/#section=c34921>> accessed 8 May 2020.

³⁵ See 'Masterprogramm' (*Universität Luzern*) <<https://www.unilu.ch/studium/lehrveranstaltungen-pruefungen-reglemente/rf/lehrveranstaltungen/#section=c14662>> accessed 8 May 2020.

³⁶ See 'Faculté de droit, Règlement du 28 juin 2006 (Etat le 10 décembre 2018) des études de droit' <<https://www3.unifr.ch/apps/legal/fr/document/790199>> accessed 8 May 2020.

³⁷ See 'Programme des cours' (*Université de Fribourg*) <<https://www3.unifr.ch/timetable/fr/>> accessed 8 May 2020.

‘bilingual’ by acquiring at least 72 ECTS credits in the second language (German or French) during the Bachelor's programme. This also includes writing a seminar paper in the other language of instruction. Alternatively, an entire examination block and a proseminar paper can be completed in the second language in order to obtain this additional qualification. However, bilingualism is purely optional. Legal English is neither required nor offered at this level.

Electives (optional subjects)

Optionally, an additional qualification in ‘European Law’ can already be obtained at Bachelor level (BLaw) if the ‘Introduction to European Private Law’ (4 ECTS) and the course ‘Internal Market Law’ (4 ECTS) as well as a seminar paper of 3 ECTS on a topic of European Law are completed. At the Master's level, there is a free choice of subjects with the possibility of specialising in European law.³⁸ In the postgraduate area various international programs are offered.

In addition, the Faculty of Economics and Social Sciences (in cooperation with the Faculty of Law) offers a ‘Bachelor of Arts (BA) in Economics and Law Studies’. Students complete two thirds of their studies at the Faculty of Economics and Social Sciences (major subject in ‘Management and Economics’, 120 ECTS credits) and the remaining third at the Faculty of Law (major minor subject in ‘Law’, 60 ECTS credits). In accordance with the regulations for students with law as a minor subject, students can compile their own programme at the Faculty of Law during their entire Bachelor's programme. Therefore, there are no compulsory courses in international law. Due to its strong focus on economics, it will only be equated with a BLaw in exceptional cases (with conditions), if an MLaw study or the admission activity for which a BLaw is normally required is pursued.³⁹

³⁸ See ‘Faculté de droit, Règlement du 28 juin 2006 (Etat le 10 décembre 2018) des études de droit’ (*Université de Fribourg*)

<<https://www3.unifr.ch/apps/legal/fr/document/790199>> accessed 8 May 2020.

³⁹ See on this issue the comments on the BLE programme of the University of St. Gallen (Part IV.4), as the university promises to graduates of this programme an access to the bar exams throughout Switzerland.

Universität St. Gallen (UNISG) - Law Department

Compulsory subjects

At the University of St. Gallen⁴⁰, 3 ECTS in ‘Public International Law’ and 3 ECTS in ‘European Law’ are compulsory in the 5th semester within the framework of the classic BLaw, and in the 6th semester additionally 3 ECTS in ‘Private International Law’, resulting in a compulsory program of 9 ECTS in international subjects. Comparative law is not offered at this level.

The Law School of the University of St. Gallen also offers a Bachelor of Arts in Law and Economics (BA HSG in Law with Economics, BLE), which, like a BLaw (after completion of the Master's degree), is intended to guarantee access to the legal internship. In this programme, the programme completely dispenses with lectures in international and European law. Only the lecture ‘Private International Law’ in the 6th semester (3 ECTS) is compulsory.⁴¹

Foreign languages (in particular legal terminology)

Foreign language teaching is compulsory for all students at the University of St. Gallen during the assessment year (1st year). Since the Law course can only be started in German, 4 ECTS must be acquired in a foreign language. This is not necessarily legal terminology. Within the framework of this compulsory course, the University recommends that prospective lawyers choose the ‘English for Law’ course.⁴² It is also possible to take the course ‘Le français du droit’ instead.⁴³

⁴⁰ ‘Curriculum: Die Bachelorausbildung setzt sich aus einem Fachstudium (96 ECTS) und einem Kontextstudium (24 ECTS) zusammen’ (*Universität St. Gallen*) <<https://www.unisg.ch/de/studium/bachelor/majorrechtswissenschaft/curriculum>> accessed 8 May 2020.

⁴¹ As a result, e.g. the only admits these students to their Master Programme if they acquire additional credits in international (Public and Private) and European Law (and other courses). ‘Zulassung’ (*University of Zurich*) <<https://www.ius.uzh.ch/de/studies/general/admission.html>> accessed 8 May 2020.

⁴² ‘Englisch: Ziel der Englischkurse im Assessmentjahr ist es, Ihnen eine Einführung in die Sprache der Wirtschaft und der Wirtschaftswissenschaften zu geben’ (*Universität St. Gallen*)

<[https://www.unisg.ch/de/studium/bachelor/assessmentjahr/curriculum/kontextstudium/Foreign_languages_\(in_particular_legal_terminology\)/englisch](https://www.unisg.ch/de/studium/bachelor/assessmentjahr/curriculum/kontextstudium/Foreign_languages_(in_particular_legal_terminology)/englisch)> accessed 8 May 2020.

⁴³ *Ibid* at ‘Französisch ‘La communication professionnelle’: Im Mittelpunkt des Kurses steht die spezifische Sprache der Unternehmenswelt’

Electives (optional subjects)

At Master's level, there is a large degree of freedom of choice, with numerous courses being offered and foreign languages can also be used (especially English).⁴⁴ In addition, the School of Economics and Political Science (SEPS-HSG) offers a Master's programme in International Law (MIL), which is offered in English. In the Programme Master in Law and Economics (MLE) there is a compulsory Course in 'Public International and European Law' in order to compensate the lack of instruction at the Bachelor Level (BLE). As it is, however, not guaranteed, that students take this Master programme after the BLE, it shall not be counted in this survey.⁴⁵

Universität Bern (UNIBE) – Law Faculty

Compulsory subjects

At the University of Bern, the lecture 'Public Law I: Public Law I: Introduction to Public International Law and Administrative Law' in the 2nd semester also includes a compulsory introduction to Public International Law (4.5 of 9 ECTS).⁴⁶ In the third semester, the lecture 'Public Law II: State Organizational Law and Introduction to European Law' is completed, whereby it must again be assumed that only half can be attributed to European Law (1.5 of 3 ECTS). There is no obligatory offer at this level in Private International Law or Comparative law. It can therefore be assumed that there is a compulsory programme of about 6 ECTS in international subjects.

Foreign languages (in particular legal terminology)

There are no compulsory courses in foreign languages.

⁴⁴ 'Pflichtbereich

Der Major Recht sieht Pflichtfächer vor, die von allen Studierenden des Majors zu belegen sind' (*Universität St. Gallen*)

<<http://www.unisg.ch/de/studium/bachelor/majorrechtswissenschaft/curriculum/pflichtbereich>> accessed 8 May 2020.

⁴⁵ University of St. Gallen, Masterprogramme/Graduate Programmes 2019, 93.

⁴⁶ See 'Studienplan für das Bachelor-Monoprogramm und das Master-Monoprogramm in Rechtswissenschaft vom 16.10.2014 und Anhänge zum Studienplan für das Bachelor-Monoprogramm und das Master-Monoprogramm in Rechtswissenschaft vom 16. Oktober 2014' (*Universität Bern*, 1 August 2019)

<https://www.rechtswissenschaft.unibe.ch/studium/studienprogramme/bachelor_rechtswissenschaft/index_ger.html> accessed 11 May 2020.

Electives (optional subjects)

At Master's level, there is a large degree of freedom of choice, with numerous courses being offered and foreign languages can also be used.

Universität Zürich (UZH) – Law Faculty

Compulsory subjects

At the University of Zurich, the international subjects are offered in postgraduate studies (2nd and 3rd year of BLaw).⁴⁷ The ‘Public International Law/European Law’ module is spread over 2 semesters and comprises the courses ‘Public International Law’ (3 ECTS) and ‘European Law/Institutions’ (3 ECTS). Within the framework of the planned Study Reform 2021 this area should be upgraded from 6 to 9 ECTS.⁴⁸ There is a combined module ‘Private International Law and Civil Procedure Law’ (6 ECTS) which is equally compulsory during the 2nd or 3rd year of the BLaw programme. It would still be requested after the study reform. This means that 12 ECTS are currently available in international subjects, whereas 15 ECTS would be required after the study reform.

Foreign languages (in particular legal terminology)

There is no obligation to learn foreign languages or take courses in foreign languages.

Electives (optional subjects)

A wide range of international subjects is offered, especially at Master's level. There are also numerous postgraduate courses.

⁴⁷ ‘Bachelorstudium’ (*University of Zurich*)
<<https://www.ius.uzh.ch/de/studies/bachelor.html>> accessed 11 May 2020.

⁴⁸ ‘Bachelor of Law’ (*University of Zurich*)
<<https://www.ius.uzh.ch/de/studies/bologna21/bachelor.html>> accessed 11 May 2020.

University de Genève (UNIGE) – Law Faculty

Compulsory subjects

Public International Law (Droit international public, in the 2nd year, 6 ECTS), Private International Law (Droit international privé, 5 ECTS, in the 5th semester) and European law (Droit de l'Union Européenne, 4 ECTS) are compulsory in the 2nd or 3rd year of study. This results in 15 ECTS and compulsory international subjects.⁴⁹

Foreign languages (in particular legal terminology)

At Bachelor's level, a course German Legal Terminology (Allemand juridique, 2 ECTS) is compulsory.⁵⁰

Electives (optional subjects)

Already at Bachelor's level, various special courses in international law (e.g. IHR, International Criminal Law, etc.) but also in comparative private law (e.g. Droit civil Européen: les principes de la responsabilité civile) can be optionally taken. A particularly wide range of international subjects is also offered, particularly at Master's level. In addition, there are numerous further education opportunities at postgraduate level.

University de Neuchâtel (UNINE) – Faculty of Law and Economics

Compulsory subjects

Public International Law (Droit international public, 6 ECTS) is compulsory in the second year of study at the University of Neuchâtel and European Law (Droit européen institutionnel, 6 ECTS) and Private International Law (Droit

⁴⁹ 'Plan d'études et horaires des cours' (*University of Geneva*)

<<https://www.unige.ch/droit/etudiants/programme-et-calendriers/plan-etudes/>> accessed 11 May 2020.

⁵⁰ 'Baccalauréat universitaire en droit (Bachelor of Laws)' (*University of Geneva*) <<http://www.unige.ch/droit/etudes/formation/bachelor.html>> accessed 11 May 2020.

international privé, 6 ECTS) in the third year (6th semester). This means that 18 ECTS are guaranteed for international subjects.⁵¹

Foreign languages (in particular legal terminology)

In the second semester, a course in German Legal Terminology (Terminologie juridique allemande) must also be attended (3 ECTS).

Electives (optional subjects)

Especially at Master's level, a quite attractive range of international subjects is also offered.

Universität Basel (UNIBAS) – Law Faculty

Compulsory subjects

In the 5th semester, a course in Public International and European Law (6 ECTS) is compulsory at the University of Basel. Comparative Law and Private International Law are not offered nor examined.⁵²

Foreign languages (in particular legal terminology)

There is no compulsory education in legal foreign language terminology.

Electives (optional subjects)

Within the framework of the 'Fundamentals of Law', which are designed as elective courses, BLaw students are also offered two courses: 'The major legal systems from the perspective of public law' and 'The major legal systems from the perspective of private law'. However, other courses can also be attended in

⁵¹ 'Bachelor en droit' (*University de Neuchâtel*)

<<http://www10.unine.ch/descriptifs/faculte-de-droit/bachelors/bachelor-en-droit/>>
accessed 11 May 2020.

⁵² See 'Ordnung für das Bachelorstudium Rechtswissenschaft der Juristischen Fakultät der Universität Basel vom 1. Dezember 2011' (*University of Basel*)

<<https://www.unibas.ch/dam/Oeffentliche->

Dokumente/Rechtserlasse_LegalRegulations/JuristischeFakultaet_FacultyofLaw/Bachelor_Bachelor/446_210_03/446_210_04.pdf and

<https://ius.unibas.ch/studium/studiengaenge/bachelorstudiengang/pruefungsordnung/>>
accessed 11 May 2020.

their place. However, a wide range of international subjects is offered, especially at Master's level.⁵³

Fernuniversität Schweiz und UniDistance (Brig)

Compulsory subjects

For some years now, the Distance Learning University of Switzerland or UniDistance has also been offering training in law (BLaw in both languages, MLaw so far only in German).⁵⁴ The Bachelor's degree does not offer independent courses in the international subjects examined here. This is justified by the fact that these aspects are given space in the other courses.⁵⁵ Certain universities therefore only admit these bachelor's students with conditions, although it is not guaranteed that this will compensate for the lack of knowledge of international aspects of law.⁵⁶ Only at Master's level (which is currently only offered in German) is there a compulsory module.⁵⁷

Foreign languages (in particular legal terminology)

There is no mandatory requirement. At Bachelor's level, students have the opportunity to complete the individual modules of their choice in either German or French. If 60% of the modules are taken in the main language (German or French) and 40% in the second language, the students will receive a Bachelor's degree with the addition 'bilingual'. However, there is no compulsory course.

Electives (optional subjects)

In addition, the optional modules 'Private International Law' (M 05, 10 ECTS) and/or 'European Law' (M 13, 10 ECTS) can be taken at Master's level.

⁵³ See Modul: Grundlagen des Rechts (Bachelorstudium: Rechtswissenschaft).

⁵⁴ See 'Programme du Bachelor en droit' (*UniDistance.ch*)

<<https://unidistance.ch/droit/bachelor/modules/>> accessed 11 May 2020.

⁵⁵ Personal information of the person in charge Prof. Adriano Previtali (25 January 2019).

⁵⁶ At the University of Zurich, students with a BLaw from the Fernuniversität Brig are normally admitted to the MLaw UZH with a requirement of 6 ECTS credits (See 'Zulassung Master of Law' (*University of Zurich*)

<https://www.ius.uzh.ch/de/studies/master/admission.html>) accessed 12 May 2020.

⁵⁷ 'Master-Studium Recht' (*Bildung-Weiterbildung*) <<https://www.ausbildung-weiterbildung.ch/SchuleFrame.aspx?schoolID=2180>> accessed 12 May 2020.

Zürcher Fachhochschule – ZHAW (Winterthur)

Compulsory subjects

A ‘Bachelor (BSc) in Business Law’ is offered at the Zurich University of Applied Sciences (ZHAW = Zürcher Hochschule für Angewandte Wissenschaften).⁵⁸ It is sometimes possible to be accepted into an MLaw program of a university with certain conditions (especially University of Lucerne⁵⁹). Other universities credit achievements (e.g. University of Zurich⁶⁰ or Neuchâtel⁶¹). In Winterthur, a course in Public and Private International Law (6 ECTS) is examined in the third semester. In addition, there are also compulsory courses in European Law (6 ECTS) and a course in Anglo-American Law (3 ECTS) in the fourth semester. These are all offered in English only. There is therefore a relevant compulsory programme of 18 ECTS.

Foreign languages (in particular legal terminology)

In addition to the English courses already mentioned, a total of 12 ECTS in Legal English must be completed in the Bachelor's degree (4 courses, 3 ECTS each). In addition, there are compulsory courses in ‘Language and Law’ (3 ECTS) and ‘Communication and Law’ (3 ECTS).

Electives (optional subjects)

In the Bachelor's degree, certain elective modules (12 ECTS in total) must be completed. There are options in the relevant subjects (e.g. International Tax Law or ‘International Trade and Policy’), but these can also be avoided. Among other things, there is a Master (MSc) in Management and Law.

⁵⁸ ‘Modultafel Bachelorstudiengang Wirtschaftsrecht Vollzeit, ab Herbstsemester 2014’ (ZHAW)
<https://filestore.sml.zhaw.ch/modultafeln/bachelor/14_modultafel_bl_vz.html> accessed 12 May 2020.

⁵⁹ See ‘Studien- und Prüfungsordnung StuPO 2016 und Wegleitung Zulassung zum Masterstudium unter Auflage [«Passerelle»]’ (Universität Luzern)
<<https://www.unilu.ch/studium/lehrveranstaltungen-pruefungen-reglemente/rtf/reglemente/#section=c34921>> accessed 12 May 2020.

⁶⁰ ‘Zulassung’ (University of Zurich)
<<https://www.ius.uzh.ch/de/studies/general/admission.html>> accessed 12 May 2020.

⁶¹ ‘Master of Law’ (University de Neuchâtel)
<<https://www.unine.ch/droit/en/home/formations/master.html#cid1da725dc-71a1-4809-b5e9-b7ec7fbf2797>> accessed 12 May 2020.

HES-SO – HEG Arc (Neuchâtel)

Compulsory subjects

The University of Applied Sciences of Western Switzerland (HES-SO) also offers a Bachelor of Science in Business Law for French-speaking Switzerland through its HEG Arc (Neuchâtel Berne Law) in Neuchâtel (BSc HES-SO en Droit économique - Business Law - 180 ECTS).⁶² In Neuchâtel, for example, this training can also explicitly lead to the recognition of certain achievements in the admission to the BLaw course.⁶³ Half of the lectures are devoted to legal subjects.⁶⁴ In Module 5 two courses (Droit international 1: Droit européen and Droit international 2 : DIP with 2 ECTS each) are internationally oriented (one each in the 1st and 2nd semester). There is also a course Private International Law (Droit international 3: Droit international privé, 2 ECTS) in the 4th semester and a course Common Law (in English - 4 ECTS) also in the 4th semester. In addition, a course Free Movement (Libre circulation, i.e. internal market law of the EU or EU/CH - 1 ECTS) is compulsory in the 3rd semester (part of the module Droit public 2). Totally, 11 ECTS relating to international aspects will be required.

Foreign languages (in particular legal terminology)

There is a relatively strong emphasis on compulsory foreign language training. In the Communication block, Module 2 requires two courses in German (Allemand 1 with 2 ECTS and Allemand 2 with 3 ECTS) and two courses in English (Anglais 1 with 3 ECTS and Anglais 2 with 2 ECTS) (1st and 2nd semester). In addition, there are the courses Legal German (Allemand juridique, 2 ECTS) and Legal English (Anglais juridique, 2 ECTS) in the 3rd semester and a course Commercial English and German (Anglais et allemand commercial, 2 ECTS) in the 4th semester. This means that at least 16 ECTS are dedicated to the foreign language English or the second national language German.

⁶² ‘Bachelor of Science HES-SO en Droit économique’ (*Haute école spécialisée de Suisse occidentale*) <<https://www.hes-so.ch/fr/bachelor-droit-economique-1463.html?theme=T8>> accessed 12 May 2020.

⁶³ *Supra* n.61.

⁶⁴ See ‘Plan d’études’ (*Haute école spécialisée de Suisse occidentale*) <<https://www.he-arc.ch/gestion/bachelor-bl>> accessed 12 May 2020 and ‘Descriptifs des modules’ (*Haute école spécialisée de Suisse occidentale*) <<https://www.he-arc.ch/reglementation>> accessed 12 May 2020.

Electives (optional subjects)

Some of the options (especially in the 5th and 6th semester) also contain international elements. At the moment no consecutive Master is offered. However, there is an offer within the framework of the continuing education programme for the MAS Fight against economic crime (Lutte contre la criminalité économique).

Kalaidos University of Applied Sciences Switzerland (Zurich)

Compulsory subjects

For some years now, the private Kalaidos University of Applied Sciences Switzerland has also been offering a degree in business law (Bachelor of Science FH in Business Law). While in several courses there seem to be minor elements of international (Private and public law) it seems not justified to establish that there is actual guaranteed instruction in international aspects. Within the framework of ‘Case Management in Public Law III’ (6 ECTS), however, cases are also dealt with in International Law (2 ECTS).⁶⁵

This institution offers now also a Bachelor in Law (Bachelor of Arts in Law Kalaidos FH, 180 ECTS) and a Master in Law (Master of Arts in Law Kalaidos FH, 90 ECTS).⁶⁶ There is no compulsory presence. In the third year of the bachelor's programme, a course in ‘International Law’ (6 ECTS) is examined, which deals with the basics of both European and Public International Law. Within the framework of ‘Case Management in Public Law III’ (6 ECTS), cases in Public International Law are also dealt with (2 ECTS), which means that approximately 8 ECTS are devoted to international aspects.⁶⁷

Foreign languages (in particular legal terminology)

There is no mandatory requirement.

⁶⁵ ‘Bachelor of Science FH in Wirtschaftsrecht’ (*Kalaidos Fachhochschule*) <<https://www.kalaidos-fh.ch/de-CH/Prorektorat-Lehre/BBA-WR#fakten>> accessed 12 May 2020.

⁶⁶ ‘Master in Law’ (*Kalaidos Fachhochschule*) <<https://www.kalaidos-fh.ch/de-CH/Lawschool/Studium/Master-of-Law/>> accessed 12 May 2020.

⁶⁷ ‘Bachelor of Law’ (*Kalaidos Fachhochschule*) <https://www.kalaidos-fh.ch/de-CH/Lawschool/Studium/Bachelor-of-Law/Hauptstudium> accessed 12 May 2020.

Electives (optional subjects)

At Master level (Master of Arts in Law Kalaidos FH) further modules on international aspects are offered, currently International Private and Procedural Law (6 ECTS) and International Contract Law (3 ECTS).⁶⁸ In addition, specific further education courses (MAS) in (international) tax law are offered.⁶⁹

Part V: Analysis and Recommendations

The following is a personal assessment based on the findings in Part IV and taking into account the general framework presented in Part I. The references and theoretical considerations are limited to the absolutely necessary. The main goal is to stimulate discussion and provide decision makers in Switzerland and elsewhere with ideas.

As outlined in the introduction, globalisation and the current state of society need more understanding of the international aspects of problems and legal solutions available. Climate change, migration, poverty, terrorism, pandemics (like COVID 19) etc. all require international cooperation - or at least a good understanding to what extent domestic solutions are affected by those taken in other countries. This relies on an understanding (concepts, language) of international and foreign law. In addition, universities must teach the skills to (quickly) find the information and assess it. This is best done through a good introduction to the foundations of international, European and comparative law and the respective skills (languages, research tools etc.) and the integration into all other courses in order to apply these skills and understand the specific international aspects of the various areas of law (private law, public law, criminal law etc.). This seems particularly important in the often less developed teaching of public law, most importantly when it comes to administrative law (in the large sense) such as taxation, health law, environmental law, migration law, economic law, financial law etc.

⁶⁸ 'Module' (*Kalaidos Fachhochschule*) <<https://www.kalaidos-fh.ch/de-CH/Lawschool/Studium/Master-of-Law/Module>> accessed 12 May 2020.

⁶⁹ 'Weiterbildung - MAS/LL.M.' (*Kalaidos Fachhochschule*) <<https://www.kalaidos-fh.ch/de-CH/Lawschool/Weiterbildung/Weiterbildung-MAS-LLM>> accessed 12 May 2020.

Overall, the results of the present overview for the compulsory internationally oriented services in traditional legal education (BLaw and MLaw) in Switzerland can be summarised as follows:

There are considerable differences in the compulsory training in international aspects between law graduates in Switzerland

While the University of Lausanne, for example, makes 20 ECTS obligatory in the relevant subjects and 3 ECTS for German legal terminology at the basic level, a BLaw from UniDistance can be obtained without having to do any work in this regard (0 ECTS). At most Swiss-German universities (Basel, Bern, Lucerne, St. Gallen), only 6-9 ECTS in international and European law are offered. With the study reform, Zurich is increasing the number of ECTS to 15, thus catching up with Geneva. Neuchâtel cultivates the French-language tradition with 18 ECTS, while the Fribourg also only offers 9 ECTS (be it in French or German).

Fernstudien Schweiz (the only distance-learning university in the country) offers 10 ECTS, but since these are only obtained at Master's level (which exists only in German), there is a risk of total avoidance when changing university. Thus, both distance learning courses do not provide any guarantee that international aspects have been examined at the BLaw level. The same holds true for the Business Law Education at the private Kalaidos UAS.

There is certainly no common Swiss concept. Certain institutions should urgently reconsider their minimum requirements. On the other hand, the Bachelor's programmes offered by the universities of applied sciences (BA and BSc) are average (BA, Kalaidos UAS) or even belong to the top group (BSc, ZHAW and HES-SO) in terms of internationality.

The universities in French-speaking Switzerland (except Fribourg and UniDistance) generally outperform the German-speaking universities (Basel, Bern, Lucerne, Freiburg, St Gallen Fernstudien Schweiz) while the University of Zurich will be closer to the leaders when it introduces its proposed reform 2021. The timing of the lessons probably plays a rather subordinate role in assessing the number of ECTS and attendance lessons.⁷⁰ St. Gallen can close

⁷⁰ Though I must admit that teaching at the beginning of legal education involves a lot of conceptual work that could or should be dealt with in more general foundational courses (Methodology, Introduction to Law etc.). This subject should be developed further in future research in this respect.

the gap to the midfield by teaching languages. However, the amount of teaching in the BLE programme is clearly in the lower range.

I would strongly recommend introducing adequate compulsory teachings of international law (public and private) as well as European law during the early years of legal education (Bachelor where applicable). This is the only way to make sure that students understand the challenges and connections in all areas of law while studying them in a more detailed way. In addition, it is the only way to guarantee student mobility (between institutions, programmes, and even university systems) without risking that some students never acquire the necessary skills and tools (as it can even be the case within a system, as shown for Switzerland). It becomes even more dangerous and painful if students move globally and lack the sufficient foundations to understand the legal problems and challenges when studying specialized field of international or foreign law.⁷¹

The Swiss Society for International Law (SVIR/SSDI)⁷², the Swiss Association for European Law (ASDE)⁷³ and the Swiss Branch of the International Law Association (ILA-Suisse)⁷⁴ should urgently address the minimum requirements in this area and make appropriate recommendations to the relevant institutions. This is probably true for many university systems at this stage. The example of the German Society for International Law and its resolutions could serve as examples. At the European Level, the respective organisations like ESIL (European Society of International Law), FIDE (Fédération Internationale Pour Le Droit Européen) or the European Law Institute (ELI) could envisage a common initiative. European Law Faculties Association (ELFA) could play a major role in this respect.⁷⁵ and at the international level, the International Law Associations (ILA) has undertaken such efforts in the past. Nowadays the

⁷¹ As I often observe personally when I teach very motivated students at Master level who simply lack the necessary skills to take advantage of the courses offered at this level as their home institutions did not ensure the teaching of the international aspects as outlined in this article.

⁷² 'Schweizerische Vereinigung für Internationales Recht Société suisse de droit international' (SVIR-SSDI) <<http://www.svir-ssdi.ch/fr/>> accessed 12 May 2020.

⁷³ 'Association suisse pour le droit européen' (ASDE) <<http://www.asde.ch/>> accessed 12 May 2020.

⁷⁴ 'International Law Association – Swiss Branch' (Université de Lausanne) <<http://www.ilasuisse.ch>> accessed 12 May 2020.

⁷⁵ See above Part I on the existing initiatives.

Global Network for International Law, a relatively recent informal body could be a good forum.

Public International and European law is almost always offered at Bachelor level, but as it is not guaranteed certain graduates may miss out completely

International and European law is almost always offered at Bachelor level. Only FernstudienSchweiz/UniDistance does not impart proven knowledge at Bachelor level in this field. The University of St. Gallen also completely dispenses with lectures in 'International and European Law' in its BLE programme (BA HSG in Law with Economics), which, like a BLaw, is supposed to guarantee access to the bar exam. At these institutions, this can very easily lead to students not acquiring any knowledge at all during their education in this field (because, as has been shown, there is no guarantee at Master's level either or they may change institution before they get to the respective compulsory training).

It would therefore be desirable that the University of St. Gallen (BLE programme) and the Distance Learning University Switzerland/UniDistance (Brig) should also teach international and European law at the Bachelor level. Until then, it is recommended that the other universities, when admitting students to the MLaw programme, demand missing knowledge in the form of conditions.

European Systems that have not introduced the option of easily switching institution after obtaining a Bachelor may have more flexibility in this respect. It should be recalled however, that this mobility has many advantages, in particular to allow students to spend more time in another legal system. Therefore, the general introduction of international compulsory courses at Bachelor level certainly ensures a better compatibility and allows students to take advanced courses at Master level.

Private international law is rarely a compulsory subject at Bachelor level

In less than half of the universities in Switzerland, Private International Law is examined as a compulsory subject in the BLaw (3-6 ECTS). On the one hand, there are the purely French-speaking universities (Geneva, Lausanne, and Neuchâtel), and on the other hand, those that aim for an economic orientation (St. Gallen, Zurich). The latter also applies to education at the ZHAW (FH Winterthur) which will be discussed under Point 10.

It would be desirable for international aspects to be built into the Bachelor's degree in private law. This should take into account aspects of IPR and possibly also comparative law. Where this does not take place in a separate course, it should be ensured that compliance with these aspects is reported transparently and verifiably in the existing units.

It seems that this finding is rather common in most university systems and therefore this recommendation could be taken up again by the respective associations at national or international level (in particular ELI and the ILA which are more topical in this respect) but also ESIL, FIDE, ELFA, Global Network for International Law as the understanding of international law involves necessarily the private law aspects.

International Law and European Law are taught in virtually the same way in terms of scope

It can be seen that, despite the later development of European Law into a subject in its own right, teaching today has been able to bring it practically on a par with Public International Law (where these are taught). Often the lessons are combined anyway in a common course (but often with different lecturers). Geneva gives Public International Law slightly more space than European Law (4 as opposed to 6 ECTS) while Berne dedicates only 1.5 ECTS to European Law and 4.5 ECTS to Public International Law.

At least in Switzerland, - but probably also elsewhere, at least in Europe - it may not always be possible to teach Public International Law without covering the regional, i.e. European level. Therefore, it is difficult to draw conclusions on the effectiveness of these combinations. Nevertheless, one can certainly say that it would be appropriate to evaluate whether the understanding of regional structures and mechanisms (i.e. EU, Council of Europe, etc.) is safeguarded in the compulsory teaching. For transparency reasons it may make sense to clearly indicate this in the titles of the courses or at least in the course descriptions.

Comparative Law can easily be avoided

Comparative law is nowhere in Switzerland (any longer) considered to be compulsory except in Lausanne. Even here it is limited to comparative private law, which is certainly also due to the local tradition and the high regard in which the Swiss Institute of Comparative Law (SIR, Lausanne) is held for its long tradition and presence.

German (a second national language) is compulsory (to a small extent) at most French-speaking institutions

At the purely French-speaking universities in Switzerland (with the exception of UniDistance) German legal terminology is taught (to a small extent) (2-3 ECTS). In Fribourg, the indirect effect of bilingualism is emphasized. This is justified in view of the importance of legal writings and case law (which even at the Federal level is not officially translated) in German, the German-speaking part of the country being almost three times the size of the French-speaking part.

Therefore, the French-speaking distance-learning university (UniDistance) should also consider compulsory instruction in German legal terminology at Bachelor level. The teaching of legal terminology in a second national official language should not be seen as an additional obstacle to studying law but as a necessary requirement to understand law.

Similar conclusions may apply to other countries where several official languages are used but obviously this becomes more of a domestic issue, especially when these national languages are not particularly important of international law.

French (a second national language) is not compulsory at any of the German-speaking institutions

At the German-speaking universities (including German-language training in Freiburg), it is not considered necessary to require an obligatory understanding of French legal language. This clearly reflects the size of the language groups in Switzerland, as mentioned under Point 6. In St. Gallen there is a compulsory 4 ECTS in foreign languages. However, it does not have to be French, nor is legal terminology provided. Nevertheless, the University of St. Gallen recommends that you either take the course ‘Le français du droit’ or alternatively ‘English for Law’ as part of this compulsory course.

It would be desirable to ensure an understanding of French-language literature and case law in German-speaking Switzerland as well. Here again, the teaching of legal terminology in a second national official language (even of the minority) should not be seen as an additional obstacle to studying law but as a necessary requirement to understand law.

Again, one can consider this a mostly domestic objective, but here it can in addition be useful to understand documents from international organizations (admittedly less so today than in the past) and other regions (such as French-speaking Africa). Obviously French-speaking countries (e.g. in the framework of the Francophonie) have a particular interest in this respect as it became clear e.g. recently in discussions held at the Global Network for International Law in the Hague (2019).⁷⁶

English or specific English legal terminology is mostly lacking in compulsory training

To date, no university institution in Switzerland requires students to prove their English language skills in order to obtain a BLaw. In St. Gallen there is a compulsory 4 ECTS in foreign languages. However, it does not have to be English, nor is legal terminology mandatory. Nevertheless, the University of St. Gallen recommends that students take either the course ‘Le français du droit’ or alternatively ‘English for Law’ as part of this compulsory coursework. The universities of applied sciences offering law programmes in Switzerland (ZHAW and the HES-SO but not Kalaidos, see below Point 10) go much further in this respect by examining specific achievements in ‘Legal English’ and compulsory lectures in English.

All institutions should consider ensuring that students have a knowledge of Legal English. As for the teaching the legal terminology in a second national official language, this should not be seen as an additional obstacle to studying law but as a necessary requirement to understand law (in a globalized) world as such.

In the optional area, many (Swiss) institutions stand out with a comprehensive range of foreign language and international courses, but it is not used to assure an overall minimum

Traditionally, the offer of elective courses in Public International Law, European Law and Private International Law is relatively good in Switzerland. Even with regard to comparative law, for example, most traditional law faculties at universities can offer courses (especially the bigger ones). In addition, in recent years an increasing number of continuing education courses (mostly in English) have been developed. At many institutions, these are in

⁷⁶ See n. **Error! Bookmark not defined.**

business law, and in Geneva (and to a lesser extent elsewhere) in international humanitarian law and human rights. The programmes in European law have tended to decline in importance due to the slow development of the institutional relations between Switzerland and the EU.⁷⁷

It would be advisable to make better use of the resources tied up in optional courses, even in the compulsory area, and to ensure that international aspects are guaranteed as a fundamental part of the basic training (Bachelor) of all lawyers. There is a risk, that most resources available are used for a small group of interested students and do not reach most students. This is particularly true when these resources are mostly used for exchange programmes with foreign students and courses taken by students lacking a knowledge of Swiss law. This is not to say that these offers are not important⁷⁸, but it seems wasteful not to make sure these offers are also used to assure the understanding of international aspects by those students who will be shaping the domestic legal environment, i.e. judges, prosecutors, attorneys, notaries, and civil servants in general.

Similar problems are known, at least from the neighbouring countries (in particular France and Germany) where international aspects remain somewhat exotic and irrelevant for the examinations organized by the State. While not a new trend, this problem should be addressed again with more vigour.

Alternative legal programmes (universities of applied sciences, economic and social science departments) are much more innovative in introducing offers relevant under international law

As in other areas, legal education in Switzerland is subject to new trends. While the classical education (BLaw and MLaw) still dominates, many universities also offer Bachelor and especially Master programmes with a more interdisciplinary character (especially law with economics). Master programmes with a strongly international character (e.g. MIL St. Gallen or MIL IHEID) are also on the rise here. While these programmes are expanding the range of educational opportunities and thus the educational profiles, the clarity of course decreases at the same time.

⁷⁷ See, for example, Andreas R. Ziegler, 'Die de facto-Mitgliedschaft der Schweiz in der EU: Binnen- und Aussenbeziehungen' (2007) 10 *Zeitschrift für Europarechtliche Studien* 247.

⁷⁸ Certain university systems have even created a business model on this basis, see e.g. for the United Kingdom, Røben (n. 3).

In addition, there are also the offers of universities of applied sciences, which are also new for Switzerland. The question of sufficient training in international aspects of law also arises here. It appears that some programmes are clearly focusing on internationalisation.

This diversity in legal programmes makes it all the more important to analyse the profile of an applicant with regard to the activity he or she wishes to pursue. With regard to admission to the regulated professions (lawyer, notary, public prosecutor, judge etc.) this problem is already known, but will require additional clarification in the coming years. The professional associations (Swiss Society for International Law, Swiss Association for European Law, Swiss Lawyers Association etc.) are invited to become more involved in this area.

The concretisation of international aspects in relation to domestic law is not necessarily addressed

A particular problem is that the international aspects of the law must be specified in concrete terms with regard to their significance for Swiss law. This is not always ensured. On the one hand, this can happen if the reference to the positive law of Switzerland (and in particular the case law of the Federal Supreme Court) is not made in the respective teaching in Switzerland. Furthermore, although the acquisition of international aspects of law abroad is, in principle, highly desirable and positive, it also does not guarantee an understanding of how the Swiss legal system exactly deals with international law or European law (rank, direct applicability, consideration of the case law of the European Court of Justice, etc.), or how the Swiss Private International Law is presented (e.g. *ordre public* in the case law of the Federal Supreme Court or questions of sufficient internal reference in the recognition of foreign decisions or arbitral awards).

It must be ensured that the international aspects are concretized in relation to Swiss law. The training institutions must ensure that this problem is taken into account in teaching and in the recognition of services provided abroad. Here the example of Germany, where the international and European aspects and their interrelations ship with German Law are usually only taught in a compulsory course as a continuation of the teaching of domestic public law (Staatsrecht III)⁷⁹ could be used as an inspiration (though it should not replace

⁷⁹ See Hobe and Marauhn (n. 3).

the more comprehensive compulsory teaching of international aspects as it is currently the case in Switzerland).

Quality and transparency with regard to international aspects, or even a conceptual approach, are not guaranteed

Traditionally, Switzerland (and rightly so) places great emphasis on academic freedom. In the case of traditional universities, the quality of teaching was normally assured by reputation and informal peer review and by reputation. Normally, it is the national and international professional associations that are particularly challenged in this respect. The management of the institutions concerned should be interested in ensuring their own quality in this way. Due to the many new actors and new forms of organisation, this is not always possible today.

The Swiss academic associations (especially the Swiss Society for International Law, the Swiss Association for European Law and the Swiss Branch of the ILA) would be well advised to ensure that they are interesting and relevant to all lecturers in the subjects concerned. The universities and the universities of applied sciences should be invited to ensure that the subjects concerned are adequately equipped, with clear responsibilities and transparency. It would be desirable for accredited institutions to develop a concept not only of their training as a whole or for individual courses, but also with regard to the appropriate consideration of international aspects. It could be worthwhile to ensure that national or international accreditation systems of law schools and programmes takes this aspect into due account. Potentially, the development of a label (e.g. by ELFA) could be such a means to increase awareness and transparency.

Part VI: Conclusion

The main finding of this article is that most universities in Switzerland offer enough courses on international aspects of law but do not ensure all their students get the minimum necessary. In addition, the language skills so necessary on the (Swiss) job market are too often left to the student and not guaranteed by the university when delivering a degree. This certainly contributes to the claim that universities do not prepare students well for the actual needs of employers. It is also unfair when no free language education is available at the universities (or elsewhere in the education system).

A third finding is that it is not easy for students to find out which universities are more diligent with regard to the adequate teaching of international aspects. The need for more transparency in this respect and the setting of certain minimum standards is being reinforced by new forms of education (in addition to the Bachelor/Master system, as it originally emerged in Switzerland – and many European Countries - from the Bologna reform) and new institutions (distance universities, universities of applied sciences, etc.). Ideally, the integration of foreign and international (including European) law would take place in all areas today. Such an integrated approach is, however, more difficult to achieve and it will take time before in all courses all levels of regulation can be integrated. Without a thorough introduction to the basic foundations and the skills necessary to find and apply non-domestic sources this can normally not work. This contribution therefore focuses on the existing situation where specific knowledge on the international aspects (or at least the foundations and skills/tools) are taught in separate courses. Personally, I would advocate an accreditation or label that improves awareness and transparency regarding this aspect.