

Teaching Intellectual Property at Estonian Universities

Heiki Pisuke*

I. Some general issues of teaching law in Estonia

BEFORE THE re-establishment of independence in August 1991, there was only one institution providing instruction in law in Estonia – the Faculty of Law of the University of Tartu¹. Political, economic and social reforms at the beginning of the 1990s brought along a great demand for lawyers. During recent years, legal studies have been very popular. Admission to the University of Tartu is highly competitive with several candidates competing for one student place.

Introduction of a market economy affected all fields of social life, including education, which developed into a well-selling product. To establish a private institution of higher education, it was only necessary to obtain a license from the Ministry of Education and Science. The state recognizes private education through the accreditation (or certification) procedure. Institutions whose programmes have been accredited by the state (under the supervision of the Ministry of Education) are entitled to award law degrees and diplomas on behalf of the state.

Some of the reasons for introducing private instruction in law in Estonia at the beginning of 1990s were the following:

- (1) The University of Tartu was not able to admit all students who wanted to study law;
- (2) The state had no resources to finance the expansion of law instruction in Tartu;
- (3) A lack of lawyers, and especially qualified lawyers, in practice (new private businesses and companies set-up by local and foreign investors offered many new legal jobs);
- (4) The Government needed more lawyers in connection with Estonia's preparations for accession to the European Union;

* Head of the Chair of Intellectual Property at the Institute of Law in Tallinn, University of Tartu. Former Vice Rector of the Institute of Law and Adviser to the Estonian Minister of Justice (1996-2003).

1. Established in 1632.

- (5) There was no law school in the capital Tallinn. The lack of lawyers was particularly felt in Tallinn and in its surrounding region where more than one third of the whole Estonian population is located;
- (6) For these reasons, the provision of legal education was a good business idea and investment which yielded good profits from the middle of 1990 to 2000. The state with its extremely liberal economic policies supported private initiative and investments also in the educational field.

By 2000, there was one public university offering legal education (the Faculty of Law of the University of Tartu), and ten private institutions of higher education teaching law in Estonia. The population of Estonia is 1.4 million. Of these ten private institutions of education, six were private universities and four were private institutions of applied education.

In 2000 five institutions provided general legal higher education (speciality of law), others provided academic programmes on bachelor and diploma level in international law, business law, etc. Of the eleven institutions providing higher education in law, only four law programmes had been accredited by the state, i.e., the university could award law degrees on behalf of the state. But each student who graduated from any of the institutions of higher education awarding law degrees could find a job in the field of law.

Such commercialisation of law education had, however, a short life. At the beginning of the 2000s the demand for lawyers dropped significantly, which resulted in a competition for lawyer positions. At the same time, a number of students discovered that they were studying at universities which charged high tuition fees but whose diplomas were not recognized by the state and not accepted by employers in traditional lawyer positions. Several private schools experienced financial difficulties and went bankrupt which aggravated the situation of students even further. These negative processes in private higher education have forced the Ministry of Education to make the requirements regarding private higher education institutions more stringent.

A number of other private schools merged. A major event in the Estonian legal education landscape was the merger of the Institute of Law, considered as one of the best private schools, with the University of Tartu in 2002. As a result, the University of Tartu expanded to Tallinn for the first time in history with its Institute of Law.

An important development in the Estonian educational system and legal education was the transition to the 3 years (bachelor) +2 years (master) +4 years (doctor) system in 2002 in accordance with the principles of the Bologna Declaration. Students who were enrolled earlier will finish their studies according to the 4 years +2 years +4 years system introduced in 1992.

II. The role of intellectual property in the law programme

After the re-establishment of Estonia's independence, the programme of legal education was substantially transformed. Although the names of courses taught remained the same to a large extent, their content changed 100 per cent. As regards intellectual property, a general course in IP (1.5 – 2 credits) was included as a compulsory subject in the programme both at the University of Tartu and in other accredited private schools already at the beginning of the 1990s. At present, the programmes of Tartu University and three private law schools include a general course in Intellectual Property. Within the framework of a general IP course, basic notions of IP, industrial property, copyright and related rights are taught. Some basic concepts of IP are also treated to some extent in the courses of civil law, contract law, private international law and EC law. Thus, it is an established fact that a general course in Intellectual Property is an obligatory component of the law programme in Estonia.

Of the universities in Estonia, the University of Tartu and its Faculty of Law in Tartu and the Institute of Law in Tallinn enjoy a special position in the teaching and research of Intellectual Property. The Chair of Private International Law, responsible also for teaching and research of IP, was founded in Tartu in 1992.² The Chair of IP at the Institute of Law was founded after its merger with the University of Tartu in 1992.

At present a general course of Intellectual Property is taught as a compulsory course during the 6th semester, and it gives to students 2 credits (1 credit amounts to 40 hours of classroom and individual work). According to the new curricula (3+2) the compulsory IP course of 2 credits is taught as part of the Master's Programme during the fourth year. The course aims at giving students a basic understanding of IP, industrial property, copyright and related rights, international agreements, protection of rights, etc.

The present programme of the University of Tartu includes alternative minors: Copyright (1,5 credits) and Industrial Property (1,5 credits). According to the new curricula (3+2) years, Copyright and Industrial Property will both enjoy 2 credits. The Copyright course enjoyed great popularity among the students when it was started. By now the popularity has somewhat dropped. This has probably been caused by the introduction of several new topical courses in the curriculum (medical law, consumer protection, information technology law, etc.). New courses are prepared, which will be launched during the years to come, including: Rights Related to Copyright (1 credit), etc. In principle, the programmes for teaching IP are the same in Tallinn and in Tartu. Traditional teaching methods (from theory to case law and practice) are applied.

2. In 1998, the Chair of Intellectual Property and Private International Law was founded at the Institute of Law, a private university at the time.

Specialised courses of IP addressing mostly copyright and related rights issues enjoy popularity also among Master's programme students of the Open University. During 2003, the course was launched for culture management students in Tallinn and in Tartu.

III. Research in IP at the universities

Scientific research conducted at the University of Tartu in IP includes topics like *Influence of International Developments on Estonian Copyright Law, Cultural Industries* etc. A new research topic *Private International Law and IP* was started in 2003. Several articles were published on these topics abroad³ and in Estonia, including in the Law Journal of the University of Tartu which is published in English – *Juridica International*.⁴ In May the first issue of IP Newsletter, published by the Institute of Law, was launched.

Members of the academic staff of the University of Tartu are actively involved in law drafting, but first and foremost in the field of copyright and related rights. The Draft Copyright Act of 1992 (CA), several Copyright Amendment Acts, the Rejoining of the Berne Convention Act (1994), and several others were drafted by members of the academic staff of the University. The Act of December 1999 harmonised the Estonian CA of 1992 with the corresponding EU directives. The University of Tartu and the Estonian Science Foundation recognize the drafting of new legislation and participation in legal drafting by members of the academic staff as research.

At present there is one doctoral student and 4 Master Programme students specializing in copyright at the University of Tartu. Good cooperation has been established with the Max Planck Institute for Foreign and International Patent, Copyright and Competition Law in Munich for the purposes of doctoral research in IP. Students can write course and graduation papers on various topics of IP, including copyright and related rights, and they actively use this possibility.

The University of Tartu is represented in the Government Copyright Committee attached to the Ministry of Culture. The Ministry also consults all the major copyright and related rights issues with the Chair of IP.

-
3. H. Pisuke, "Building a National Intellectual Property Protection System: Some Issues Concerning Copyright and Related Rights in Estonia", 42 *Scandinavian Studies in Law* 127-145 (2002); H. Pisuke and A. Kukrus, "The Enforcement of Industrial Property Rights in Estonia", 8 *International Review of Industrial Property and Copyright Law* 884-898 (2001); H. Pisuke, "Influence of Social Reforms and Information Society on Consumers in Transition Economy", in Th. Wilhelmsson, S. Tuominen and H. Tuomola (ed.) *Consumer Law in the Information Society* 31-44 (Kluwer Law International, The Hague, London, Boston, 2000).
 4. H. Pisuke, "Moral Rights of Author in Estonian Copyright Law" VII *Juridica International, Law Review* 166-175 (University of Tartu, 2002); A. Kalvi, "Copyright in the Constitutional Spectrum" VII *Juridica International Law Review* 158-165 (University of Tartu, 2002).