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CENTRAL EUROPEAN AND EURASIAN LAW INITIATIVE

LEGISLATIVE ASSISTANCE  
AND  
RESEARCH PROGRAM

**LAW SCHOOL ACCREDITATION IN THE NEW  
INDEPENDENT STATES OF THE FORMER SOVIET  
UNION: WHAT STEPS FOR THE FUTURE?**

PROMOTING THE RULE OF LAW



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**Law School Accreditation in the New Independent  
States of the Former Soviet Union: What Steps for the  
Future?**

*Cristina Turturica*

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# Law School Accreditation in the New Independent States of the Former Soviet Union: What Steps for the Future?

Cristina Turturica \*

## Abstract

Legal education reform has recently emerged as a key component in the rule of law promotion in the former Soviet Union republics,<sup>1</sup> now sovereign and independent states collectively known, for the purpose of this paper, as the New Independent States (NIS). Scholarly articles and international forums<sup>2</sup> suggest that legal education reform could be advanced by developing and implementing accreditation procedures for law schools, updating law school curricula, establishing transparent and rigorous grading standards, and retraining the law faculty. This paper discusses just one of these measures, namely the development and implementation of quality evaluation and accreditation procedures for law schools in the NIS region. In order to explore this issue in detail, the paper has been structured into six parts.

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<sup>1</sup> See Jane M. Picker & Sidney Picker, Jr., *Educating Russia's Future Lawyers—Any Role for the United States?*, 33 VAND. J. TRANSNAT'L L. 17, 18-19 (2000) (arguing that the core building block of the rule of law rests on legal education). See John M. Burman, *The Role of Clinical Legal Education in Developing the Rule of Law in Russia*, WYO. L. REV. at 90, 101 (2002) (stating that reform of the legal education is the most effective way of creating a culture of law). See Peter J. Sahlas & Carl Chastenay, *Russian Legal Education: Post-Communist Stagnation or Revival?*, 48 J. Legal Educ. 194 at 194 (1998) (arguing that “a system of legal education can do more than teach the society’s rules to successive generations: it can inspire values of justice and promote social progress.”). See also Mark Dietrich, *Three Foundations of the Rule of Law: Education, Advocacy and Judicial Reform*, LAW IN TRANSITION (EBRD, London, U.K.), Autumn 2002, at 57, available at <http://www.ebrd.com/pubs/law/lit/english/aut02.pdf> (the author points out that reform of the legal education is the single most important reform to be undertaken in the NIS region. If law students are not taught how to think critically, question authority and be guided by the ethical values of the profession while in law school, it is difficult to expect that they will become honest advocates, judges or prosecutors in the future).

<sup>2</sup> See EUROPE AND CENTRAL ASIA DIVISION OF THE LEGAL DEPARTMENT, WORLD BANK, SELECTED ISSUES, CHALLENGES AND STRATEGIES. THE WORLD BANK FORUM ON LEGAL AND JUDICIAL REFORM IN EASTERN EUROPE AND THE FORMER SOVIET UNION 33 (2001); See also Dietrich, *supra* note 1 at 58.

Part I provides a brief overview of the legal education in the Soviet Union, thus placing the issues explored in this paper into a historical perspective. Part II describes the main changes occurring in the higher education system in general and the legal education system in particular in the NIS region after 1991, emphasizing new challenges that privatization of the higher education sector posed to the quality of legal education, thus triggering an urgent need for quality-assurance and accreditation mechanisms. The currently existent NIS practices of licensing, evaluation, and accreditation of academic institutions, including law faculties within multi-disciplinary academic institutions, as well as separate law schools, are described in Part III. Parts IV and V adopt a comparative approach to accreditation by providing an overview of accreditation procedures in the United States and the recent initiatives and trends in quality evaluation and accreditation emerging in Western Europe. Drawing upon the information provided in Parts I through V, Part VI offers concrete suggestions and recommendations for improving the implementation of accreditation procedures in the NIS region.

## Introduction

Following the collapse of Soviet Union in 1991, the former Soviet republics adopted new laws, reformed the judiciary, and established institutional frameworks for democratic societies and market-driven economies. Twelve years after the beginning of the transition, however, the inadequate enforcement of judgments, weak and inefficient court systems, corruption, and nepotism continue to hinder many countries' efforts to establish a rule of law. Many believe that genuine change will happen only when the communist-trained, old-guard leadership is replaced by forward-thinking, well-educated, and reform-minded young professionals.<sup>3</sup> Young lawyers in particular have dramatic potential to become catalytic agents of change in socioeconomic systems undergoing reform, due to their direct involvement in the law-making and law-enforcement processes.<sup>4</sup> However, lawyers are what law schools make them.<sup>5</sup> Therefore, legal education in the NIS region should follow objectives radically different than those formerly promoted by the Soviet legal education system.

## Part I. Legal Education in Soviet Union

Law in the Soviet Union was perceived by the Communist Party as a tool of social engineering, used to inculcate ideologically correct beliefs into the consciences of the “new Soviet men.”<sup>6</sup> Soviet legal education was accordingly tailored to produce enthusiastic builders of

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<sup>3</sup> See Lisa A. Granik, *Legal Education in Post-Soviet Russia and Ukraine*, OR. L. REV. at 974 (1993) (arguing that the greatest challenge facing post-Soviet legal education is the creation of a new legal consciousness among lawyers. Lawyers and law students stand at a historic juncture where they have the chance to cultivate new legal and political cultures). See also Burman, *supra* note 1 at 101 (questioning the degree to which Soviet-trained lawyers and judges have truly reformed in the last decade. These former communist party members, the author argues, are ultimately survivors, not reformers.)

<sup>4</sup> See Kathryn Hendley et al., *Agents of Change or Unchanging Agents? The Role of Lawyers within Russian Industrial Enterprises*, LAW & SOC. INQUIRY at 686 (2001) (citing Hajjar 1997; Sajo 1993) (arguing that lawyers' potential to act as agents of change originates from their expertise to interpret the new “rules of the game.” Therefore, lawyers' willingness to embrace new laws and legal institutions may have a significant impact on whether laws are truly integrated into the mundane business practices and thus contribute to the economic change.)

<sup>5</sup> Sahlas, *supra* note 1.

<sup>6</sup> Moreover, the communist doctrine stated that law would wither away once a classless society with communist self-government will be established. See Erika Fairchild, *COMPARATIVE CRIMINAL JUSTICE SYSTEMS*, Wadsworth

communism, who would not question the law, but would loyally apply it in the best interests of the state.<sup>7</sup>

Legal education in the USSR was state-run and state-funded, being closely directed and monitored by central education authorities in Moscow.<sup>8</sup> The establishment and operation of private educational institutions was prohibited. Law faculties were an organic part of state universities, their activity being subject to the universities' internal regulations and decisions. Law faculties were divided into departments (chairs), and a department of Theory of State and Law, Criminal Law and Criminal Procedure, Civil Law and Civil Procedure existed at every Soviet law faculty.

The Soviet Ministry of Education closely supervised and censored the law school curriculum, the contents of textbooks, and the methods of teaching.<sup>9</sup> The law school curriculum was uniform throughout the country, including, as mandatory components, Scientific Communism, Marxist Philosophy (dialectical and historical materialism), and the History of the Communist Party.<sup>10</sup>

The teaching method used in the Soviet five-year undergraduate program of legal studies was one based on a lecture-like, tutorial-style format, where students were spoon-fed theoretical information and professors did not encourage students to engage in active synthesis, evaluation, or question why things were not done differently and better.<sup>11</sup> Examinations were conducted in verbal form, and students' grades generally reflected how well they memorized the material taught by professors in class, bearing little testimony to students' analytical, critical thinking, or reasoning skills.

However, the uniform and state-controlled Soviet legal education system underwent dramatic changes after the collapse of the Soviet Union in 1991. The new political, economic, and legal reality required not only more but differently trained lawyers.<sup>12</sup>

## Part II. Legal Education in the NIS Region After 1991

With the collapse of Soviet Union in 1991, the once uniform political, economic, and legal landscape rapidly disintegrated into fifteen distinct sovereign and independent states. Each newly created state established its own legislative, institutional, and regulatory framework. Despite the

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Publishing Co., at 36 (1993) (presenting a brief overview of the differences between the Socialist law tradition and the Civil law tradition of Western Europe). See Burman, *supra* note 1 at 97. See Sahlas, *supra* note 1 at 196. See generally Mary Ann Glendon et al., COMPARATIVE LEGAL TRADITIONS, West Publishing Co., at 396 (1994).

<sup>7</sup> Burman, *supra* note 1 at 103.

<sup>8</sup> *Id.* at 102. See Sahlas, *supra* note 1 at 203.

<sup>9</sup> Burman, *supra* note 1 at 102 (stating that faculty research also had to be ideologically consistent with the communist doctrine).

<sup>10</sup> *Id.* See also Sahlas, *supra* note 1 at 194 (pointing out that the ideological constrains of the Soviet regime had the most negative impact on humanitarian disciplines, including law).

<sup>11</sup> Burman *supra* note 1 at 102 (stating that "students were simply vessels into which the teacher poured prescribed, ideologically correct lectures."). See John W. Van, *Romania: Ripe for Privatization and Democracy? Legal Education as a Microcosm*, HOUS. J. INT'L L., at 113, 143 (1995) (the author describes the legal education in Socialist Romania, which was tailored according to the Soviet model. The author also defines the terms "synthesis" and "evaluation" as applied in a legal education context).

<sup>12</sup> Burman, *supra* note 1 at 103.

sharp distinctions in languages, ethnicities, religions and cultures, however, most former Soviet republics embraced similar paths of development, including the area of higher education in general, and legal education in particular. The establishment of the Commonwealth of Independent States (CIS) in December 1991,<sup>13</sup> to which twelve former Soviet Union republics adhere,<sup>14</sup> has particularly fostered cooperation on issues relevant to higher education reform in the region. At the CIS level, the body in charge of coordinating and monitoring education policies is the Council for Cooperation in the Area of Education.<sup>15</sup> Among the most important CIS documents on education are the *Cooperation Agreement in the Area of Education* adopted on May 15, 1992, the *Cooperation Agreement for Establishment of a Single (Common) CIS Education Space* of January 17, 1997,<sup>16</sup> and the *Concept for Establishment of a Single (Common) CIS Education Space*.<sup>17</sup> These and other CIS documents will be appropriately referenced throughout this paper.

Among the first changes that most significantly influenced the course of development of higher education in the NIS region was the abandonment of a state monopoly over the establishment and operation of higher educational institutions. The possibility of establishing private educational institutions has triggered a very rapid expansion of the private education sector in all New Independent States of the former Soviet Union. Even during a relatively short period of time, the number of private institutions in some countries equaled or even exceeded the number of state-run institutions. In Armenia, for instance, there were 87 private institutions after only seven years of transition (compared to only fifteen state-run institutions) with an enrollment of more than 20,000 students.<sup>18</sup> In Kazakhstan, by 2000 there were 152 state-owned and 107 private education institutions, compared to zero private institutions in 1991.<sup>19</sup> In 1998, Belarus had more than twenty

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<sup>13</sup> On December 8, 1991, representatives of Belarus, Russian Federation and Ukraine signed the Agreement on Establishing the Commonwealth of Independent States (CIS). On December 21, 1991, leaders of eleven sovereign states signed the Protocol to the Agreement, by which Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine decided to establish, on equal basis, a Commonwealth of Independent States. In December 1993, Georgia also adhered to CIS. Currently, CIS functions on the basis of its Charter adopted on January 22, 1993. General information about CIS is available at [http://www.cis.minsk.by/english/engl\\_cis.htm](http://www.cis.minsk.by/english/engl_cis.htm). The Russian text of the Agreement on Establishing the Commonwealth of Independent States is available at [www.cis.minsk.by/russian/cis\\_doc4.htm](http://www.cis.minsk.by/russian/cis_doc4.htm). The unofficial English translation of the Agreement on Establishing the Commonwealth of Independent States (CIS) is available at: <http://www.therussiasite.org/legal/laws/CISAgreement.html>.

<sup>14</sup> Latvia, Lithuania, and Estonia did not adhere to the Commonwealth of Independent States.

<sup>15</sup> The Council was established according to the provisions of the CIS Charter. Information in Russian about the activity of the Council is available at <http://www.cis.unibel.by/>.

<sup>16</sup> The Russian version of the Agreement for Establishment of a Single (Common) CIS Education Space is available at <http://cis.unibel.by/sng4.htm>.

<sup>17</sup> The Russian version of the Concept for Establishment of a Single (Common) CIS Education Space is available at <http://cis.unibel.by/sng5.htm>.

<sup>18</sup> See Louisa A. Antonian, *Armenia: Problems and Perspectives*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (2000) at 19-20, available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News19/text12.html](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News19/text12.html). General information about Armenia's education system is available at <http://www.bibl.u-szeged.hu/oseas/armedu.html>.

<sup>19</sup> See Hao Tran, *Kazakhstan's Higher Education in Transition*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (2000) at 12-14, available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News20/text6.html](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News20/text6.html). The author describes the evolution of the private education sector in Kazakhstan, indicating that "two years after the privatization drive was set in motion, Kazakhstan already had 65 private institutions of higher learning."

private universities,<sup>20</sup> in 1999, Russia had 334 private higher education institutions,<sup>21</sup> while in 2000, Ukraine had 138.<sup>22</sup> By 1996, there were more than 100 private higher education institutions in Azerbaijan,<sup>23</sup> and by 2002 the number of higher education institutions in Kyrgyzstan went from thirty-three in 1991 to 114, with the overall enrollment growing to 159,000 students.<sup>24</sup>

Turkmenistan and Uzbekistan were the only two former Soviet republics in which the state continued to keep a *de facto* monopoly over the higher education sector, despite legislative provisions allowing for the establishment of private educational institutions. As a result, the private education sector did not evolve in these two countries.<sup>25</sup>

The boom of the private education sector in the NIS<sup>26</sup> was not a phenomenon unique to that part of the world. Indeed, during the last two decades of the twentieth century, an unprecedented growth in the number of private educational institutions has been characteristic to many developing countries on different continents. For instance, in South Korea, Taiwan, and the Philippines, more than 80% of the overall number of students are enrolled in private universities. In Latin America, in countries such as Brazil, Chile, and Colombia, the percentage of students that study at private universities and institutes currently exceeds half of the overall student population.

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<sup>20</sup> See Nikolai Petroukovitch, *The Goals and National Policies of Higher Education Reform in Belarus*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (2000) at 12-14, available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News21/text7.html](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News21/text7.html).

<sup>21</sup> See Anna Smolentseva, *Current Trends in Russian Higher Education*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (1999) at 13-14, available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News16/text7.html](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News16/text7.html) (the author indicates that about 251,000 Russian students were enrolled in private institutions of higher education).

<sup>22</sup> See Joseph Stetar & Elena Berezkina, *Evolution of Ukrainian Private Higher Education: 1991-2001*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (2002) at 15-16, available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News29/text009.htm](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News29/text009.htm).

<sup>23</sup> See James S. Catterall & Raymond McGhee, Jr., *The Emergence of Private Postsecondary Education in the Former Soviet Republic of Azerbaijan*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (1996) at 3-5, available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News05/text2.html](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News05/text2.html). See also the Azerbaijan Law on Education #324 of October 7, 1992 art. 13 (on file with the author) (allowing existence of private educational institutions).

<sup>24</sup> See Thomas Wolanin, *Higher Education Reform in Kyrgyzstan*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (2002) at 8-9, available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News26/text005.htm](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News26/text005.htm).

<sup>25</sup> Legislative provisions allowing establishment of private educational institutions exist both in Turkmenistan and Uzbekistan. In Turkmenistan, educational institutions may be state, private, collective, and mixed. See the Law on Education in Turkmenistan of October 1, 1993 art. 4 (on file with the author). In Uzbekistan, state and non-state educational institutions exist. See the Law on Education of Uzbekistan of August 29, 1997 art. 9 (on file with the author).

<sup>26</sup> Establishment of private institutions in the former Soviet republics complies with the World Bank recommendations suggesting that developing countries encourage expansion of the private education sector and diversify the funding sources for higher education. See WORLD BANK, *HIGHER EDUCATION: THE LESSONS OF EXPERIENCE* (1994), available at [http://wbln0018.worldbank.org/LAC/lacinfoclient.nsf/0/83405294a1767bee85256968006861e4/\\$FILE/Higher\\_Education-eng.pdf](http://wbln0018.worldbank.org/LAC/lacinfoclient.nsf/0/83405294a1767bee85256968006861e4/$FILE/Higher_Education-eng.pdf). See also Rollin Kent, *Two Positions in the International Debate About Higher Education: The World Bank and UNESCO*, presentation delivered at the 1995 meeting of the Latin American Studies Association, September 28-30, 1995, available at <http://lanic.utexas.edu/project/lasa95/kent.html>.

The growth of the private sector of education has been relatively slow only in Western Europe and Africa.<sup>27</sup>

Generally, the liberalization of higher education in the former Soviet Union had many positive implications for both the state and the public. Against a backdrop of rapidly dissipating public funds for education,<sup>28</sup> private institutions managed to efficiently shoulder the demand for education from a growing number of students. By offering curricula tailored to develop skills required by emerging market economies, private institutions instigated change in the education sector, rekindling competition for potential students amongst private and state universities.

Within the context of this mushrooming of private institutions in the NIS, the unparalleled proliferation of state and private law schools deserves special attention.

The diversification and internationalization of legal relations caused by the incipient market economy relations in the NIS led to a sharp increase in the demand for lawyers, well above the number of Soviet-trained lawyers existent in the early 1990s. In order to cater to this demand, a myriad of state and private law schools opened their doors to aspiring lawyers. Despite the initial need for more law schools, their numerical expansion has generally been excessive, haphazard, and ultimately unjustified, quickly supersaturating the market with young law graduates.<sup>29</sup> In Ukraine, for instance, by 1998 there were 175 law schools compared to only six law schools in 1990.<sup>30</sup> Georgia, with a population of about 3.5 million people,<sup>31</sup> had more than 200 law faculties by 2001.<sup>32</sup> To compare, the United States, with a population of about 275 million, has only 185 ABA-approved law schools,<sup>33</sup> among which 107 law schools are private and 78 are public.<sup>34</sup>

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<sup>27</sup> See Philip Altbach, *The Anatomy of Private Higher Education*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (1998), available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News12/text6.html](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News12/text6.html)

<sup>28</sup> Once the centralized Soviet-run channels of higher education funding dried up, NIS governments had to find resources from their scarce budgets to appropriate to higher education development. In Ukraine, for instance, in 1990, only 3.5% of the gross national product was appropriated for expenditures in the education sector. See Vera Ternivskaya, *Updates on Ukrainian Higher Education*, the OVERSEAS EDUCATIONAL ADVISERS (OSEAS) (1996), available at <http://www.bibl.u-szeged.hu/oseas/ukr2.html>.

<sup>29</sup> The higher education system produced too many lawyers, while not training enough engineers, school teachers, information technology specialists, financial specialists, and other professionals needed by the transitioning economies of the former Soviet republics.

<sup>30</sup> EUROPE AND CENTRAL ASIA DIVISION OF THE LEGAL DEPARTMENT, WORLD BANK, *supra* note 2 at 32.

<sup>31</sup> While the population living in the Republic of Georgia is estimated to be about 3.5 million people, more than a million Georgians live in exile (see Materials of the 1<sup>st</sup> International Congress “The Modern World and Human Rights in the Republic of Georgia,” Batumi, Georgia, February 23-25, 2000, available at [http://www.geocities.com/shavlego/Human\\_Rights.htm](http://www.geocities.com/shavlego/Human_Rights.htm)).

<sup>32</sup> EUROPE AND CENTRAL ASIA DIVISION OF THE LEGAL DEPARTMENT, WORLD BANK, *supra* note 2 at 32.

<sup>33</sup> Data as of August 2002. A list of ABA-approved and provisionally approved law schools, and the links to their websites is available at <http://www.hg.org/cgi-bin/redir.cgi?url=http://www.abanet.org/legaled/approvedlawschools/alpha.html>.

<sup>34</sup> See John A. Sebert, *The American Bar Association and Legal Education in the United States*, 7 ISSUES OF DEMOCRACY 2, (Aug. 2002), at <http://usinfo.state.gov/journals/itdhr/0802/ijde/sebert.htm>.

Among former Soviet republics, again only Turkmenistan and Uzbekistan did not experience an expansion in the number of either public *or* private law schools.<sup>35</sup>

Many public and private law schools, especially the newly established ones, sought to attract as many students as possible and make a quick profit,<sup>36</sup> paying little attention to the quality of the offered studies. These institutions were effectively just “diploma mills.”<sup>37</sup>

While many NIS governments exerted little control over the evolution of the education sector during the initial stages of transition, the chaotic numerical growth of private institutions, combined with a continuous plummeting of the quality of academic programs, compelled state educational authorities to intervene. Laws regulating the activity of educational institutions and establishing quality control mechanisms for offered academic programs were soon adopted.<sup>38</sup>

In a market economy it could be argued that the state should refrain from regulating the education sector, since the market itself will weed out poor quality institutions, including law schools. However, this argument may not be quite valid for the NIS region, where markets are still feeble and competition is distorted.<sup>39</sup> As mentioned in a joint World Bank/UNESCO report, “[in developing countries], [p]oor market information allow[s] weak, exploitative institutions to survive and even prosper, and lessen[s] the chances of dynamic new entrants.”<sup>40</sup> The same report indicates

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<sup>35</sup> As of February 2003, Turkmenistan had only one state-run law school (source: e-mail from Ruslan Galkanov, Staff Attorney, Commercial Program, American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI) office in Turkmenistan (Feb. 11, 2003, 05:27 a.m. MST) (on file with the author). As of February 2003, Uzbekistan did not have any private law schools. A group of lawyers established a private law school several years ago, but after two years the government arbitrarily shut it down. The founders attempted to sue the government, but in vain (e-mail from Marina Nagai, Staff Attorney, ABA/CEELI office in Uzbekistan, Feb. 11, 2003, 8 a.m. MST) (on file with the author).

<sup>36</sup> Since the law faculties within multi-disciplinary educational institutions enrolled the highest number of students, they also generated the lion share of revenues. These revenues covered a substantial portion of the institution’s overall operating costs.

<sup>37</sup> Many new private law schools had no real space, no library, and under-staffed and/or poorly trained faculty. Some state institutions that previously did not offer legal studies programs also opened affiliated law schools in order to gain income from tuition-paying students. See EUROPE AND CENTRAL ASIA DIVISION OF THE LEGAL DEPARTMENT, WORLD BANK, *supra* note 2 at 32. See Sahlas, *supra* note 1 at 202 (“Generally, the private law schools have difficulty offering the range of law and non-law courses offered by the public schools. Many of the core courses are taught by university professors hired on a part-time basis, but no school has been able to assemble the range of resources available in the public system.”).

<sup>38</sup> While successfully addressing the initial shortage of lawyers, the uncontrolled expansion of law schools soon triggered serious negative consequences for the economy in general, and the legal profession in particular. Due to the fact that the incipient, therefore still weak NIS markets could not properly balance the demand and supply of lawyers, many law graduates found themselves unemployed or had to accept jobs requiring skills and qualifications significantly lower than those taught in law schools. This was a serious misallocation of public, as well as private financial and human resources. The sub-standard quality of legal education contributed to the lowering of the quality of legal services available to the public, which diminished the overall public trust in the legal profession.

<sup>39</sup> There is an increase in the number of “diploma mills” even in countries with strong market economies. See the Report of the United Kingdom National Committee of Inquiry into Higher Education. See the Dearing Committee Report), available at <http://www.leeds.ac.uk/educ0/ncihe> (cited by Julian Lonbay in *University Training: The Implications of the Bologna Declaration for the UK*, EUR. J. LEGAL EDUC. (ELFA, UK), 2001, available at [http://elfa.bham.ac.uk/site/ELFA/EJLE/issue0/Lonbay\\_Bologna.htm](http://elfa.bham.ac.uk/site/ELFA/EJLE/issue0/Lonbay_Bologna.htm)).

<sup>40</sup> See WORLD BANK AND UNESCO TASK FORCE ON HIGHER EDUC., *Higher Education in Developing Countries:*

that in developing countries the public sector should retain a vital role in the higher education sphere, and that governments should act as supervisors of higher education by developing legal and regulatory mechanisms to reform the higher education system and, as necessary, regulate individual private institutions.<sup>41</sup>

Along these lines, NIS state educational authorities have gradually developed and institutionalized mechanisms to ensure an adequate level of quality for studies provided by educational institutions, including law schools. These mechanisms, namely licensing, evaluation, and accreditation, are discussed below.

### Part III. Licensing, Evaluation and Accreditation of Academic Institutions and Law Schools in the NIS Region

Licensing, evaluation, and accreditation in the NIS region are state-run and state-controlled processes designed to ensure that educational institutions operate in suitable academic environments and provide education of an acceptable quality.

At the CIS level, the *Agreement on Coordination of Works in the Area of Licensing of Educational Activity, Evaluation and Accreditation of Educational Institutions*<sup>42</sup> provides that CIS member-states shall establish and follow agreed-upon principles of licensing, evaluation, and accreditation, draft guidelines on quality in education, harmonize national legislative frameworks on licensing, evaluation, and accreditation, and create databases of accredited (evaluated) institutions.<sup>43</sup>

The *Procedure for Carrying out Evaluation and Accreditation of Educational Institutions in CIS Member-States*, adopted by the CIS Council for Cooperation in the Area of Education on May 30, 2002, sets forth the methodological approaches that CIS countries should adopt when evaluating and accrediting educational institutions.<sup>44</sup>

Following the recommendations of the two above-indicated documents, as well as the joint efforts of many CIS member-states to harmonize and integrate national education systems into a single CIS education space, the procedures for licensing, evaluating, and accrediting academic institutions in many former Soviet republics are very similar. Academic institutions, including law schools, must first be licensed, then evaluated, and only after that, accredited.<sup>45</sup>

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*Peril and Promise*,” at 38 (2000), available at [www.tfhe.net/report/downloads/summary\\_of\\_findings.htm](http://www.tfhe.net/report/downloads/summary_of_findings.htm).

<sup>41</sup> *Id.*, at 3, 38.

<sup>42</sup> The Agreement on Coordination of Works in the Area of Licensing of Educational Activity, Evaluation and Accreditation of Educational Institutions was adopted on November 29, 2001. It has been signed by Armenia, Belarus, Moldova, Russian Federation, Tajikistan, Kazakhstan, and Kyrgyzstan (the Russian version of the Agreement is on file with the author).

<sup>43</sup> Articles 1-5 of the Agreement, *supra* note 42.

<sup>44</sup> The Russian version of the Procedure for Carrying out Evaluation and Accreditation of Educational Institutions in CIS Member-States is available at <http://cis.unibel.by/doc20.htm>.

<sup>45</sup> See the Law on Education of the Russian Federation # 3266-1 of July 10, 1992 art. 33 (18), available in Russian at [www.ed.gov.ru/ministry/pravo/z13883.html](http://www.ed.gov.ru/ministry/pravo/z13883.html).

## A. Licensing of Educational Institutions

Legislation in most former Soviet republics requires that private academic institutions (including private law schools), and in some cases even state academic institutions, must obtain a license allowing them to provide educational services before starting to operate.<sup>46</sup>

While the Ministry of Education is the licensing authority for academic institutions in most countries of the region,<sup>47</sup> other bodies, such as the Chamber of Licensing (in Moldova),<sup>48</sup> or a special authorized state education management body (in Armenia),<sup>49</sup> or even the State Accreditation Committee (in Ukraine),<sup>50</sup> may also be involved in the licensing process.

Most educational institutions aspiring to obtain a license are incorporated as not-for-profit organizations, except for Ukraine, where they are incorporated as for-profit entities.<sup>51</sup> The first step in the licensing process is for the institution to submit documents to the licensing authority that attest to their ability to render educational services. While the list of required documents varies from country to country throughout the region, it almost always includes the following: an enumeration and a detailed description of educational programs and courses that will be offered, information about the institution's physical infrastructure, the existence and adequacy of the library and other informational resources, information regarding the institution's faculty members and their scientific degrees, the institution's financial means, as well as appropriate certificates from health and safety departments.<sup>52</sup>

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<sup>46</sup> See the Law on Education of the Russian Federation, *supra* note 45; see the Law on Higher and Post-university Professional Education of Russian Federation of July 19, 1996 art. 10, available in Russian at [http://www.edu.ru/index.php?page\\_id=122](http://www.edu.ru/index.php?page_id=122) (art. 11(1) stipulates that all educational institutions must show prospective students their license). See the Decision of the Government of Russian Federation On Approval of the Regulation on Licensing of Educational Activity # 796 of October 18, 2000, available in Russian at [www.edu.ru/legal/public/default.asp?no=12020959](http://www.edu.ru/legal/public/default.asp?no=12020959) (setting forth the procedure for licensing educational institutions). See the Regulation of the Government of Republic of Kazakhstan # 596 On Approval of the Rules of Licensing of Educational Activity of April 18, 2000 art. 1.1 (on file with the author). See the Law on Licensing of Certain Types of Activities of Republic of Moldova # 451-XV of July 30, 2001 art. 8(25), available in Romanian via the search system at [www.docs.md](http://www.docs.md). See also the Law on Education of Republic of Kyrgyzstan # 1074-XII of December 16, 1992 art. 37 (on file with the author).

<sup>47</sup> See the Decision of the Government of Russian Federation On Approval of the Regulation on Licensing of Educational Activity, para. 4(a), *supra* note 46. See the Law on Education of Kyrgyzstan art. 31, *supra* note 46.

<sup>48</sup> See the Law on Licensing of Certain Types of Activities of Republic of Moldova art. 8(25), *supra* note 46.

<sup>49</sup> In Armenia, the Center for Educational Reforms, which is a state closed joint stock company founded by the Ministry of Education and Science is the authority empowered to license and accredit higher education institutions. Information about the Center's main activities and its structural subdivisions is available at <http://www.iatp.am/resource/educat/eduref/>.

<sup>50</sup> See V. Kampo, *Background on Legal Education in Ukraine*, published by the Ukrainian Commercial Law Center (2002) at 3, available at [www.commerciallaw.com.ua/eng/professional/education](http://www.commerciallaw.com.ua/eng/professional/education). A general overview of the Ukrainian education system is available at [www.uekraine.com/core/edu\\_e.htm](http://www.uekraine.com/core/edu_e.htm).

<sup>51</sup> See Joseph Stetar & James Stocker, *Reform and Innovation: Ukraine's New Private Universities*, NEWSLETTER ON INT'L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (2000), available at [http://www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News07/text4.html](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News07/text4.html).

<sup>52</sup> See Kyrgyzstan Regulation on Licensing of Certain Types of Entrepreneurial Activity # 260 of May 31, 2001 chapter 10 and 25 (on file with the author). See the Moldova Law on Licensing of Certain Types of Activities art. 10, *supra* note 46. See also information about the licensing process in Armenia, available at <http://www.bibl.u->

After receiving the request for licensing and the necessary accompanying documents, the licensing authority reviews the documentation and adopts a decision to either issue or deny the license. If denied, the licensing authority should indicate the grounds for the denial. The time period for this review can range from fifteen working days (*e.g.*, in Moldova)<sup>53</sup> to sixty working days (*e.g.*, in Kazakhstan),<sup>54</sup> depending upon the country's legislation.<sup>55</sup> Denied applications may either be resubmitted, along with evidence demonstrating that the initial shortcomings have been remedied, or appealed in court, depending on the provisions of national legislations.<sup>56</sup>

The rigorousness of the licensing process varies among the former Soviet republics. In some countries (*e.g.*, Moldova), only a thorough review of the documents submitted by the institution is required,<sup>57</sup> while in others (*e.g.*, Russia, Kyrgyzstan and Ukraine), the review must be accompanied by a meticulous onsite evaluation of the institution by a group of experts appointed by the licensing authority.<sup>58</sup> In addition, Kyrgyzstan and Kazakhstan have adopted specific benchmark requirements that are applied in the process of licensing institutions providing educational services.<sup>59</sup>

The license issued to an academic institution must expressly indicate the fields of study for which the institution has been authorized to offer educational services.<sup>60</sup> Licenses are typically issued for a minimum period of three years (*e.g.*, in Russia)<sup>61</sup> to a maximum of five years (*e.g.*, in Moldova and Kyrgyzstan).<sup>62</sup>

While the licensing process is meant to ensure that only institutions able to provide quality educational services are allowed on the market, some shortcomings of the licensing process itself

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[szeged.hu/oseas/armedu.html](http://szeged.hu/oseas/armedu.html).

<sup>53</sup> See the Moldova Law on Licensing of Certain Types of Activities art. 11(1), *supra* note 46.

<sup>54</sup> In Kazakhstan, the term for issuing or denying a license is a maximum of 60 days from the date of submission (the Kazakh Regulation On Approval of Rules of Licensing of Educational Activity, para. 7(5) *supra* note 46.

<sup>55</sup> In Russia, the term is twenty days. See the Decision of the Government of Russian Federation On Approval of the Regulation on Licensing of Educational Activity para. 21, *supra* note 46.

<sup>56</sup> See the Decision of the Government of Russian Federation On Approval of the Regulation on Licensing of Educational Activity para. 25, *supra* note 46. See the Kazakhstan Regulation On Approval of the Rules of Licensing of Educational Activity para. 11 (stating that if the license has not been issued in time or if it was not issued at all, the petitioner may appeal these actions in court); para. 12 (setting forth the allowed reasons for refusal to issue licenses), *supra* note 46.

<sup>57</sup> See the Moldovan Law on Licensing of Certain Types of Activities art. 14, *supra* note 46.

<sup>58</sup> See Art. 33(8) of Russia's Law on Education *supra* note 46 (stipulating that the group of experts shall be composed of representatives of state bodies exerting control over education, of local public administration, local (municipal) bodies that have control over issues related to education, educational institutions, and the public. The expert committee, during one month, visits the academic institution seeking licensing and tries to determine whether the conditions for the carrying out of the education process are adequate). See also Kyrgyzstan Regulation on Licensing of Certain Types of Entrepreneurial Activities chapter 25 para. 7, *supra* note 53. See also Kampo, *supra* note 50 at 3.

<sup>59</sup> See Kyrgyz Requirements and Control Norms for Licensing Educational Institutions for Carrying out Educational Activity #178/1 of 4 April, 2000 sections 1-5 (on file with the author). See also the Kazakhstan Rules of Licensing of Educational Activity section 3 *supra* note 46.

<sup>60</sup> See the Decision of the Government of Russian Federation On Approval of the Regulation on Licensing of Educational Activity para. 10, *supra* note 46.

<sup>61</sup> See the Russian Regulation on Licensing of Educational Activity para. 22, *supra* note 46.

<sup>62</sup> See Art. 13(1) of the Moldova Law on Licensing of Certain Types of Activities *supra* note 46. See also Kyrgyzstan Law on Education *supra* note 46.

(lack of transparency, rigorousness, and objectivity), as well as the limited control that ministries of education and other state bodies are able to exert over licensed institutions, have allowed substandard institutions (including law schools) to enter and stay in the market. Moreover, the phenomenon of “phantom universities,” where licensed institutions admitted students, collected tuition fees, and disappeared shortly thereafter, was widespread in the region, especially in the early 1990s.<sup>63</sup>

The NIS state authorities tried to minimize the harm produced by some of the licensed “pseudo-universities” by withholding “official” recognition of diplomas issued by licensed institutions. An “officially” recognized diploma grants its holder the right to be employed by state bodies and to pursue post-graduate studies at accredited institutions, whereas graduates of institutions that have only been licensed, but not evaluated and accredited, are deprived of such benefits. The legislation of some countries (*e.g.*, Russia, Moldova) provides limited exceptions to this general rule.<sup>64</sup>

With the issuance of “officially recognized” diplomas restricted to accredited institutions, academic institutions (including law schools) that have long-term plans to remain on the market always seek to become accredited.

## **B. Evaluation and Accreditation of Educational Institutions**

By the late 1990s, most of the New Independent States had enacted legislation institutionalizing quality evaluation and accreditation mechanisms for licensed higher education institutions.<sup>65</sup> As of January 2003, however, the Republic of Georgia was only contemplating the adoption of a new Law on Legal Education, which would establish a unified system of licensing and accreditation of law schools.<sup>66</sup> Ukraine, on the other hand, besides having a comprehensive legislative framework for accreditation in place, also made great progress in implementing these

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<sup>63</sup> For a detailed discussion of the concept of “pseudo-university,” see Philip G. Altbach, *The Rise of the Pseudouniversity*, NEWSLETTER ON INT’L HIGHER EDUCATION (Center for International Higher Education at the Boston College) (2001), available at [www.bc.edu/bc\\_org/avp/soe/cihe/newsletter/News25/text001.htm](http://www.bc.edu/bc_org/avp/soe/cihe/newsletter/News25/text001.htm).

<sup>64</sup> In Moldova, for instance, diplomas issued by private non-accredited educational institutions are recognized as equivalent to state-recognized diplomas, if the graduation examinations are administered in compliance with the requirements stipulated by the state educational standards, before a committee appointed by the Ministry of Education. See the Moldova Law on Education #547-XIII of July 21, 1995 art. 36(6) (on file with the author). In Russia, although diplomas issued by non-accredited institutions are not considered equivalent to those recognized by the state, there is an option for graduates to obtain such diploma if they sit for the graduation examinations at accredited institutions, on the basis of *externat* (i.e. independent studies). See the Russia Law on Higher and Post-university Professional Education *supra* note 46 art. 6(10).

<sup>65</sup> See Russia’s Law on Education art. 33(17-22) *supra* note 45; see generally the Order on State Accreditation and Evaluation of Educational Institutions of the Russian Ministry of Education # 53 adopted on January 14, 2002 (on file with the author). See the Law on Education of the Republic of Uzbekistan # 464-I of August 29, 1997 art. 6 (stating that an authorized state body accredits an educational institution on the basis of evaluation). The Law is on file with the author.

<sup>66</sup> See American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI), *Georgia Rule of Law Primer* (Jan. 2003) at 7 (on file with the author).

frameworks by managing to accredit 157 out of 163 operating academic institutions providing legal education by 1999.<sup>67</sup>

Despite the very similar methodological approaches employed in connection with the accreditation and evaluation in most of the New Independent States, which entail an internal self-evaluation performed by the academic institution and an appraisal of the institution by an external team of experts, a great deal of discrepancy among the terminology used and the sequence of evaluation and accreditation procedures still persists. For instance, in Russia, Armenia, and Kyrgyzstan, an institution must undergo *evaluation* before it becomes accredited. This is a procedure attempting to determine whether the contents, level, and quality of training of graduates and the functioning of the institution comply with the requirements established by the state educational standards.<sup>68</sup> In Moldova, on the other hand, a higher education institution first becomes *accredited*, and only after that is subject to *evaluation* every five years.<sup>69</sup> However, *accreditation* in Moldova is a complex procedure, utilizing the combined approaches applied during *both* evaluation and accreditation in Russia, Armenia and Kyrgyzstan. This is just one example of some differences that exist in the region in the area of evaluation and accreditation.

In order to streamline the terminology and sequence of evaluation and accreditation procedures in the region, and promote common policies in these areas, the *Procedure for Carrying out the Evaluation and Accreditation of Education Institutions of CIS Member-States* sets forth recommended guidelines for evaluating and accrediting higher education institutions that CIS countries should follow. This document evolved as a harmonized overview of the methodological approaches to evaluation and accreditation that currently exist in the region.

Since this paper cannot possibly describe the evaluation and accreditation procedures in every New Independent State, it will limit itself to providing a general overview of the prevailing practices in the region.

- *Evaluation* is the main quality control mechanism in most of the New Independent States. Evaluation assesses the degree to which the contents and quality of studies furnished by licensed academic institutions and the quality of training of graduates comply with the requirements established by a country's education legislation and state educational standards.
- *Accreditation* usually follows evaluation, and is a procedure by which an authorized state body officially recognizes the ability of an educational institution to render educational services of an acceptable quality. Accreditation involves a yes/no verdict.
- *State accreditation* is a step following evaluation and within the broader process of accreditation, in which state bodies assign specific categories to educational institutions (*e.g.*, university, institute, academy, etc.) and establish the type of documents that such

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<sup>67</sup> Kampo, *supra* note 50 at 1.

<sup>68</sup> See the Russian Law on Education, *supra* note 45 art. 33(20).

<sup>69</sup> See the Moldova Law on Evaluation and Accreditation of Academic Institutions from the Republic of Moldova # 1257-XIII of June 16, 1997 art.7(8), available in Russian and Romanian via the on-line legislative database available at [www.docs.md](http://www.docs.md).

institutions have the right to issue (*e.g.*, officially recognized diplomas of higher education).

### ***Evaluation***

During the evaluation process, the quality of studies offered by licensed academic institutions (including law schools and law faculties within multi-disciplinary institutions) are usually assessed against the requirements set forth in a country's state educational standards. State educational standards, which are usually adopted by the NIS ministries of education, establish the minimum general requirements regarding the quality of higher education, the contents of the main academic programs, the maximum number of in-class hours, and the minimum level of knowledge and skills that graduates must possess.<sup>70</sup> These general standards are applicable to all academic programs of study, including law.

In addition to these general standards of education, some countries in the region (*e.g.*, Russia)<sup>71</sup> have also adopted minimum educational standards for *legal education*. The state standards for legal education establish the contents of the main disciplines and electives included in a law school's curriculum, the minimum qualifications that law graduates must possess, the duration of legal studies, requirements for the library and informational resources, and the physical infrastructure of the law school or the faculty of law within a certain academic establishment.

Licensed academic institutions (including law schools) must undergo periodic evaluations according to the schedules adopted by evaluation and accreditation departments of the NIS ministries of education.

Evaluation in most countries of the region (also known as *accreditation* in some of the countries) is institutional-programmatic in nature, involving a simultaneous assessment of the overall quality of studies offered by an institution *as a whole*, as well as the quality of its *separate* programs (*e.g.*, legal education programs). Evaluation is a two-stage process.

First, the educational institution must complete an internal self-evaluation report containing detailed information about the institution's mission and objectives, physical infrastructure, offered courses, methodological plans of study, the structure of the faculty and student body, and available library and informational resources. Completion of self-evaluations helps institutions improve their internal quality control systems, identify existent weaknesses, develop strategies for addressing them, and generally become better prepared for an external evaluation. The institution must submit the self-evaluation report to the department for evaluation and accreditation within the ministry of education.

Second, educational institutions must undergo an external evaluation by an expert committee, which, after reviewing the self-evaluation report, visits the educational institution and

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<sup>70</sup> See the Uzbekistan Law on Education art. 7, *supra* note 25. See the Kyrgyzstan Regulation on State Professional Educational Standards # 142 of March 14, 2002 (on file with the author). See also the Russian Law on Higher and Post-university Education art. 5, *supra* note 46.

<sup>71</sup> In Georgia, the Ministry of Justice is the body in charge of approving the standards for legal education, with the preliminary agreement of the Ministry of Education. See Georgia's draft Law on Legal Education (on file with the author).

collects additional information. The members of the expert committee may also sit in classes and conduct interviews with professors and students.<sup>72</sup> The quality of legal studies offered by law faculties within educational institutions may be evaluated either by the team of experts evaluating the institution as a whole, or by a specialized team of experts consisting of law professors and practicing lawyers appointed by the ministries of education.

Following the onsite visit, the expert committee drafts and submits an evaluation report to the department of evaluation and accreditation of the ministry of education. Based on the expert committee's presentation, the department makes a recommendation to either grant or refuse a positive evaluation.<sup>73</sup> The decision is presented at a broader meeting of the ministry of education, where a final decision on the issue is adopted.

In most cases, NIS legislation prescribes when an institution may be evaluated. In Russia, for instance, evaluation may be performed only after the first class graduates and only if at least 50% of students have passed the graduation examination, but in no case *earlier* than three years following licensing.<sup>74</sup> In Kyrgyzstan, on the other hand, the first evaluation must be performed no *later* than one year prior to the graduation of the first class.<sup>75</sup>

### ***Accreditation***

In most countries of the region, an institution is eligible to apply for accreditation after being evaluated. The evaluated institution shall submit the following documents to the department of evaluation and accreditation at the ministry of education: a request to be accredited, a copy of its license and articles of incorporation, a copy of the preliminary and the final decision of the evaluation committee, and a copy of the evaluation certificate enumerating the disciplines that have been approved as a result of the evaluation. If the results of the evaluation demonstrate that the academic institution is in *full* compliance with state educational standards, the evaluation and accreditation department adopts a decision to accredit it. The accredited institution receives an accreditation certificate indicating its category (university, academy or institute) and the fields of study for which it may issue state-recognized diplomas.

The NIS ministries of education publish the lists of accredited institutions, which are valuable sources of information for prospective students and the general public. As previously mentioned, under the *CIS Agreement on Coordination of Works in the Area of Licensing of Educational*

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<sup>72</sup> See the CIS Procedure for Carrying out the Evaluation and Accreditation of Education Institutions of CIS Member-States, *supra* note 44 (stating that if the institution offers five programs of study, the team of experts shall evaluate the quality of all of them. If the number of offered programs is ten or less, at least five of them shall be evaluated, if there are twenty-five and less programs, at least seven of them will be evaluated, while if more than twenty five programs are offered, minimum ten programs must be evaluated).

<sup>73</sup> In Moldova, for example, in order to be accredited, the educational institution must have at least 60% full time faculty, adequate technical infrastructure, and must use at least 25% of income for investment in its own technical-material base. See the Law on Education of Moldova art. 37(3), *supra* note 65. In addition, at least 30% of the full-time faculty members must have scientific titles and degrees, or honorific and pedagogical titles at the moment of accreditation. *Id.*, art. 7(2). In Moldova, the Ministry of Education, through its decision, liquidates institutions that have not been accredited.

<sup>74</sup> See the Russian Law on Education art. 33(20) *supra* note 45.

<sup>75</sup> See the State Educational Standards of Kyrgyzstan # 3/1 of May 23, 1995 para. 7.4. (on file with the author).

*Activity, Evaluation and Accreditation of Educational Institutions*, CIS Member States shall create databases of accredited (evaluated) institutions throughout CIS and widely share such information.

In most NIS countries, accredited law schools and academic institutions offering legal studies must undergo repeated evaluation every four to five years. The repeated evaluation assesses whether the quality of offered studies remains at an acceptable level.<sup>76</sup>

### **C. Shortcomings of Evaluation and Accreditation: the Impact on Law Schools**

The establishment of licensing, evaluation, and accreditation procedures in the NIS region is a laudable initiative undertaken by the NIS governments. Unfortunately, however, shortcomings in the implementation of these quality-assurance mechanisms have significantly impaired their ability to filter out poor quality legal education institutions, many of which still persist in the region. These shortcomings are triggered by several phenomena, including lack of rigor, transparency, and objectivity in the licensing process. In the early 1990s in particular, the licensing process was performed as a pure formality, allowing almost anyone who wanted to open a law school to do so.

Additionally, evaluation and accreditation procedures are not always carried out in an impartial and meticulous manner. Oftentimes, institutions that bribe corrupt officials from evaluation and accreditation committees manage to secure positive evaluations and become accredited. Or, even absent corruption, evaluation and accreditation committees may limit themselves to a “checklist” approach, failing to thoroughly delve into assessing the actual *quality* of offered studies. The latter may be due to both the limited time period that expert committees are allowed to spend on evaluating academic institutions (including law schools) and to an insufficient number of practicing attorneys included in the programmatic evaluation and accreditation committees.

As a result, even some of the “evaluated” and “accredited” academic institutions frequently fail to provide legal education of a quality required by the state educational standards. For instance, in 2002, a random inspection of fifteen accredited private institutions in Russia, offering studies in law, management, and economics, revealed gross violations of state educational standards. More than 50% of students from these fifteen “accredited” institutions failed to pass the basic knowledge test administered by the inspection committee.<sup>77</sup> This is a clear example of the unacceptable quality of studies prevailing at even “accredited” institutions providing legal education.

Some of the above-mentioned shortcomings are, to some extent, due to the relatively short period of time since establishment of evaluation and accreditation procedures in the NIS region.

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<sup>76</sup> See the Moldova Law on Education art. 7(2) *supra* note 65. See also State Educational Standards of Kyrgyzstan para. 7.5, *supra* note 76.

<sup>77</sup> See the Order of the Ministry of Education of Russian Federation # 2846 of July 23, 2002, *On the Results of Random Control Of Fulfillment of Licensing Requirements and State Educational Standard of Higher Professional Education for Educational Programs in the Area of Economics, Management and Law*, available at <http://edc.pu.ru/text1/prik2846.htm>. At the reviewed institutions, the methodological plans of study did not comply with the requirements set forth by state educational standards, there was a serious shortage of books and informative resources, and the qualifications of faculty staff were inadequate for the courses they taught.

Accordingly, the relevant state bodies and expert committees simply lack experience in implementing the standards and procedures.

Although inspired from an American-model accreditation system, the driving forces and the realities behind the evolvement of evaluation and accreditation in the NIS are different than those in the United States. For a comparison, below is an overview of the American accreditation process, including law school accreditation.

#### Part IV. General Overview of Accreditation in the United States

As mentioned in the previous section, the evaluation and accreditation of higher education institutions throughout the NIS region is a state-run, centralized process usually implemented and controlled by the ministry of education. In the United States, however, state authorities only accredit institutions providing primary and secondary education,<sup>78</sup> while accreditation of higher education institutions is the exclusive privilege of private, independent, non-governmental accrediting agencies, which are regional or national in scope.<sup>79</sup> The U.S. Department of Education is only nominally involved in the accreditation of higher education institutions; as it merely compiles and publishes a list of national accrediting agencies that the Secretary of Education has determined to be reliable authorities for assessing the quality of academic institutions and programs.<sup>80</sup>

The activity of all accrediting agencies in the U.S. is supervised and coordinated by the Council on Higher Education Accreditation (CHEA),<sup>81</sup> a non-governmental agency consisting of 60 participating national, regional, and specialized accrediting organizations, with 3,000 American colleges and universities as its members. CHEA serves as the national forum for addressing issues of interest and concern regarding accreditation and is also an authoritative source of data and information about regional, national, and specialized accreditation agencies.<sup>82</sup>

Unlike the NIS region, where the accreditation process is governed by detailed provisions of special laws and regulations, there is no official document in the United States prescribing the manner in which accreditation of higher education institutions should be carried out. Instead,

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<sup>78</sup> See Theodore J. Marchese, *U.S. Higher Education in the Postwar Era: Expansion and Growth*, 2 U.S. SOC'Y & VALUES 4, (Dec. 1997), at <http://usinfo.state.gov/journals/itsv/1297/ijse/accred.htm>.

<sup>79</sup> The only state-run accrediting agencies are the agencies for approval of public postsecondary vocational education and the agencies for approval of nurse education. These types of agencies should be recognized as such by the U.S. Secretary of Education. See Office of Postsecondary Education of the U.S. Department of Education, *National Recognition of State Approval Agencies by the U.S. Secretary of Education*, available at [http://www.ed.gov/admins/finaid/accred/accreditation\\_pg15.html - State%20Approval%20Agencies](http://www.ed.gov/admins/finaid/accred/accreditation_pg15.html - State%20Approval%20Agencies).

<sup>80</sup> In order to be included on the U.S. Department of Education list of recognized accrediting agencies, aspiring agencies must submit an application with the U.S. Secretary of Education. See the Office of Postsecondary Education, *supra* note 80 (describing the procedure of applying for recognition).

<sup>81</sup> Information about CHEA is available at [www.chea.org](http://www.chea.org). CHEA was created in 1997, being the successor of the previous non-governmental coordinating agency for accreditation, the Commission on Recognition of Postsecondary Accreditation (COPRA). COPRA, in its turn, was created after its predecessor, the Council on Postsecondary Accreditation (COPA), established in 1974, was dissolved in December 1993.

<sup>82</sup> Some other functions of CHEA are: 1) to be the national leader in identifying and articulating emerging issues in quality assurance; 2) to serve as the national forum for accreditation issues, 3) to initiate projects to strengthen accreditation; 5) to organize conferences and meetings on issues related to accreditation, and 6) to maintain a “good practices” database. For more information, see [http://www.chea.org/pdf/chea\\_glance\\_2003.pdf](http://www.chea.org/pdf/chea_glance_2003.pdf).

accreditation in the United States is an entirely voluntary process, which started in the early 1900s as a self-governed, peer-review process of educational institutions and programs.

In the United States there are two types of accreditation: *institutional* accreditation and *programmatic* accreditation.

*Institutional* accreditation is a process by which an accrediting agency, known as an institutional accrediting agency, confirms that an academic institution as a whole complies with the quality standards designed by the agency, even though the quality of studies offered by its separate departments may vary. Currently, in the United States there are six regional accrediting associations, which established special commissions for accrediting postsecondary academic institutions.<sup>83</sup>

The second type of accreditation, *programmatic* (specialized) accreditation, aims to assess the quality of education offered by separate programs, departments, or schools within a certain academic institution. Agencies accrediting specific programs within a college or a university are national in scope.<sup>84</sup>

Institutional accreditation co-exists with programmatic accreditation, and neither leads automatically to the other. Accrediting agencies develop their own standards, which reflect the desirable characteristics for sound educational programs and assess the quality of studies against these standards.

Accreditation usually involves the following five steps:

- 1) Development of accreditation standards by accrediting agencies;
- 2) Compilation of a self-study by the academic institution under review, in which it assesses its own performance against the accreditation standards;
- 3) Completion of an onsite visit and evaluation of the academic institution by a team of experts selected by the accrediting agency;
- 4) Publication of information about accreditation of a certain institution;
- 5) Periodic re-evaluation of the quality of academic programs offered by accredited institutions.<sup>85</sup>

Over the years, the status of an “accredited” institution or program in the U.S. came to bear many favorable consequences for its holders. First, by serving as confirmation of sound quality of offered studies, accreditation helps institutions attract a greater number of students who seek the best institutions or programs fitting their academic goals. Second, accredited or pre-accredited

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<sup>83</sup> The list and the website addresses of all regional accrediting agencies available at [http://www.ed.gov/admins/finaid/accred/accreditation\\_pg5.html](http://www.ed.gov/admins/finaid/accred/accreditation_pg5.html).

<sup>84</sup> A list of all recognized programmatic accrediting agencies existent in the United States is available at [http://www.ed.gov/admins/finaid/accred/accreditation\\_pg4.html#Nationally%20Recognized](http://www.ed.gov/admins/finaid/accred/accreditation_pg4.html#Nationally%20Recognized). The programmatic accrediting agencies do not exert any control over the functioning of the programs they accredit.

<sup>85</sup> See Marchese, *supra* note 79.

institutions may be eligible to participate in the federal student financial assistance programs administered by the U.S. Department of Education under Title IV of the Higher Education Act of 1965.<sup>86</sup> Third, accreditation increases the mobility of students, who are able to transfer academic credits from one accredited institution to another.<sup>87</sup> Finally, accreditation also serves as a useful “diagnostic tool” for academic institutions, helping them create goals for self-improvement, thus stimulating a general rising of standards among educational institutions.

The procedure of law school accreditation in the United States is discussed below.

### ***Accreditation of Law Schools in the United States***

Since 1952, the Council of the Section of Legal Education and Admissions to the Bar within the American Bar Association (hereinafter “Council”) is the United States national agency authorized by the U.S. Department of Education to accredit the programs offered by law schools. The Council consists of twenty-one members, including law school deans, faculty members, practicing attorneys, judges, one law student, and at least three members who are not lawyers and who are not employed by a law school.<sup>88</sup> In the accreditation process, the Council is assisted by the Accreditation Committee of the Section of Legal Education and Admissions to the Bar,<sup>89</sup> and by the staff of the ABA Office of the Consultant on Legal Education and Admissions to the Bar.<sup>90</sup> The Council’s involvement in the accreditation of law schools stems from the American Bar Association’s general commitment to improving the competence of those entering the legal profession and promoting the best quality of legal education possible.<sup>91</sup>

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<sup>86</sup> Parts A and B of Title IV of the Higher Education Act of 1965 available at [http://www.house.gov/ed\\_workforce/publications/heacomp/hea65p2.pdf](http://www.house.gov/ed_workforce/publications/heacomp/hea65p2.pdf). Parts C, D, E, F, G and H available at [http://www.house.gov/ed\\_workforce/publications/heacomp/hea65p3.pdf](http://www.house.gov/ed_workforce/publications/heacomp/hea65p3.pdf).

<sup>87</sup> The American Association of Collegiate Registrars and Admission Officers publishes the *Transfer Credit Practices of Designated Educational Institutions – An Informational Exchange*, which stipulates the policies for awarding coursework credits for students transferring within a state. See Marchese, *supra* note 79.

<sup>88</sup> See John A. Sebert, The American Bar Association and Legal Education in the United States, 7 ISSUES OF DEMOCRACY 2 (Aug. 2002), at <http://usinfo.state.gov/journals/itdhr/0802/ijde/sebert.htm>.

<sup>89</sup> *Id.*, at 3 (“The Accreditation Committee, which has a composition similar to the Council, reviews reports concerning all ABA-approved schools, and all those applying for approval, to determine whether the school complies with the requirements of the Standards”).

<sup>90</sup> *Id.* (“The Consultant and his staff oversee the administration of the accreditation and Standards revision processes, provide assistance and advice to law school deans and administrators, and represent legal education in many forums”).

<sup>91</sup> Founded in 1878 in Saratoga Springs, New York, by 100 lawyers from 21 states, the ABA currently has more than 400,000 members, which makes it an influential national organization for lawyers in the United States. The stated mission of the ABA is “to be the national representative of the legal profession, serving the public and the profession by promoting justice, professional excellence and respect for the law. The eleven goals of the ABA are: 1) to promote improvement in the American system of justice; 2) to promote meaningful access to legal representation and the American system of justice for all persons regardless of their economic or social condition; 3) to provide ongoing leadership in improving the law to serve the changing needs of society; 4) to increase public understanding of and respect for the law, the legal process and the role of the legal profession; 5) to achieve the highest standards of professionalism, competence, and ethical conduct; 6) to serve as the national representative of the legal profession; 7) to provide benefits, programs and services which promote professional growth and enhance the quality of life of the members; 8) to advance the rule of law in the world; 9) to promote full and equal participation in the legal profession by minorities and women; 10) to preserve and enhance the ideals of the legal

The Council assesses the quality of law school programs against a set of minimum standards it established, known as the ABA Standards for Approval of Law Schools.<sup>92</sup> According to the Standards' Preamble, "[the standards] are founded primarily on the fact that law schools are the gateway to the legal profession. [The standards] are minimum requirements designed, developed, and implemented for the purpose of advancing the basic goal of providing a sound program of legal education."<sup>93</sup>

The ABA Standards are applied to evaluate the quality of law school programs in the following areas:

- The adequacy of a law school's financial resources for sustaining a program of sound legal education;<sup>94</sup>
- Objectives;<sup>95</sup>
- Curriculum;<sup>96</sup>
- Adherence to sound standards of scholastic achievement;<sup>97</sup>
- Compliance with established course and residence credits;<sup>98</sup>
- Qualifications and size of a law school faculty;<sup>99</sup>
- Professional environment;<sup>100</sup>
- Adequacy of admission policies;<sup>101</sup>
- Availability, quality, and administration of the library and other information resources;<sup>102</sup> and
- Physical infrastructure and technological capacities.<sup>103</sup>

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profession as a common calling and its dedication to public service; 11) to preserve the independence of the legal profession and the judiciary as fundamental to a free society. See <http://www.lectlaw.com/files/att05.htm>. The ABA's website is [www.abanet.org](http://www.abanet.org).

<sup>92</sup> The ABA Standards for Approval of Law Schools available at <http://www.abanet.org/legaled/standards/standards.html>.

<sup>93</sup> See <http://www.abanet.org/legaled/standards/preamble.html>

<sup>94</sup> See Standard 201, available at <http://www.abanet.org/legaled/standards/chapter2.html>.

<sup>95</sup> See Standard 301, available at <http://www.abanet.org/legaled/standards/chapter3.html>.

<sup>96</sup> See Standard 302, available at <http://www.abanet.org/legaled/standards/chapter3.html>.

<sup>97</sup> See Standard 303, available at <http://www.abanet.org/legaled/standards/chapter3.html>.

<sup>98</sup> See Standard 304, available at <http://www.abanet.org/legaled/standards/chapter3.html>.

<sup>99</sup> See Standards 401 & 402, available at <http://www.abanet.org/legaled/standards/chapter4.html>.

<sup>100</sup> See Standard 405, available at <http://www.abanet.org/legaled/standards/chapter4.html>.

<sup>101</sup> See Standard 501, available at <http://www.abanet.org/legaled/standards/chapter5.html>.

<sup>102</sup> See Standards 601-606, available at <http://www.abanet.org/legaled/standards/chapter6.html>.

The American Bar Association adopted the first Standards for Approval of Law Schools in 1921, after numerous studies of the educational programs in the late 1880s to early 1900s determined that a national process for ensuring the quality of education for prospective lawyers had to be established. Since 1921, the Standards underwent several major revisions, the latest version being adopted in August 2003.<sup>104</sup>

Law schools seeking the ABA Council's approval must first apply for provisional approval. Only law schools that have been in operation for at least one year can apply for provisional approval. As a first step, law schools must complete and submit to the ABA Council a questionnaire and an extensive self-study describing the school and the program of legal education, identifying its strengths and weaknesses, establishing goals for the school's future progress, and the means of achieving those goals.<sup>105</sup>

After receiving all pertinent documents from the law school, the ABA Accreditation Committee designates a team of six or seven persons to visit the law school and accomplish a three-day onsite evaluation. The team is generally comprised of two to three law school faculty members or law school deans, a faculty member with expertise in professional skills training, a law librarian, a judge or a practitioner, and a university administrator who is not a member of a law faculty.<sup>106</sup> The evaluation team meets with the dean, the faculty members, the president and other university administrators, and also attends as many classes as possible.<sup>107</sup>

After visiting the law school, the team prepares an extensive written report that describes various aspects of the school's operation, and sends it to the Office of the Consultant. The Office, in turn, reviews it and sends it to the Accreditation Committee.

The Accreditation Committee discusses the report at a hearing and makes a recommendation to the Council about granting or refusing provisional accreditation. The Council will provisionally accredit a law school if the school *mostly* complies with each of the Standards and has a sound plan for bringing the school into *full* compliance within three years.<sup>108</sup> A provisionally accredited school

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<sup>103</sup> See Standards 701-703, available at <http://www.abanet.org/legaled/standards/chapter7.html>.

<sup>104</sup> See Approved Changes to the Standards and Interpretations for the Approval of Law Schools August 2003, available at <http://www.abanet.org/legaled/standards/chapter7.html>.

<sup>105</sup> See Standard 202, available at <http://www.abanet.org/legaled/standards/chapter2.html> (“(a) The dean and faculty of a law school shall develop and periodically revise a written self study, which shall include a mission statement. (b) The self study shall describe the program of legal education, evaluate the strengths and weaknesses of the program in light of the school’s mission, set goals to improve the program, and identify the means to accomplish the law school’s unrealized goals”).

<sup>106</sup> Sebert, *supra* note 89.

<sup>107</sup> *Id.*

<sup>108</sup> Council’s decision to grant provisional accreditation is conveyed to the ABA House of Delegates, which endorses or rejects the decision regarding provisional accreditation. If the House concurs with the Council’s decision to grant provisional approval, the school immediately becomes provisionally accredited. If the Council denies provisional accreditation, the law school may appeal this decision to the House of Delegates, asking the House to refer the matter back to the Council. See Sebert, *supra* note 89.

benefits from all the rights of a fully accredited law school and can remain in that status for at least three years, but in no case for more than five years.<sup>109</sup>

A provisionally accredited school is continuously monitored by an evaluation team, which visits the school once a year and compiles and submits a report to the school and the ABA Accreditation Committee. After reviewing the report, the Committee identifies and informs the law school about the areas in which the school needs to improve in order to fully comply with the Standards.<sup>110</sup>

The procedure for granting full accreditation is similar to that for granting provisional accreditation, but the law school, this time, must prove that it *fully* complies with each of the Standards.

A fully accredited school is subject to an onsite evaluation in the third year following full accreditation, and to a full evaluation every seven years.<sup>111</sup>

Law school accreditation granted by the Council is national in scope, being valid in all 50 U.S. states, the District of Columbia, the Commonwealth of Puerto Rico, and other U.S. jurisdictions.

Graduation from ABA-accredited law schools carries important benefits for graduates, as they are allowed to sit for the Bar examination in every jurisdiction in the United States. Graduates from non-accredited law schools, on the other hand, may only sit for the bar examination in the jurisdictions where these non-accredited law schools are located, if the jurisdiction establishes so. Generally, however, the majority of courts rely upon the ABA accreditation of a law school to determine whether the graduates' legal education requirement for admission to the bar has been satisfied.

Unlike the United States, where a well-established and privately-run system of accreditation exists, and even unlike the NIS, where an American-model accreditation process is being gradually institutionalized, most Western European countries lack similar quality assessment and accreditation mechanisms for academic institutions and programs.

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<sup>109</sup> Sebert, *supra* note 89.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.* (“The Accreditation Committee's actions upon review of a site report on a fully approved school are likely to take one of three forms. If the Committee concludes that the school fully complies with all the standards, it writes the school with that conclusion and indicates that the school remains on the list of approved schools. In the remainder of the cases, the Committee will conclude either that the school does not appear to comply with one or more of the standards, or that the Committee lacks sufficient information to determine whether or not the school complies. In either case the Committee's action letter will indicate with specificity the standard or standards with which the school does not comply, or as to which the Committee lacks sufficient information to determine compliance, and will ask the school by a specified time to provide the information necessary to enable the Committee to determine compliance or to indicate what steps the school has taken to bring itself into compliance”).

## Part V. Quality Assessment and Accreditation in Western European Countries

Historically, the only way in which European national ministries of education exerted control over the quality of studies offered by higher educational institutions was by officially authorizing them to award degrees in certain fields of study. This formal recognition of an institution's degree-granting capacity, however, was not nearly as thorough as the multi-stage accreditation process existent in the United States.

The current European higher education landscape, not being subject to a “common European policy,” represents a variegated patchwork of dissimilar higher education systems (including legal education), teaching methods, grading systems, and curricula.<sup>112</sup> The lack of harmonized assessment and accreditation mechanisms has, over the years, significantly hindered European students' mobility and employability,<sup>113</sup> negatively affecting the competitiveness of European higher education on the international market.<sup>114</sup>

To remedy these shortcomings, diligent efforts have been taken at both European and national levels to harmonize European higher education systems<sup>115</sup> and develop trans-European quality-comparison and accreditation mechanisms.

On September 24, 1998, the Council of Europe adopted the *Recommendation on European Cooperation in Quality Assurance in Higher Education*,<sup>116</sup> which prescribes the establishment of a quality

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<sup>112</sup> For instance, in the United Kingdom alone, even each of the country's jurisdictions (England and Wales, Scotland and Northern Ireland) has its own distinct legal education system. See Julian Lonbay, *University Training: The Implications of the Bologna Declaration for the UK*, EUROPEAN J. OF LEGAL EDUC., 2001 at 1, available at [http://elfa.bham.ac.uk/site/ELFA/EJLE/issue0/Lonbay\\_Bologna.htm](http://elfa.bham.ac.uk/site/ELFA/EJLE/issue0/Lonbay_Bologna.htm).

<sup>113</sup> These shortcomings became obvious during the operation of the ERASMUS program, which is administered under the aegis of the European Commission for Education, the main thrust of which was the promotion of “physical mobility” of students. From 1987/1988 to 1999/2000, about 750,000 University students pursued study abroad programs within the ERASMUS program and more than 1,800 Universities participate in the program. As of February 2003, 30 European countries (15 European Union member states, the three EEA countries (Iceland, Liechtenstein and Norway) and twelve associate countries)) were participating in the ERASMUS program. Information about ERASMUS is available at <http://europa.eu.int/comm/education/erasmus/what.html>. The different grading systems, the lack of equivalence, and transferability of grades were a few of the problems experienced by students who participated in the ERASMUS program.

<sup>114</sup> As of 1995, for example, the United States and Australia were the biggest higher education providers on the \$27 billion global international market for education. See Lonbay, *supra* note 114 (making a reference to the Education Services background note by the Secretariat of the WTO, S/C/W/49 of September 23, 1998).

<sup>115</sup> Article 149 of the Treaty of Amsterdam, for instance, provides that the Community “shall contribute to the development of quality education by encouraging cooperation between Member States” through a wide range of actions, such as promoting the mobility of citizens, designing joint study programs, establishing networks, and exchanging information or teaching languages of the European Union. The text of the Treaty of Amsterdam is available at <http://www.eurotreaties.com/amsterdamtreaty.pdf>.

<sup>116</sup> The text of the Recommendation on European Cooperation in Quality Assurance in Higher Education is available at [http://www.bologna-berlin2003.de/pdf/l\\_27019981007en00560059.pdf](http://www.bologna-berlin2003.de/pdf/l_27019981007en00560059.pdf). The Recommendation states that establishment of transparent quality assurance mechanisms will help improve the quality of teaching and learning, will stimulate mutual exchanges of information on quality and quality assurance at community and world level, and will enhance cooperation between European higher education institutions on methodological developments and examples of good practice in education.

assurance procedure. This resembles the accreditation process existent in the United States, consisting of an internal institutional self-evaluation and an external appraisal by a team of experts.<sup>117</sup>

The *Bologna Declaration*, signed in June 1999 by the representatives of twenty-nine European ministries of education,<sup>118</sup> is yet another very important document advocating the development of comparable quality assurance criteria and methodologies in Western Europe. Many European countries are currently actively engaged in promoting the objectives of the “*Bologna Process*.”

After the signing of the *Bologna Declaration* and the adoption of the above-mentioned *Recommendation on European Cooperation in Quality Assurance in Higher Education*, numerous efforts have been launched at both trans-European and national levels to study the feasibility and approaches that Western European countries should take in developing and harmonizing European quality assurance and accreditation mechanisms.

Accordingly, in 1999, the European Commission for Higher Education jointly with the Association of European Universities initiated a special project, known as the CRE Accreditation Project.<sup>119</sup> Its purpose was to specifically explore the necessity of developing compatible quality assurance and accreditation mechanisms, and to clarify the relationship between national, regional, and trans-European quality assurance and accreditation activities.<sup>120</sup>

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<sup>117</sup> The participation of foreign experts in the procedures would be desirable in order to encourage exchange of experience acquired in other countries. According to the *Recommendation on European Cooperation in Quality Assurance in Higher Education*, the reports on quality assurance procedures and their outcomes should be published in a form understandable to every European Union member state and should serve as a good source of reference material for educational institutions and the general public. See the *Recommendation on European Cooperation in Quality Assurance in Higher Education*, *supra* note 118.

<sup>118</sup> The Bologna Declaration emerged as a common plan of action to establish, by 2010, a single European space of higher education, to which the Declaration refers as a “Europe of Knowledge.” The text and a brief explanation of the Bologna Declaration are available at <http://europa.eu.int/comm/education/programmes/socrates/erasmus/guide/bologna.pdf>.

Initially, the Bologna Declaration was signed by 29 European Ministries of Education: the EU states, the states joining the EU in 2004, as well as Bulgaria, Island, Croatia, Norway, Romania, Switzerland and Turkey. At the Conference of European Education Ministers held in Berlin on September 19, 2003, six more countries: Albania, Andorra, Bosnia and Herzegovina, Montenegro, Russia, and Serbia also acceded to the Bologna Declaration. Candidates for the year 2005 are Ukraine, Belarus and Moldova. The signatory countries undertake “to attain the Declaration’s objectives”, and “engage in coordinating [their] policies”. Among the measures prescribed by the Bologna Declaration are: the development of a system of easily readable and comparable degrees, the designing of a higher education scheme based on an undergraduate and a graduate cycle, the establishment of a system of credits (such as the ECTS system), and comparable quality-assurance mechanisms.

The European Commission is actively involved in implementing the Bologna Declaration, while the Council of Europe, the European University Association, the European Association of Institutions in Higher Education, and the National Unions of Students in Europe hold observer status in the “Bologna Process.”

<sup>119</sup> Detailed information on the projects and activities undertaken by the CRE is available at [http://www.unige.ch/cre/activities/accreditation/accreditation\\_home.htm](http://www.unige.ch/cre/activities/accreditation/accreditation_home.htm).

<sup>120</sup> For the purpose of its activity, the CRE Project used the following definition of *accreditation*: “Accreditation is a formal, published statement regarding the quality of an institution or a program, following a cyclical evaluation based on agreed standards.” As part of the CRE project, several seminars, which draw numerous participants from academic and non-academic institutions, from accrediting and quality assurance agencies, as well as students, have

The works of the CRE Accreditation Project revealed controversial opinions and even a prevailing resistance against the establishment of European quality assurance and accreditation mechanisms implemented by independent agencies. This was largely due to the fact that the accreditation mechanisms would eventually curtail existing competencies of national governments over higher educational institutions.

Professor Dr. Frans A. van Vught of the University of Twente declared, at the CRE Validation seminar held in February 2001, that “[w]e should be aware of the fact that quality and quality assurance of education are the most sensitive issues when it comes to European cooperation. Ministers have so far been most reluctant to the idea of granting any responsibility to a European level in this respect.”<sup>121</sup>

At the same seminar, Professor Eric Froment from the Université Lumière Lyon 2 added, “[a]ccreditation is not a technical question. It’s certainly one of the fundamental questions in the process of building an European space for Higher education and Research. [T]he answer given to European accreditation has to be a political one.”<sup>122</sup>

Despite this resistance and controversy, however, the CRE Project participants concluded that transparent and flexible quality assurance and accreditation mechanisms should be established. They are paramount to increasing the legibility and comparability of European grades and enhancing the international competitiveness of European education.<sup>123</sup>

Following the recommendations of the CRE Project, in 2002, a European Network of Quality Assurance in Higher Education (ENQA) was established. Its objective is to more actively promote European cooperation in the field of quality assessment and quality assurance between all European actors involved.<sup>124</sup>

Although establishment of accreditation mechanisms for European law schools has never been separately addressed during the works of the CRE Project, the issue has been and continues to be debated by the members of the European Law Faculty Association (ELFA). With more than 160 European law faculties as its members, ELFA may be considered a legitimate representative of all

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been carried out. See CRE’s website, *supra* note 121.

<sup>121</sup> See van Vught’s presentation, available at [http://www.unige.ch/cre/activities/accreditation/vanvught\(1\).doc.pdf](http://www.unige.ch/cre/activities/accreditation/vanvught(1).doc.pdf).

<sup>122</sup> See Froment’s presentation, available at <http://www.unige.ch/cre/activities/accreditation/froment%20doc.pdf>.

<sup>123</sup> See the findings of the CRE project available at [www.unige.ch/cre/activities/accreditation/first\\_findings.htm](http://www.unige.ch/cre/activities/accreditation/first_findings.htm).

The CRE Project recommended that specific efforts be initiated both at national, and international level, such as: 1) developing bilateral and multilateral agreements among educational institutional for mutual recognition of academic degrees; 2) establishing quality assessment agencies; 3) establishing a European clearinghouse and a European think tank, which will collect and disseminate information about current quality assurance and accreditation systems and best practices in education, and will study their impact. A suggestion resulting from the works of the seminar was also to create a European platform to validate, on a voluntary basis, existing national and professional accreditation/quality processes, as well as any bilateral or multilateral institutional agreements, provided that they are based on a common set of principles. Another suggestion was the possibility to provide accreditation of institutions on demand, as well as harmonize the accreditation procedures throughout Europe, which will allow a university or a program accredited in one member country become recognized in another country.

<sup>124</sup> See detailed information about the European Network of Quality Assurance in Higher Education (ENQA) and its member agencies, available at <http://www.enqa.net/>.

European law schools *vis-à-vis* the European Union.<sup>125</sup> In fact, in June 2004, ELFA plans to hold a conference entitled “Quality Assurance, Assessment and Accreditation in European Law Schools: Comparative Approaches in the Light of the Bologna Process,”<sup>126</sup> during which many issues paramount to law school accreditation will be discussed.

Professor Frans J. Vanistendael, Dean of the Law Faculty at K. U. Leuven, illustrated the many challenges and controversial issues surrounding accreditation of law schools in Western Europe in his article in an ELFA newsletter in 2001. In the article, Vanistendael states:

[T]he concept of accreditation raises several issues that should be clarified before its implementation: (1) Should we have accreditation per programme or degree or per institution?, (2) Should we have accreditation per discipline (law, economics, etc.) or general accreditation for all university degrees?, (3) Which type of accreditation is needed for legal education at the European level (basic standards, quality control, ranking)?, (4) What is the relationship between existing national accreditation and a possible European accreditation?, (5) Should we have accreditation within various existing university networks, or one single accreditation for European-wide legal education?, (6) Should we have separate accreditation for bachelor’s degrees and for master’s degrees?, and finally and most important (7) What should the relationship be between accreditation of academic law degrees on the one hand and professional accreditation by the legal professions on the other?

In any case it is of utmost importance that accreditation in whatever form (basic standards, or quality control) of legal education at the European level should remain in the hands of the universities or faculties and should under no circumstance be transferred to third parties. The only exception to this rule would be accreditation by national authorities, where it exists today. In particular universities or faculties should oppose any form of accreditation of academic education or degrees by business or professional organizations. This does not exclude that there should be an advisory role for business or the professions in accreditation, but no decisive role.

ELFA could be used as a forum to organize accreditation for European law schools, or even as the accrediting organization itself.<sup>127</sup>

Contrary to Professor Vanistendael’s admonition on the applicability of programmatic accreditation by independent agencies, however, the European Foundation for Management Development (EFMD) runs a successful programmatic accreditation scheme for business

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<sup>125</sup> ELFA was established in Lueven, Belgium in December 1995. ELFA’s objective is to act as a forum for debate on European questions of legal education. Information about ELFA and a list of its member-universities is available at <http://elfa.bham.ac.uk/site/default.htm>.

<sup>126</sup> Information about the topics to be discussed at this upcoming conference is available at <http://elfa.bham.ac.uk/cfp-arhaus.htm>.

<sup>127</sup> See Frans J. Vanistendael, *Legal Education in Europe and the Challenge of the Sorbonne-Bologna Declaration*, ELFA Newsletter (2001) at 53-54, available at <http://elfa.bham.ac.uk/site/default.htm> (follow the reference to Newsletters on the left and choose 2001).

management educational programs called EQUIS (European Quality Improvement System). EQUIS accredits business management educational programs and contributes to improving their quality.<sup>128</sup>

While the many substantial differences between the legal systems and legal education programs in Western Europe make the development and implementation of harmonized accreditation mechanisms for legal education programs more difficult than those for business management educational programs, the current European trends and initiatives, which strongly favor implementation of programmatic accreditation by independent agencies, suggest that changes in this regard may be closer than one thinks. In fact, in just a matter of several years, some Western European countries have made amazing progress in establishing efficient institutional and programmatic quality evaluation and accreditation mechanisms, some of which resemble those existent in the United States.

In the United Kingdom, for instance, the Quality Assurance Agency (QAA), an independent body established in 1997 and funded by subscriptions from universities and colleges of higher education, plays a leading role in establishing an integrated quality assurance system for UK higher education institutions.<sup>129</sup> QAA has developed the framework for higher education qualifications,<sup>130</sup> specific subject benchmark statements instituting standards for awarding academic qualifications in certain disciplines of study, including law,<sup>131</sup> standards for knowledge required by those possessing qualifications in law, and a code of “good practices” for academic institutions.<sup>132</sup>

QAA uses a two-part process to assess the quality of studies offered by higher education institutions: first a review of the self-evaluation report submitted by the institution, then an external peer review processes carried out by a team of academics.<sup>133</sup> Institutional audits in the UK have been

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<sup>128</sup> Detailed information about EQUIS is available by following the link of the EFMD website at <http://www.efmd.be/>. The standards applied by EQUIS concern the following: the context and mission, students and participants, executive education, program quality, personal development, research and development, contribution to the community, faculty, physical resources. EQUIS objectives are: 1) to provide an instrument for comparison and benchmarking; 2) to promote a shared vision of quality standards (converge upon best practices without sacrificing diversity); 3) to accelerate quality improvement in international management education; 4) to provide market information, and 4) to establish an accreditation process through the award of a European quality label. EQUIS guiding principles are: student satisfaction; employer satisfaction; customer satisfaction; acquisition of skills; personal growth of students; career progress of executives; balance between the academic and managerial dimensions; and overriding importance of the international dimension and responsiveness to the corporate world. The EQUIS accreditation process comprises several stages and considers several factors: 1) institutional criteria; 2) national standing; 3) international dimension; 4) self-assessment; 5) international peer review; and 6) final decision by the awarding body.

<sup>129</sup> Detailed information about the scope of activity of the Quality Assurance Agency, is available at <http://www.qaa.ac.uk/>.

<sup>130</sup> The frameworks for higher education qualifications promote a clearer understanding of the achievements and attributes represented by the main qualification titles, such as bachelors degree with honors, or masters degree. There are two frameworks: one for England, Wales and Northern Ireland, and one for Scotland, which is part of a wider Scottish Credit and Qualifications Framework. The text of the frameworks for higher education qualifications is available at <http://www.qaa.ac.uk/crntwork/nqf/nqf.htm>.

<sup>131</sup> The benchmark statements for law programs are available at <http://www.qaa.ac.uk/crntwork/benchmark/law.pdf>.

<sup>132</sup> The Code of practice sets forth guidelines on good practice for institutions, relating to the management of academic standards and quality. The text of the Code of practice *available at* <http://www.qaa.ac.uk/public/COP/codesofpractice.htm>.

<sup>133</sup> The institutional audit process is intended to combine scrutiny of internal quality assurance systems at

progressively introduced since 2002-2003. QAA intends to audit all higher education institutions by the end of 2005. After that, audits will take place every six years. Three years following the initial audit, QAA will briefly visit each institution to review progress.

Currently, in most German Federal States (*Länder*), state approval of higher education institutions and academic programs is conditional upon accreditation of the latter by independent accreditation agencies. Accreditation in Germany is a relatively new process.<sup>134</sup> In 1999, the Standing Conference of the Ministers of Education and Culture (KMK)<sup>135</sup> and the Rectors' Conference (HRK)<sup>136</sup> have established a nationwide accreditation council (*Akkreditierungsrat*)<sup>137</sup> responsible for approving accreditation agencies, coordinating and supervising their activity, and establishing the quality standards for Bachelor and Masters programs. Currently, there are six accreditation agencies in Germany: three cross-disciplinary (institutional)<sup>138</sup> and three single-discipline (programmatic)<sup>139</sup> agencies. The accreditation process is decentralized, universities being able to choose the agency by which they would like to be accredited. As of April 2003, 250 German undergraduate and graduate programs have been accredited.

In Sweden, the National Agency for Higher Education, which was established in 1995 by the Swedish government, performs institutional and programmatic quality assessments, and accredits institutions and programs. During a period of six years, from 2001 to 2006, the Agency will review all institutions and programs and will upgrade the right of institutions to award degrees.<sup>140</sup>

In Central Europe, Poland, Czech Republic, and Hungary are among the many countries that have institutionalized accreditation procedures for higher education institutions and programs.<sup>141</sup>

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institutional level with investigations of how those systems operate at the level of the discipline. For a detailed description of the institutional audit in England, see the QAA's *Handbook for Institutional Audit: England*, available at [http://www.qaa.ac.uk/public/inst\\_audit\\_hbook/iaintro.htm](http://www.qaa.ac.uk/public/inst_audit_hbook/iaintro.htm).

<sup>134</sup> See Angelika Schade, *Accreditation in the Framework of Quality Assurance Activities: the Case of Germany*, available at [http://www.srhe.ac.uk/Hern/Docs/HERN\\_S6\\_MAT/DELIVERABLES/HERN\\_SEM6\\_DE.pdf](http://www.srhe.ac.uk/Hern/Docs/HERN_S6_MAT/DELIVERABLES/HERN_SEM6_DE.pdf) (providing a detailed description of the German accreditation process and its actors).

<sup>135</sup> The Kultusminister Konferenz (KMK) website in German is [www.kmk.org](http://www.kmk.org).

<sup>136</sup> The Hochschulrektorenkonferenz (HRK)'s website is [www.hrk.de](http://www.hrk.de).

<sup>137</sup> As of January 2003, *Akkreditierungsrat* had seventeen members: four representatives from higher education institutions, four representatives of the Federal States, five practitioners, two international experts, and two students. The official website of the *Akkreditierungsrat* is [www.akkreditierungsrat.de](http://www.akkreditierungsrat.de).

<sup>138</sup> The cross-disciplinary German accreditation agencies are: ACQUIN (Accreditation, Certification and Quality Assurance Institute); AQAS (Agency for Quality Assurance through Accreditation of Study Programs); ZevA (Central Evaluation and Accreditation Agency). See Schade, *supra* note 136.

<sup>139</sup> The German single-discipline agencies are: AHPGS (Agency for Study Courses in Medical Pedagogy, Care, Health and Social Work); ASIN (Agency for Study Courses in Engineering/Informatics and Chemistry, Biochemistry, Chemical Engineering), and FIBAA (Foundation for International Business Administration Accreditation). See Schade, *supra* note 136.

<sup>140</sup> See Kauko Hämäläinen et al., *Quality Assurance in the Nordic Higher Education*, 2 ENQA Occasional Papers (May 2001) at 29, available at <http://www.enqa.net/texts/nordicquality.pdf> (the publication also contains information about accreditation-like practices in Denmark, Finland, Iceland, and Norway).

<sup>141</sup> See Helena Šebková & Ondřej Svatoň, *State Accreditation in the Czech Republic*, report presented at the Higher Education Reform Network (HERN) seminar in Krakow on July 4, 2003, available at [http://www.srhe.ac.uk/Hern/Docs/HERN\\_S6\\_MAT/DELIVERABLES/HERN\\_SEM6\\_CZ.pdf](http://www.srhe.ac.uk/Hern/Docs/HERN_S6_MAT/DELIVERABLES/HERN_SEM6_CZ.pdf) (the authors provide

Besides being essential for promoting students' mobility and competitiveness of the European education on the international arena, accreditation and quality assessment mechanisms will actually become indispensable for many West European countries if and when, according to a recent initiative of several WTO members, higher educational services is placed on the list of GATS-covered services. GATS principles forbid discrimination and trade barriers among trading partners. Once trade in higher education services is liberalized among the 144 WTO members, accreditation mechanisms will be vital for providing both the public and prospective students with accurate information on the quality of offered educational services.

The development and harmonization of quality evaluation and accreditation mechanisms for higher education institutions continues to be a topic ardently discussed at all European levels, and many current trans-European events are dedicated to sharing ideas, experiences, and concerns related to these practices.

## Part VI. Law School Accreditation in the NIS: What Next?

As discussed in Part III of this paper, most former Soviet republics have already institutionalized and are actively implementing, with varying degrees of success, evaluation and accreditation mechanisms for higher education institutions, which are also applied to assess the quality of legal education. While Part III identified some of the shortcomings affecting implementation of evaluation and accreditation, below are several suggestions and recommendations for measures that may help address these shortcomings, thus improving the efficiency of these important quality-control mechanisms.

### 1) *Legal Studies Should be Subject to Separate Programmatic Evaluation and Accreditation*

Since the success of a country's transition to a rule of law society is highly dependent on the quality of training and skills of its lawyers, NIS state educational authorities must be especially demanding and rigorous when it comes to inspecting the quality of offered legal education. For this purpose, NIS educational authorities may consider establishing a *separate* evaluation and accreditation process for legal education programs, which would be implemented *outside* the broader institutional evaluation and accreditation.

Under this scenario, teams of law professors and practicing lawyers would be appointed to review the quality of programs offered at law schools throughout the country. This would ensure a more focused and meticulous inspection of legal education programs as compared to their current review within the institutional/programmatic evaluation and accreditation process. These teams of experts should also develop handbooks containing methodological guidelines and recommendations for evaluating legal education programs, emphasizing the areas that must be considered most carefully.

Summaries of evaluation reports prepared by expert teams should be published and widely disseminated, thus providing valuable information to prospective law students, their parents, and the

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information on the accreditation mechanisms existent in Czech Republic). *See also* Ewa Chmielecka, *Academic accreditation - the Polish case*, available at [http://www.srhe.ac.uk/Hern/Docs/HERN\\_S6\\_MAT/DELIVERABLES/HERN\\_SEM6\\_PL.pdf](http://www.srhe.ac.uk/Hern/Docs/HERN_S6_MAT/DELIVERABLES/HERN_SEM6_PL.pdf) (describing the Polish accreditation system).

general public about the quality of studies and the comparative strengths and weaknesses of legal programs at different law schools throughout the country.

2) *Standards for Legal Education Programs Should be Adopted or Revised*

While most countries from the region have established general state educational standards to serve as guidelines for evaluating and accrediting academic institutions, not all countries have adopted separate educational standards for legal education.

Countries that have not adopted standards for legal education would benefit tremendously from doing so, since such standards will help establish the minimum criteria against which educational programs offered by law schools and law faculties would be evaluated and accredited. Countries where legal education standards do exist may consider updating these standards to include more specific requirements regarding the general academic environment in law schools, the admission and grading process, the professor-student ratio, the minimum number of full-time faculty, and equality of opportunity in legal education. A novelty would be to introduce a requirement that law schools establish and operate active career services for students, a factor which may be considered during a law school evaluation and accreditation, along with the employment rate of its graduates.

3) *Non-Governmental Bodies Should be Encouraged to Become Involved in the Evaluation and Accreditation of Legal Education Programs*

While the NIS governmental educational authorities currently have a monopoly over the evaluation and accreditation of legal education programs, a more active involvement of non-governmental bodies in these processes is advisable. In particular, national and local bar associations, judges associations, and other civil society players may help design and/or improve the educational standards for legal education programs and suggest methods of implementing them more efficiently.

State authorities may also consider including two to three law students and/or alumnae as members of evaluation and accreditation committees, which would offer a more complete and informative perspective on the quality of reviewed legal studies programs.

4) *Independent Accreditation Agencies May be Established to Evaluate Legal Education Programs*

Eventually, NIS national authorities may consider delegating accreditation of legal education programs to independent accreditation agencies with well-trained and experienced evaluators, including law professors and lawyers practicing in different areas of law. The involvement of the American Bar Association in approving law schools may be informative in this regard. Accreditation of legal education programs by these independent agencies may serve as the basis for *state accreditation* of law schools. This model is working well in Germany, where state control over higher education was also traditionally very strong.

5) *NIS Educational Authorities Should Cooperate with Western European Countries in the Area of Quality Evaluation and Accreditation*

Part IV of this paper discussed the many efforts undertaken at national and transnational European level with regard to developing and harmonizing quality evaluation and accreditation procedures for higher education institutions. NIS state educational authorities should pay close attention to these developments, especially in light of some of the former Soviet republics' aspirations to eventually become members of the European Union. By initiating cooperation with European state educational authorities and independent accreditation agencies in the area of quality evaluation and accreditation, NIS governments will be better informed about the most recent European policies and experiences in this regard. This will allow the former to harmonize their legislation with the European framework, a fact leading to a more rapid integration into the European higher education space. Harmonization will be especially crucial when the New Independent States accede to the *Bologna Declaration*, which entails a permanent cooperation among European countries in the area of quality assurance and accreditation for higher education institutions.

## Conclusion

While the legislative framework for the evaluation and accreditation of academic institutions, including those offering legal education in most New Independent States, is rather comprehensive and well drafted, state authorities should make diligent efforts to improve the *implementation* of these important quality-assurance mechanisms. Eventually, non-governmental players should be encouraged to take active part in the implementation of these mechanisms, and consideration should be given to delegating quality evaluation and accreditation of law schools to independent agencies. The NIS educational authorities are also encouraged to closely follow the developments occurring at both international and European levels with respect to evaluation and accreditation. This will allow them to integrate their education systems into the global education network more rapidly and efficiently, ensuring the mobility of students, as well as a better transfer of knowledge.