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EDITORIAL

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Legal Medicine in Europe – Quo vadis?

The Treaty of Rome from March 25th 1957, gives the highest priority to personal freedom, personal security and public health of the European citizen and, to the free migration of professionals within the European Community (EC). A fundamental prerequisite for the free migration is the comparability of qualifications and standards. Therefore, several EC directives (75/362, 75/363, 82/76, 89/594) are dealing with the recognition of medical degree certificates and post-graduate specialization schemes on a European level and, with guidelines on a national level. As pointed out by directive 75/363 only few differences exist between undergraduate courses at the multiplicity of EC medical faculties. Therefore, to achieve a good comparability, it is sufficient to establish some minimum requirements, such as the minimum duration of the undergraduate course (i.e. 6 years), while the organization of the teaching scheme remains the responsibility of the individual states.

While no problems exist for general practitioners, who are recognized in all EC states, difficulties could arise in other disciplines, because there are minor or major differences between the national training standards. The necessary level of comparability is therefore evaluated and finally decided by different committees of the EC. These committees operate based on the Directives 75/364 and 75/365, coordinated under ref. 93/16 EC of 5.2.1993 and aim at the protection of the professional level of doctors, observe the application of the EC rules and furthermore suggest possible modifications.

There are 3 central Committees: (1) The UEMS (European Union of Medical Specialists) which reports to (2) the CP (Standing Committee of Doctors) as the representative organisation of all European doctors (a kind of Parliament). Both organisations are emanations from the National Medical Associations and have private status. – The UEMS has essentially an advisory status; thanks to the 30 specialist sections it has de facto a great influence. The CP directly advises the European Commission and (3) the ACMT (Advisory Committee on Medical Training). This committee has been created at the time of the publication of medical directives with the aim of advising the European Commission. It is composed of 3 delegates per member state, and their substitutes, representing universities, the Profession and the Ministry of Health.

The Medical Directives recognize at present 50 medical and surgical specialities, of which 30 are represented by the Specialist Sections of the UEMS.

The disciplines recognized so far are included in 2 lists: the first list (relative to article 5 no. 3 of EC directive 75/363) contains the specializations recognized by all EC countries, the second list (relative to article 7 no. 2 of EC directive 75/363) those disciplines recognized by 2 or more EC countries. Although the lists have been periodically updated (see 82/76 and 89/394), Legal Medicine is not yet included. Historically several attempts have been made to obtain the recognition of Legal Medicine (LM):

The first attempts were undertaken by the Sevilla Committee, founded in 1986 in Spain by members from nearly all EC countries, who on September 6th signed the Sevilla Document. This document was made available to all relevant national and EC boards and deals with recommendations for minimum standards of the undergraduate teaching of Legal Medicine to medical and other students and with guidelines for the postgraduate teaching. The scheme recommended includes: Forensic Pathology, Clinical Legal Medicine, Forensic Toxicology, Medical Law and Ethics for a minimum of 60 hours of theoretical and practical teaching. The postgraduate specialization scheme – for Legal Medicine – lasts 5 years and includes practical training and theoretical teaching in Forensic Pathology, Clinical Pathology, Clinical Legal Medicine and other sub-specialities besides prescribing case numbers (e.g. 500 autopsies).

On July 27th, 1991, representatives of Greece, Italy, Spain and Germany signed the Munich Document which dealt with harmonization of the postgraduate specialization in the respective countries. This document has been complemented by an updated list including the remaining EC and EFTA countries and has also been made available to all relevant boards. This comparative analysis shows a sufficient degree of similarity of the training schemes and contents.

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The Perugia Document of October 11th 1991, revised in Cologne in July 1992 (Perugia/Cologne Document) is a guideline for the undergraduate teaching and has been adopted by official representatives from all EC and EFTA countries. The topics dealt with are: (1) Thanatology and Forensic Pathology, (2) Clinical Legal Medicine, (3) Ethics, Medical Jurisprudence and related legislation. This document was also presented to all official boards.

In 1992 the ECLM (European Council of Legal Medicine) was founded, which can be regarded as the official body dealing with Legal Medicine on a European level and as the successor organization to the Sevilla Committee. It has official delegates from all EC and EFTA countries. The following documents have been completed or formulated by the ECLM: Perugia/Cologne, Job Description, Autopsy Rules. It has also repeatedly applied for official recognition on a European level.

In 1991 the Parliamentary Assembly of the Council of Europe adopted Recommendation 1159 on the Harmonization of Autopsy Rules, which deals with autopsies for medico-legal reasons (e.g. mass disasters, suspicious deaths, unknown causes of death, illegal executions, murders perpetrated by authoritarian regimes). This document recommends the adoption of harmonized and internationally recognized rules and the adoption of a standardized basic protocol for autopsies. It also deals with the prevention of torture and inhuman punishment. This recommendation was prepared in close collaboration with representatives of the Sevilla Committee. Precise guidelines of the ECLM, written on the basis of this recommendation, are close to being published.

Although, many attempts have been undertaken to achieve official recognition on the EC level and major European political aims are very much relative to the discipline, nothing has so far occurred. Since many disciplines with internationally heterogenic structures and constellations have been officially recognized for many years, the attitude of the Medical Boards of the EC relative to Legal Medicine does not seem to be impartial and is unacceptable.

The reasons are unknown, but from the available information it seems that some representatives from some countries regard LM as a subdiscipline of Clinical Pathology. Others feel that LM is too heterogeneous to be regarded as an entity. In the following we would like to investigate some of these topics.

The discipline of Legal Medicine (LM)

1.) History. The first medico-legal autopsies were performed in the 13th century (Italy). A regular introduction of medical expertises (including postmortem investigations) into the criminal law of several European countries became compulsory in the Contitutio criminalis (Carolina) in 1532. This led to a rapid development of the discipline and the first basic books about LM were published in 1601 (Fidelis) and 1621 (Zacchia) and the first one dealing with medico-legal autopsy techniques appeared in 1660 (Welsch). – In 1761 Morgagni wrote his basic book about pathology. – The first chairs for LM were introduced around 1800 (Strasbourg 1794, Dorpat 1801, Krakau 1804, Wien 1805, Prague 1808 etc.). – LM is therefore one of the oldest medical disciplines and the development of Clinical Pathology was relatively delayed. Also, the development of LM in England was considerably delayed mainly because of major differences in the criminal law which led to a late introduction of expert evidence into the procedure. From this we can't detect a reason why LM should be considered as a subdiscipline of Clinical Pathology (CP).

2.) Definitions. By simplifying, one can differentiate 3 definitions: (1) a broad definition by which "LM is concerned with the application of specialised medical and related scientific knowledge and expertise to the just administration of the law in its broadest sense" (Sevilla document). This definition was sometimes felt to be too broad and has possibly induced irritations because it could collide with the idea that *one* person should be able to deal with *one* field. – (2) a narrower definition by which "LM is involved in the investigation, evaluation and elucidation of unexpected and/or unnatural deaths and bodily harm within the framework of the legal system" (ECLM). This is the equivalent of many Continental European Countries where the nuclei are Forensic Pathology (FP) and Clinical Forensic Pathology (CFP) which are surrounded and partially overlapped by supplementary fields such as toxicology, medical criminalistics, alcohology, thanatology. This model enables the integration by *one* specialist only. – (3) a narrow definition of "Forensic Pathology" (UK) only, by which LM is reduced to this rather limited field and therefore suffers from the disadvantage of deficiencies relative to the main task.

3.) Postgraduate specialization. The duration varies between 2 and 6 years (Table 1). Some of the countries lacking a formalized postgraduate scheme have had it de facto for many years as a substantial part of the exclusive "University solution", i.e. existence of medico-legal Institutes on a University level. Countries showing gaps in the University solution also lack a formalized or an acceptable postgraduate specialization (France, UK, Netherlands). As has been pointed out there exist differences between the national postgraduate schemes. But these are considerably reduced if one analyses the common core of the discipline, i.e. FP, CFP and supplementary fields like toxicology, medical criminalistics, trace examination (Munich document). – In addition there exist differences between the principle methods of postgraduate specialization: (1) The

Table 1 Postgraduate specialization (numbers = years) or alternatives (U = "University solution") in EC and EFTA countries

ECLM					
EC				EFTA	
Germany	5	France	2	Austria	6
Italy	4	Great Britain	U	Finland	6
Portugal	4	Ireland	U	Sweden	5
Greece	3	Netherlands		Switzerland	5
Spain	3	Luxembourg*		Iceland	U
Belgium	U			Norway	U
Denmark	U				

* LM service is officially run by a neighbouring country w. 5 years specialization

principle "learning by doing" is well established in Middle and North Europe including the UK and some national schemes even prescribe the performance of defined case numbers (e.g. 500 autopsies etc.). (2) The focus in Southern Europe lies in theoretical teaching which is supplemented by practical experience. – The differences have been evaluated to be compensatory so that the final product is more or less comparable (Munich document). Other disciplines exhibit even larger differences relative to national peculiarities. But in LM, such differences do not collide with the common essentials. – It has also been considered that due to differences in the law system, LM is difficult to harmonize. This is also wrong because the legal principles that have to be observed are internationally the same (e.g. definition of murder, manslaughter; e.g. principles such as "conditio sine qua non", "beyond reasonable doubt" etc.).

The variation in the duration of the postgraduate scheme can of course create problems. Therefore all countries have – on a European level – agreed on a minimum of 4 years.

4.) University solution. Nearly all European countries have LM as an integral part of the universities and, of the medical faculties. The undergraduate education is also a substantial part of nearly all national schemes. But there exist exceptions in regions of some countries (France and England) and a complete lack in one country (Netherlands). The contents have been unanimously accepted by the ECLM and layed down in the Perugia/Cologne Document. Major topics are: (1) Thanatology and Forensic Pathology, (2) Clinical Forensic Medicine (i.e. bodily harm, child abuse, rape etc.), (3) Medical Law and related legislation. – How and whether the deficiencies that exist in some countries contribute to the quality level of doctors is not known. But this should be evaluated because the practice to let such doctors (without basic knowledge in the field) freely migrate into other countries can't be within the scope of the EC. – Despite such regional deficiencies, the university solution has considerable advantages:

- This status guarantees the expert a maximum of freedom and independence. We have learned from history and also regard this as a constitutional principle that the evidence established by medical and scientific means should never become a monopoly of the legislation nor of the executive bodies.
- This status is committed to research and is therefore connected with the advantage that the most recent scientific knowledge can be applied to the case work. It guarantees furthermore an easier flux of information from other disciplines and the permanent control of its scientific efficiency.
- This status also provides the platform where students get in touch with the discipline and become attracted by it. This enables the discipline to always obtain "fresh blood".

5.) Structure. LM is a complex structure in Continental Europe. Normally one Institute/Department has the different substructures under one roof. In other countries (UK, America) these substructures are diversified. They can even belong to different authorities. – Of course, the advances in LM have led to the inclusion of other scientists, e.g. natural scientists. But the interdisciplinary approach under one roof directed by the medico-legal expert remains unchanged. It has the following advantages:

- especially in homicides and other complicated cases a unidimensional approach is rarely sufficient.
- Interdisciplinarity is not only associated with interactions and feedbacks leading to motivation and control mechanisms, but also with a great increase of efficiency and with economical solutions. This is much too often underestimated.
- The history of judicial errors shows that many such mistakes could have been avoided if the one hand would have known of the other hand. Interdisciplinary approaches have the advantage that – often, but not always – one methodological line controls the other. In countries lacking such interdisciplinary cross checks, laymen have to evaluate compatibility of findings and their interpretations. But they are lacking the expert knowledge.

There is a general agreement in most of the EC member states that LM is a defined entity, which differs in structures and aims only marginally from one country to the other.

Conclusions

The 'Quo vadis' might become crucial not only for LM but especially also for those disciplines that are attempting to undermine it's heritage.