

A COMPARISON BETWEEN HUNGARIAN AND ANGLO-AMERICAN  
APPROACHES TO ETHICAL LEGAL TRAINING  
AT DIFFERENT STAGES OF THE EDUCATIONAL CONTINUUM

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A thesis submitted in partial fulfilment of the  
requirements of Nottingham Trent University  
for the degree of Doctor of Philosophy

December 2020

## ABSTRACT

The main aim of the research was to investigate legal ethics education in Hungary for the first time. Ethicists refer to the importance of the local cultural context and in Hungary, similar to other countries in the region, Communism and the transition to a market economy destabilised traditional ethics and has led to a society suffering low morale. Consequently, there is a need for ethics education in Hungary, including professional ethics.

The academic literature identifies possible aims of professional ethics education, and many researchers recommend an integrated approach, continuing after qualification, to achieve these aims. This thesis reviewed the current legal ethics education practices in the most common tertiary, formal learning routes leading to become qualified lawyer, and also in the post-qualification stages in the USA, in England and Wales, and in Hungary, and contrasted them in a novel way, by using Rest's Four Component Model.

Since the USA and England and Wales have extensive and complex systems in the field, a partial review of the academic and professional standards and the academic literature on legal ethics education practices was conducted for reasons of practicality. Concerning Hungary, legal ethics was not a compulsory required course at law schools until the accreditation standards changed in 2016, and very few academic sources were found with regard to the topic. In order to fill a gap in the literature, information only available in Hungarian on government, academic and professional websites was translated and analysed, along with data gathered by qualitative 'elite' interviews with representatives of the major stakeholders in Hungarian legal ethics education: policymakers, academia and the legal professions. This research found no tradition of, and no discourse about legal ethics education in Hungary, but a variety of solutions both at the pre-qualification and the post-qualification stages.

## ACKNOWLEDGEMENTS

I have been blessed with a fantastic team of supervisors: Associate Professor Graham Ferris, Pamela Henderson and Adrian Savage, I am very grateful for your help and support. I wish that all doctoral students had such a fantastic trio of professionals as supervisors, like the three of you! Within the Nottingham Law School, I also would like to thank Dr Samantha Pegg for her comments, Professor Jane Ching for including me in the Centre for Legal Education, and Professor Elizabeth Kirk for providing me with the opportunity to present my poster during the Nottingham Trent University (NTU) Doctoral Festival in December 2016. I also appreciate the comments of the various NTU Doctoral School committees on my reports; they were helpful and encouraging. The high-level professional assistance by the Doctoral School administration and by Sharon Potter from NTU Boots Library were also of great help during my doctoral studies at NTU.

I wish to thank my six interviewees, who need to remain unnamed, for being available and trusting me with their opinion and expertise. Their contribution to the first investigation of Hungarian legal ethics education was invaluable. I am grateful to those former professors, colleagues and friends who helped me to talk to them. I also appreciate that the Hungarian policymakers were quickly and kindly available to provide me with useful information by email.

I thank Dr Janos Frivaldszky from Peter Pazmany Catholic University for being my supervisor and mentor when I started researching Hungarian legal ethics education for the first time, which led to my first publications in the field and to encouraging feedback emailed by Dr Laurel Terry. I am grateful for Dr Swethaa Ballakrishnen for her comments on Chapter 4, and also for the opportunity to talk about Hungarian legal ethics education to her students at New York University Abu Dhabi, and for our discussion about legal ethics education in the USA. I also thank Dr Balazs Fekete for our correspondence and being the first person citing my article published in the *Law Teacher* in 2018. Caroline Bodoczky and Dr Katalin Tardos at International Business School – Budapest were my first trainers in teaching and learning methods in higher education. What I learned from them during those superb events was a foundation of this thesis (and also my career in higher education). I also would like to thank Dr Grace Thomson and Dr Priyadarshini Baguant,

my former chairs at the Business Department of the Higher Colleges of Technology Sharjah Women's College, for their help and support.

I also thank my whole family for their support and encouragement. My wife, Krisztina, and my daughter, Anna: what a great team we are! I could not make this intellectual (and also physical, between Dubai, Budapest and Nottingham) journey without you.

Finally, a dedication. This thesis is dedicated to the loving memory of my late uncle, Dr Zoltan Fazekas, and my late mother-in-law, Mrs Judit Horvathne Liwa: thank you for your wisdom and for the witty moments.

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## ABBREVIATIONS

ABA - American Bar Association

ACLEC - Lord Chancellor's Advisory Committee on Legal Education and Conduct

APRL - Association of Professional Responsibility Lawyers (USA)

BEI - Balanced Experiential Inquiry

BPTC - Bar Professional Training Course (England and Wales)

CEE - Central and Eastern Europe

CLE - Continuing Legal Education (USA)

CMD - Cognitive Moral Development model

CPD - Continuing Professional Development (UK)

DIT - Defining Issues Test

FCM - Rest's Four Component Model of Moral Action

GDL - Graduate Diploma in Law (England and Wales)

GVV - Gentile's 'Giving Voice to Values' method

HAC - Hungarian Accreditation Committee

HAS - Hungarian Academy of Sciences

JD - Juris Doctor (USA & Hungary)

LETR - Legal Education and Training Review (a joint project of the Solicitors Regulation Authority, the Bar Standards Board and ILEX Professional Standards)

LPC - Legal Practice Course (England and Wales)

MPRE - Multistate Professional Responsibility Exam (USA)

NTU - Nottingham Trent University (UK)

PhD - Doctor of Philosophy

QAA - The Quality Assurance Agency of UK Higher Education

SQE - Solicitors Qualifying Examination (England and Wales)

UCI - the University of California in Irvine (USA)

UK - the United Kingdom of Great Britain and Northern Ireland

USA - United States of America

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## CHAPTER ONE: RATIONALE

This chapter starts with the personal reasons of the author for choosing the research topic and the importance of legal ethics education. It enumerates the objectives and the scope of the research, as well as its limitations, and lists the research questions this thesis intends to answer. The chapter concludes with an overview of the other chapters of the thesis.

### **About the personal choice of the research topic**

A former professor of mine always told the senior students before their choosing a thesis topic that the research topic ideally should have three equally essential attributes: available materials, relative novelty and a positive personal link, i.e. the student should like the topic. The existence of a wide range of textbooks, academic articles and professional papers about the area evidently makes both finding the context of the research, and also identifying a gap to fill by the thesis easier. As for the third attribute, he told us that the lack of it would make focusing on the topic very hard when we face difficulties. According to him: the best is if you are interested in the topic, then it will be easier to read the related secondary sources and gather information from primary sources and analyse the data. Every research process has its own hurdles to overcome, and a strong personal link with the topic, finding it impressive, fascinating or otherwise crucial for the student, will be motivating in continuing the research when adverse situations occur. Being intrigued by the research topic is definitely helpful and crucial in research, he advised us.

In my case, the following sections of this chapter and the other chapters of the thesis are evidence that my research topic has the first two of the above-mentioned attributes: there is a robust body of knowledge about legal ethics education one is able to access, and by preparing this dissertation a gap in the academic literature is filled, and I thus might contribute to the further development of the area. Concerning the third attribute I, similarly to other research students, have to admit that there were adverse situations, I have faced difficulties and hurdles, and being passionate about my

research was not just instrumental, but I believe paramount in staying on track and progressing with the preparation of this thesis. The more I thought about the driver of this passion, the more I realised that there are multiple reasons for being attracted to this very intellectual journey which is culminating (for the time being, at least) in this thesis. Some of the reasons are related to the family I grew up in, and some are related to my learning and workplace experiences.

I was born into a family of intellectuals, where family members and close friends were and still are fond of reading and of having conversations about what they read or heard. Talking about what is the “right thing to do” (albeit it was not always reflected in their behaviour), evaluating and criticising actions made by others were part of the everyday conversations. So I was born into ‘moralising’, so to speak. There is a qualified teacher in my family from whom I heard a lot about teaching: curricular issues, assessment, students’ behaviour, the relationship between the weight and the importance of certain topics in the syllabus. Thus, during my primary school years (in Hungary it was between age 6-14, at that time), I had the opportunity to learn about the two sides of education: experiencing learning as a pupil and hearing about the teaching part.

In addition to these ethical and educational issues, I was lucky enough to have first-hand information about being a legal practitioner, too. My late uncle was the only lawyer in the family, a very educated person who very proudly told me about how he helped others as a legal practitioner. With all these inputs and influences around ethics, education and law during my childhood, in addition to a few law-related topics learnt in History classes during my secondary school years, I entered the law school.

My first experiences as a law student about teaching, learning and assessment were mixed: like most students all around the world, I found individual professors and instructors, teaching methods, topics in the syllabi and exams ‘good’ and others ‘not so good’. It was not a sophisticated evaluation, of course, rather just one based on impressions. Interestingly, I found myself occasionally thinking in the classroom about how the topic could have been ‘taught better’ – again, without any real knowledge about pedagogy or teaching evaluation methods. When, at the end of my studies, I had to choose my topic for the thesis, as per my professor’s advice, I realized that I am really interested in the relationship between law and ethics, and thus the paper I prepared in my last year at law school was about values in the law: how the main jurisprudential theories, treatises and judicial decisions looked at various ethical issues. It was an enjoyable exercise, I

loved writing about it, earned a good mark, and I thought that I would never deal with this topic again.

Having graduated from law school, I successfully applied for a lawyer job within public administration, and as a professional, I focused on developing myself in various areas of the law. Ethical issues emerged around me time to time but only as a somewhat distant issue, either as a general moral problem the whole society had to face, or in relationship with colleagues working in other departments, or with former classmates who were not my closest friends. Perhaps I was just lucky enough not to have even the chance to be involved in anything nefarious, who knows. However, all of a sudden, a more lucrative job offer came from a business school, and as a lecturer teaching business law, I had to deal again both with the links between law and ethics and also with pedagogy and administrative issues in education.

Having known the practices of only one Hungarian law school as a student, it was a fantastic opportunity to be exposed to international higher education, first as an instructor and later as a manager. I attended an in-house course for instructors on teaching and learning in higher education, which helped me a lot in understanding better those pedagogic issues I experienced in the law school. What to do in a classroom, how to facilitate learning, how to design a course to meet expectations of potential future employers of the students and different accrediting bodies, how to evaluate teaching and learning: these important factors (and many more others) influenced my work as my career changed to become a higher education practitioner from a law practitioner. Furthermore, I had to consider the different approaches to all of these factors the various stakeholders have, from Hungarian higher education practices to the traditions and solutions of British partner universities to the different backgrounds of international students and faculty members. All of the above had the result that I decided to commence this intellectual journey and enrolled in the PhD programme of a Hungarian law school. My selected approach was comparative to see the practices of legal ethics education in the United States of America (hereinafter referred as USA) and in England and Wales within the United Kingdom (UK), in contrast with the Hungarian system. During the last year of my studies, I prepared three academic papers, one for each country, describing my findings on accreditation standards and institutional practices related to legal ethics education. Having published these papers via an online journal of the Social Science Research Network in early 2013, I received positive feedback by email from Professor Laurel S.

Terry, distinguished scholar in the field of legal ethics education in the USA, which encouraged me to continue my research. This feedback was helpful later since I was unable to complete my studies due to securing an academic job in the United Arab Emirates in 2013, but this career change enabled me to learn about new higher education practices and also to re-start my PhD studies. I obviously chose legal ethics education again as my research area. It felt like a simple, straightforward choice, as the law is my background, teaching is my main profession and dealing with the ‘right’ thing in the ‘right’ way is something I am passionate about. And I have luckily found a ‘matching’ doctoral school: there are fellow passionate professionals at NTU Nottingham Law School.

Life happens, and it has already brought many changes to my life, but somehow law, ethics and education remain with me. This thesis is, in some way, an account of how I see these three issues and where I am now. In addition, my story seemingly falls into the ‘usual’ category, when it comes to motivating factors of commencing a doctorate programme: interest in the subject and career plans in academia. (Morris and Murphy 2011, p. 15)

### **The importance of the research topic**

In addition to being interested in their area of research, there is an important question every researcher needs to answer: is the topic worth researching? Academic literature supports that legal ethics education is an important research topic. In an era of the political, economic, or social scandals in many countries, it is a justifiable requirement that legal education should pay particular attention to ethical issues. As will be seen, the literature identifies strong public and private interests in legal ethics. As professionals, lawyers “owe duties to clients, society, and conscience” (Eberle 1993, p. 91), since becoming a professional is regarded not only an intellectual process but also a social and moral one (Egan et al. 2004, p. 306). While, in general, ethics education might “compensate for general moral decline” (Boon 2002, p. 41), the acquisition of professional lawyering skills and values is another important argument. Authors supporting legal ethics education refer to “ethical fading” (Chambliss 2012, p. 48), to the diminished prestige of the legal profession (Dhanaraj 2000, p. 2040), to the number of disciplinary actions against lawyers by

courts and Bars (Boothe-Perry 2009, p. 523) and to the diversity of ethical issues due to the diversity of law practice (Perlman 2000, p. 832).

Further to public and private interests, the changing nature of legal practice due to the arrival of greater specialisation, insecurity and instability of the profession, and the weakening impact of socialising institutions, were also listed as reasons when identifying three main areas by policymakers to be included in legal ethics education: legal values (such as commitment to the rule of law, to justice, fairness and high ethical standards, or to promoting equality of opportunity), contextual knowledge, and professional skills (“learning to act like a lawyer”) (Boon 2002; Duncan 2015). The role of legal ethics has been found to be vital in maintaining the rule of law: the “uniformity of legal training” and the legal value of respecting human dignity (Luban 2007, pp. 3-4), and the legal value of “integrity” were emphasized as of importance, especially as “lawyerly fidelity to the client” in adversary advocacy could even be interpreted as the reason why “lawyers must cheat”, and integrity can help in balancing such “lawyerly vices” (Markovits 2008, pp. 4-9).

Moral problems and ethical misconduct by lawyers are, unfortunately, facts based on evidence: data on disciplinary procedures and empirical research. However, when it comes to how ethics education can address this issue hopefully preventing such misconducts, Chapter 3 will show that the relevant research is inconclusive and makes general recommendations rather than providing clear, evidence-based answers. Further to the inconclusiveness of the related research, it is also very important to note that legal ethics education is still not a ‘mainstream’ topic, it is not accepted by many in academia and the legal professions (see Economides and Parker 2011): while many academic and professional policymakers emphasise its importance (see in Chapters 4, 5 and 6), there is no consensus about whether it can be taught or objectively assessed. This thesis is another source supporting those policymakers, academics and law practitioners, who champion the research and the practice related to legal ethics education.

## **The objectives and the scope of this comparative education research**

This thesis intends to serve a dual audience: it provides the academic and professional communities at international level with an insight into Hungarian legal ethics education practices on the one hand; and the author also would like to contribute to the scholarly discourse in Hungary about the field, on the other.

### *Objectives of the thesis*

According to Morris and Murphy, a doctorate is about creating new knowledge, such as bringing in a new perspective, filling a gap in the literature, suggesting possible reforms, or testing another's idea in an original way (Morris and Murphy 2011, pp.23-24). This thesis intends to bring the recent recommendations related to professional ethics education into the Hungarian academic and professional discourse, fill a gap in the relevant academic literature on, and suggest areas for improvement in Hungarian legal ethics education, and use Rest's Four Component Model in a novel way to evaluate the current legal ethics education practices in the USA, in England and Wales, and in Hungary.

Regarding the international audience (which includes the Hungarian one), this research investigates legal ethics education in Hungary for the first time, and it aims to fill a gap in the academic literature on Hungarian legal ethics education: this is Objective no. 1 of this thesis. Legal education has not been the focus of academic research in Hungary, let alone legal ethics education. Academic sources on Hungarian legal education in general, both in English and in Hungarian, are rare and based only on reviewing literature or reflecting on the authors' own experiences. Scholarly activity in legal ethics education has been sporadic even in Hungarian and is almost non-existent in English. By reviewing the academic sources available in English and recent academic and professional ones available only in Hungarian, and by analysing the information gathered from interviews conducted with representatives of the major Hungarian stakeholders (for details about research methods see Chapter 2), this thesis makes an original contribution to human knowledge of the field: making information available in English that is currently only available in Hungarian, and also expanding the existing literature via the new data generated from these 'elite' interviews. The thesis first informs the international audience about the Hungarian context: it reviews the

academic literature on the low morale the societies of the region Hungary belongs to suffer from, adding the opinion of the interviewees about how this low morale is viewed among Hungarian legal educators and practitioners (see Chapter 3). The thesis then provides the international audience with insights into Hungarian legal ethics education in specific, using documentary research and the ‘elite’ interviews (Chapter 6).

Concerning the academic and professional communities in Hungary, the author intends to disseminate USA practices and the ones in England and Wales specifically to this audience, as Objective no. 2. These two countries were selected for comparison because of two main reasons: their importance in legal education and legal services markets in general, and their importance in legal ethics education in specific. The USA universities and the ones in England and Wales dominate legal education worldwide (Flood 2011; Silver 2013), as their law firms dominate the global legal services markets (Law Society of England and Wales 2016; USITC 2017). Consequently, these universities and law firms work with Hungarian law graduates either in the USA and in the UK, or in the Hungarian offices of international law firms (Law Society of England and Wales 2015; Vinkovits 2017; Hungarian Bar Association 2018; HG.org’s database 2018), and this comparative research may assist in better understanding of legal ethics education practices in these countries. As chapters 4 and 5 explain, legal education in the USA and in England and Wales has adopted a practice-oriented, applied approach towards legal ethics. The law schools in the USA were pioneers in legal ethics education and are required to offer a compulsory course (meaning a required unit of a formal learning programme; often called as ‘module’ in the UK) on professional ethics in their curriculum. Furthermore, and legal ethics education also appears in the ‘post-qualification’ stage there (for details of the various stages of legal education, see the next two pages in this chapter; for details of USA legal ethics education, see Chapter 4). Concerning the UK, the legal education system is complex, and due to feasibility reasons, the focus of this thesis is on the academic and professional practices of England and Wales. Legal ethics is not a compulsory course during the academic component of the pre-qualification stage in England and Wales, but has an important role during the vocational component: those who wish to become barristers and solicitors, i.e. lawyers belonging to the two traditional legal professions in these parts of the UK, mainly choose the route of attending a postgraduate vocational formation for their professions, each of which includes a module on professional ethics (although there will be major changes regarding solicitors, as explained in Chapter 5). The academic and professional

communities, both in the USA and in England and Wales, are engaged in developing the field further, and the academic literature provides with insight of their legal ethics education practices (see chapters 4 and 5). Hungarian law schools just commenced teaching a compulsory course recently, which is similar to the USA practice, but the courses offered are rather theoretical. Furthermore, after the academic component, a vocational training is also required for becoming a qualified lawyer in Hungary, where legal ethics is addressed: it is a similarity to the practices in England and Wales. (For details of Hungarian legal ethics education practices see Chapter 6; for detailed comparison of the relevant practices in these three countries see Chapter 7). The thesis intends to contribute to human knowledge by exploring academic and professional literatures across these different societies, by applying legal education discourses to the Hungarian context, and by identifying the need for a discourse around legal ethics in the Hungarian academic and professional communities.

Comparative education, traditionally, focuses on “comparing national education systems and issues” (Mitter 2009, p. 97) by looking at “functional equivalences, i.e. different mechanisms serving the same purposes” (Teichler 2014, p. 397). The importance of the “higher education/vocational nexus” (Powell and Solga 2010, p. 718) and lifelong learning is also emphasized in the twenty-first century educational narrative (Bash 2009, p. 548), albeit comparison of lifelong learning is much more problematic, due to the lack of “a single major provider or national structure” (Jarvis 2009, p. 616). With regard to legal education, summarizing the relevant research Economides refers to this lifelong learning as the “continuum” and its stages as the ‘academic’ (“initial”), ‘vocational’ and ‘post-qualification’ (“Continuing Professional Development”) ones (Economides 2015, pp. 736-738). This comparative education research focuses on legal ethics education practices during the most common tertiary, formal learning routes throughout the continuum in the USA, in England and Wales, and in Hungary. In addition to the investigation of legal ethics education during the formal learning routes leading to qualification (referred to as ‘pre-qualification’ stage in this thesis, which includes an ‘academic’ component in each of these three countries and a ‘vocational’ one in the cases of England and Wales and of Hungary), the thesis also looks at the available information concerning formal learning during the ‘post-qualification’ stages in these countries, agreeing with the importance of lifelong learning. With regard to these formal learning routes, the expectations (i.e. the relevant academic, professional and government standards) and education practices (academic sources, which focus

mostly on law schools' practices) related to legal ethics were investigated, as comparable "functional equivalences". Concerning legal ethics education, the USA and England and Wales have extensive and complex systems (due to, in part, the differences in the organisation of higher education and the legal profession in these jurisdictions); therefore, only a partial review was conducted for reasons of practicality. In the case of Hungary with a far smaller system, it has been possible to review all major providers of legal ethics education in the jurisdiction.

This comparative education research on the current legal ethics practices identified similarities and differences in these three countries, as its Objective no. 3. However, this thesis intends to go beyond the description of legal ethics education practices in these countries. Since comparative education research also often evaluates the identified practices of other countries by "benchmarking" them (Teichler 2014, p. 397), this thesis also aims to evaluate legal ethics education practices in the USA, in England and Wales, and in Hungary, as Objective no. 4. By contrasting these practices using Rest's "Four Component Model of Moral Action" (Bebeau et al. 1999) regarding the possible aims of professional ethics education, and recommendations drawn from the academic literature on how to achieve these aims (for details of the model and the recommendations, and the evaluating framework see Chapter 3). Thus, another contribution to human knowledge of this research is the novel application of the Four Component Model (abbreviated as FCM) in the evaluation of legal ethics education practices throughout the legal education continuum in the USA, in England and Wales, and in Hungary.

### *The significance of the thesis*

To summarise the significance of this thesis in the context of the above detailed objectives, two issues can be mentioned: one regarding the academic literature related to legal ethics education, and another with regard to the related practices of the legal professions.

Concerning the academic literature, providing insights into Hungarian legal ethics education practices for the first time (Objective no. 1) is not just useful for anyone working with legal academics or practitioners from Hungary, but may also inspire researchers to prepare comparative overviews of similar practices (Objective no. 3) of those countries which are less 'visible' in books and journals, or to apply or further develop the evaluation tool for benchmarking professional ethics solutions (Objective no. 4) across the continuum of legal education in a given country, or

even in relationship with another profession. This thesis is also a pioneer in the sense of introducing concepts and solutions related to professional ethics education in general, and to legal ethics education in the USA and in England and Wales into the Hungarian academic discourse (Objective no. 2), encouraging further research in Hungary both on legal education in general and also on professional ethics in specific.

Regarding the practices of legal professions related to professional ethics education, especially in Hungary, the thesis contains useful information for providers of legal services. In line with the recommendations of the Council of Bars and Law Societies of Europe on the coverage of ethical issues during professional and continuing training (Council of Bars and Law Societies of Europe, 2003 and 2007), it provides with a detailed overview of the solutions in the USA and in England and Wales for incorporating ethical issues into formal learning after graduation from the law school, including professional development programmes after becoming a qualified lawyer. This may support the further development of the existing practices in Hungary (see Chapter 6) by modifying the current solutions or introducing new ones (see recommendations in Chapter 7).

### *The scope of the research*

As the title of this thesis shows, this research compares the Hungarian approach with the Anglo-American ones to ethical legal training at different stages of the educational continuum. The thesis investigates formal learning of professional ethics in legal education in the USA, in England and Wales, and in Hungary: the requirements at national level and on how providers of formal legal learning in these countries meet these requirements solutions throughout the legal education continuum. The thesis provides with a description of the current rules and solutions pertaining to professional legal ethics.

The focus is on the formation of individuals intending to have a career in the legal profession: each of the countries concerned have their own approach to what and when should be taught to law students, fresh graduates and qualified lawyers in relationship with ethical behaviour. From the perspective of formal legal learning, the thesis looks at legal ethics education as training in professional ethics throughout the legal education continuum, more specifically as development of professional ‘capacities’, using Rest’s Four Component Model (for details see Chapter 3). According to the model four such capacities were identified and recommended to develop, as

possible aims of legal ethics education: moral awareness, reasoning, motivation, and implementation. These aims require knowledge and application of the rules related to ‘lawyering’, which can be taught and learnt in the ‘usual’ ways of legal education, but also go beyond ethical knowledge by aiming to develop motivation and implementation, which challenge these ‘usual’ ways, calling for solutions related to how ethical action can be taught and learnt. Thus this thesis looks at legal ethics as a complex set of expectations in the given country, in relationship with ‘good’ people, who happen to be law professionals: a set of expectations which contains knowledge and application of the rules related to ‘lawyering’, as well as further capacities. Each country concerned has its own discourse about these expectations and their place in their legal education continuum. This research first provides with an insight into academic thinking about professional ethics education in general (see Chapter 3): the discourse about the interpretation of professional ethics and about the aims and methods of professional ethics education. Then, in the context of this discourse, each one of the countries concerned is investigated to have an overview of the current requirements, practices, and research in relationship with legal ethics education: Chapter 4 is about the USA, Chapter 5 is related to England and Wales, and Chapter 6 investigates the Hungarian solutions. Each of these chapters on legal ethics education in the given country ends with an evaluation, which culminates in a comparison in Chapter 7, along with a set of recommendations regarding legal ethics education for academia and legal practice.

With regard to the above detailed, multidisciplinary scope of this research, which uses sources related to ethics, education and law (including black letter law, e.g. the accreditation standards in Hungary, which are issued by a ministerial decree: see Chapter 6), it is also important to state what, albeit important and relevant, issues and topics this research could not cover and thus the thesis does not contain, due to reasons of practicality, mainly to the lack of resources. However, many of these issues are enumerated again in the recommendations on future research or policy making (see Chapter 7).

The thesis refers to academic sources on the importance of the cultural context of ethics in a society, and on the different approaches to defining professional ethics (see Chapter 3), but it does not explore neither the academic discourse about the definition of ethics in detail, nor the relationship between ethics and the law: the thesis is not dealing with moral or jurisprudential debates. Theoretical and philosophical approaches to legal ethics are referred to only as much as

they are related to the organisation of formal learning. The thesis does not investigate specific norms related to the legal professions either: whilst legal ethics courses tend to adopt a “rules-based” focus on professional norms (D’Silva 2013, p. 84), legal ethics education is more than just analysing the “law of lawyering” (Hamilton et al. 2012, p. 17) and thus this comparative research is not about the exploration of how a specific problem is resolved in different legal systems, which is the essence of the classic, functional method of comparative law (Zweigert and Kotz 1998). Thus the thesis is not exploring the details of either the specific legal instruments issued by the relevant legislative body at national level on provision of legal services, operation of law firms or individual legal professionals, or the codes of conduct issued by specific legal professions.

Regarding education, this research is based on academic sources about the possible aims and the recommended pedagogic issues of professional ethics education (see Chapter 3). The thesis is then focusing on formal learning of legal ethics at course and programme levels in higher education in each of the three countries concerned, in the related postgraduate vocational training in England and Wales and in Hungary, and during the ‘post-qualification’ stage again in each of the three countries (chapters 4-6). It is not dealing with other aspects of professional education than formal learning at tertiary level, i.e. formal learning during childhood or informal learning. As for the latter, the literature reviews in chapters 3, 4 and 5 only refer to the importance of informal learning in general and in the context of legal ethics education in the USA and in England and Wales, but this research does not investigate informal learning in detail: this could be the topic of another research project. Likewise, assessment in legal ethics education or the role of the instructor are also stated as important factors (see Chapter 3), but not explored further, mainly due to the lack of comparable information. An apparent limitation of the thesis is a geographical one: while the Hungarian practices related to legal ethics educations are reviewed in full, the solutions of the other countries concerned could only be reviewed partially. Hence the thesis does not explore details of legal ethics education practices at state-level in the USA, or of every legal profession or law school in England and Wales. Finally, this thesis focused mainly on USA and UK academic sources written primarily about legal ethics education, hence sources on teaching other legal subjects and topics (such as Constitutional Law or Criminal Law), where issues related to professional ethics also addressed partially, were not explored either.

## Research questions

In line with the title of this thesis, and the objectives and limitations described above, this research aimed to find an answer to the following central question:

*How does the legal education system in the USA, in England and Wales, and in Hungary prepare law graduates for becoming ethical professionals?*

This central question has a general ethics education part, for which a sub-question was generated: *How can an education system prepare professionals to become ethical?* This question is addressed in Chapter 3, providing a context of Hungarian legal ethics education by summarizing the regional specificities to the non-Hungarian audience, an exploration of what aims can be expected from professional education and how these aims can be achieved, and a framework used for evaluating legal ethics education in the USA, in England and Wales, and in Hungary.

With regard to legal ethics education, further sub-questions were generated for each of the three countries, in relationship with the main stakeholders in legal ethics education (the “three jurisdictions”, as per Boon 2002), specifically: policymakers (government or authorized professional body in charge of issuing requirements and relevant accreditation standards for legal ethics education), academia (law schools of recognized universities delivering accredited academic programmes in law) and the legal profession (the acknowledged professional bodies of the various legal professions). The sub-questions for the USA and for England and Wales are as follows:

*What are the current accreditation standards in the USA and in England and Wales in connection with legal ethics? (Perspective of policymaker)*

*What are the existing practices at law schools in the USA and in England and Wales in connection with legal ethics (its place in the curriculum and its delivery)? (Perspective of academia)*

*What are the current professional standards and practices in the USA and in England and Wales in connection with legal ethics education? (Perspective of the legal profession, at the ‘post-academic’ stage)*

The above questions will be examined with regard to the given country in separate chapters: see Chapter 4 regarding legal ethics education in the USA, and Chapter 5 about the practices in

England and Wales. Concerning Hungary, the sub-questions for academia are separated as the topic was just recently introduced into the curriculum (see Chapter 6 for details of the changes in accreditation standards, and its summary in Andrasi 2018):

*What are the current accreditation standards in Hungary in connection with legal ethics?*  
(Perspective of policymaker)

*What are the existing practices of Hungarian law schools in connection with legal ethics (its place in the curriculum and its delivery)?* (Perspective of academia #1)

*What is the opinion of scholars about the potential ways of further developing legal ethics education in Hungary?* (Perspective of academia #2)

*What are the current professional standards and practices in Hungary in connection with legal ethics education?* (Perspective of the legal profession, at the ‘post-academic’ stage)

The above sub-questions related to Hungary are addressed in Chapter 6. Chapters 4, 5 and 6 conclude with an evaluation of legal ethics education in the USA, in England and Wales, and in Hungary, respectively, using the evaluating framework (see Chapter 3). The detailed comparison of the findings of chapters 4, 5 and 6 is in the last chapter, in Chapter 7, along with conclusions and recommendations.

## **Overview of the chapters of the thesis**

This thesis contains seven chapters, including this very chapter on the rationale of the research. The remaining six chapters of the thesis deal with the following issues:

The next chapter of the thesis introduces the methodology of this research and presents the selected research methods. The first part of chapter 2 describes the reason of the chosen research methodology, referring to the underpinning academic literature on research paradigm, and the ontology and epistemology of the research: what is ‘reality’ in relationship with the research topic and how can one know this very type of ‘reality’, relevant to the topic. The theoretical perspective, i.e. the approach to get knowledge relevant to the topic follows, concluding with the procedure and tools to get this knowledge. The main methods used for this research are qualitative text

analyses (documentary research) and semi-structured ‘elite’ interviews, as detailed in the second part of Chapter 2.

Chapter 3 explores the field of pedagogy with regard to ethics education, finding that the academic literature suggests the importance of culture in ethics education. Due to this importance, the chapter introduces the ethics of the societies in Central and Eastern Europe, the region Hungary belongs to, and where Communism and the transition to market economy impacted morality negatively: such cultural context confirms the need for ethics education. The academic literature also reveals how inconclusive the various authors are, regarding ethics education in general, at tertiary level. The chapter introduces Rest’s “Four Component Model”, describing the possible aims of professional ethics education, and reviews the recommended methods and solutions related to achieving the possible aims of teaching ethics in higher education and beyond. The chapter ends with the evaluating framework developed according to this model and the recommendations of researchers.

Legal ethics education practices the USA, in England and Wales, and in Hungary are reviewed in Chapters 4, 5 and 6, respectively. These chapters are mostly structured according to the research questions listed above. Chapter 4 briefly overviews the legal profession and legal education in the USA, followed by a review of the related accreditation standards and the academic literature on American legal ethics education practices. The chapter ends with an evaluation of legal ethics education in the USA continuum, using the framework detailed at the end of Chapter 3. Chapter 5 is related to practices in England and Wales in the same structure: starting with the ‘conventional’ route to become members of the two traditional professions (i.e. barristers and solicitors), the chapter later on reviews accreditation standards and professional requirements related to legal ethics, followed by a review of academic literature on legal ethics education practices on the various stages of legal education in England and Wales. Chapter 5 also ends with an evaluation of legal ethics education in the continuum in England and Wales, deploying the evaluating framework. These two chapters are updated and more detailed versions of the author’s findings in his papers published in 2013 (see Andrasi 2013a and Andrasi 2013b).

The longest chapter is Chapter 6, which commences with the context of Hungarian legal ethics education, referring to the regional specificities described in Chapter 3. The chapter then overviews the route to become qualified lawyer in Hungary, which consists of an academic and a vocational

component during the pre-qualification stage. Chapter 6 reviews the academic literature on Hungarian legal education in its social (moral) context, and the governmental, professional and university sources regarding the accreditation standards, the law schools' practices, the postgraduate vocational training and the 'post-qualification' stage with regard to legal ethics education. Due to the dearth of academic literature on Hungarian legal ethics education (see earlier in this chapter), interviews were conducted with representatives of major stakeholders in Hungarian legal ethics education. In addition to the findings of the documentary research, this chapter presents the results and the analysis of the information gathered during the interviews. The chapter ends with a preliminary evaluation of the Hungarian practices using the evaluating framework. Similar to the USA chapter and the one related to England and Wales above, this chapter is a development of the research that informed author's previous paper on Hungarian legal ethics education published in 2013 (Andrasi 2013c) and on his article published in the "Law Teacher" in 2018.

The last chapter of the thesis summarizes the findings of the previous chapters in order to address the research questions. Chapter 7 provides with a comparison of the legal ethics education structures and practices in the USA, in England and Wales, and in Hungary by evaluating them using the Four Component Model, and concludes with recommendations for the main stakeholders and for a potential continuation of the research in Hungary.

## **CHAPTER TWO: RESEARCH METHODOLOGY AND RESEARCH METHODS**

The aim of this chapter is to provide the reader with information about the selected methodological approach and the reasons for this choice, followed by an explanation of the methods used during the research. The first part of the chapter addresses the research methodology with reference to the relevant academic literature in the context of the research topic. This part concludes with linking the methodology of this research with the selected research method. The second part of the chapter explains the documentary research, the “elite interviews” and the consideration of ethical issues. The second part also refers to the academic literature on research methods.

### **Research methodology**

The recommended guiding principle for identifying the relevant methodology and research methods is “fitness for purpose” (Cohen, Manion and Morrison 2007, p. 78). Researchers are advised to establish their own “worldview” with regard to the “philosophy” of research, and then to identify the means of gathering and to analyse data in line with their worldview (Walliman 2011, p. 15). This philosophical worldview, also known as “paradigm”, is the summary of the basic beliefs of a researcher, which can be described by answers to three interconnected fundamental questions: the ontological question (what is the form and nature of “reality?”), the epistemological question (what can be known about this “reality?”) and the methodological question (how can we know about this “reality?”) (Guba and Lincoln 1994, p. 108).

Critical theory, an educational research paradigm emphasizing political-ideological contexts, is prescriptive and normative, aiming to reveal the interests of stakeholders and to transform society by identifying what behaviours should be entailed. (Cohen, Manion and Morrison 2007, pp. 26-29; Guba and Lincoln 1994, p. 112; Walliman 2011, pp. 24-25) In its earliest form, this research project was rather closest to this paradigm, critical theory. The original idea of this research project was focused on a largely prescriptive approach: what ‘should’ the major Hungarian stakeholders

achieve and how, when preparing future lawyers for being ethical professionals. By the end of the first stage of the PhD programme, however, following discussions with the supervisors and the independent assessor about the scope and the limitations of the project, the decision was made to pursue a revised, narrowed focus: instead of being ‘prescriptive’, this research is ‘descriptive’ in its nature. It has concentrated on three aims (for details see Chapter 1): to inform the Hungarian academic and professional audience about the USA legal ethics education practices and the ones in England and Wales, to fill a gap in the literature by describing the current state of Hungarian legal ethics education to the international audience, and to evaluate legal ethics education in these countries, using the Four Component Model. The original idea is thus divided into two parts: the first part is providing information to the above-mentioned audiences by this thesis about the situations at present in these three countries. The second part, the idea of formulating the ideal future steps in further developing Hungarian legal ethics education, is deemed feasible only for a possible post-doctoral project (or a series of research projects). The details of a potential continuation of this research, following the critical theory paradigm, are elaborated in the last chapter of this thesis. The thesis itself does not attempt to verify or falsify any hypotheses, but rather generates ideas for formulating further questions and hypotheses for future research, as outlined in the last chapter, Chapter 7.

This research is value-oriented in its aspiration to investigate the context and to evaluate the practices of legal ethics education in Hungary, by exploring various documentary sources and different opinions of major stakeholders. Henceforth the positivist paradigm, which is realist in its ontology, objectivist in its epistemology, quantitative in its methods and expects that the researcher is value-free (Cohen, Manion and Morrison 2007, p. 33; Guba and Lincoln 1994, p. 112; Walliman 2011, pp. 21-23), was found unfit for its purposes. This research thus aligns to the constructivist research paradigm (Cohen, Manion and Morrison 2007, p. 33; Guba and Lincoln 1994, pp. 110-112; Walliman 2011, pp. 21-23), for the following reasons:

Constructivism emphasizes the individuals’ non-constant behaviours and relations to each other, as opposed to universal and determined ones. In this subjectivist approach, the participants of the research co-define social reality. This research is interested in how the representatives of major stakeholders in Hungary view and approach legal ethics education. In this paradigm, the researcher is a ‘passionate’ and value-bounded activist who facilitated the process of describing the changing

landscape of Hungarian legal ethics education for the first time: this fits with the author's approach to the topic and his intention to fill a gap in the literature and to contribute to the discourse about Hungarian legal ethics education.

The ontology of constructivism is relativist: its followers believe in multiple realities, which are mental constructions. These realities are based on the experiences of the individuals, influenced by culture, not constant, and can change. Concerning the ontology of this research, multiple realities need to be considered, created by the respective stakeholders: their different perceptions and ideas on legal ethics education in Hungary. As there is no empirical data available, this research is not based on 'hard data': the information to be gathered and analysed exists in a complex web of variables, such as the morale in the Hungarian society, changing accreditation standards and academic practices, and the relevant professional organizations' practices (which also vary). The author's own personal experiences are also important, along with cultural factors: the earned Hungarian 'doctor juris' and Master's in Law degrees, the unfinished PhD studies in Hungary, work experience as a lawyer and academic in Hungary, life experience as Hungarian, all of which influence the way the research problem is addressed. The role of the author of this thesis is a relative insider, who is 'passionate' about the topic.

The epistemology of constructivism is transactional and subjectivist: the investigator and the object of the investigation are interactively linked, and the latter is 'created' by the former. As for the epistemology of this research, the exploration of the multiple realities is based on what do the stakeholders mean by legal ethics education in Hungary. This research is thus inductive: the author uses a set of information (facts and ideas) to form a principle with regard to the significant characteristics of Hungarian legal ethics education. Consequently, this research is mainly descriptive, and the theoretical perspective is interpretivism: by interpretation of current practices and future plans, the author, because of his socialisation, legal studies and professional experience, can describe legal ethics education in Hungary.

The methodology of constructivism is hermeneutical and dialectical: the aim is not to verify or falsify a hypothesis deductively (that is the core of the positivist scientific method), but to understand and reconstruct a more sophisticated and informed construction, where the investigator is both a participant in and also a facilitator of this process of understanding and reconstruction. Having conducted longitudinal research on other researchers' findings in relationship with learning

ethical decision making in higher education, Watts et al. (2017) argued for more qualitative research in the field, as qualitative studies have largely been overlooked in favour of quantitative methods. This research project intends to contribute to the field accordingly: in line with the aims, the scope and the limitations of this project, the thesis presents the findings of a qualitative research study. The findings of this comparative education research are mostly descriptive, but there is also an evaluative element, which is in accordance with the academic literature on the methodology of comparative education, belonging to social sciences. Comparative education is regarded as an interdisciplinary field, which has overlapping interests with social sciences, and “hence dependant on their methodologies” (Mattheou 2009, p. 65). According to Rust, Johnstone and Allaf, comparative education research is traditionally qualitative, “constructivist, interpretive”, and “based on a paradigm that the researcher was continually interacting with the subject matter being researched and that the researcher was a part of the evaluation process” (Rust, Johnstone and Allaf 2009, p. 130). These characteristics of comparative education research are all applicable to this thesis.

The basis of this qualitative comparative education research is documentary research, and, in order to supplement the documentary research and to fill a gap in the literature, the interview method was selected as the applicable research method for gathering data from the representatives of major stakeholders in Hungarian legal ethics education: ‘elite interviews’. The next section presents an overview of the research process, supported by academic literature on qualitative research methods.

## **Research methods**

### *Documentary research*

A significant part of this comparative education research was desk-based. The main parameters of the literature review were the following: bi-lingual search with an expanded date range, use of all databases available for the university library, and inclusion of all types of academic and professional sources. The documentary research relied on manual and database searches, supported by the author’s team of PhD supervisors. The agreed keyword terms included ‘professional ethics’, ‘professional ethics education’, ‘legal ethics’, ‘legal ethics education’ and its synonyms such as

'lawyers' ethics training'. Additional keywords were used for narrowing the results geographically, such as 'USA', 'American', 'UK', 'England' or 'Hungary'. As mentioned in the previous chapter, for practical reasons, important elements needed to be excluded from this research, such as different approaches to ethical thought, theoretical considerations of the nature of ethics and of ethical reasoning, specific legal instruments related to the provision of legal services, the various codes of conduct of legal professions, materials related to informal learning, or sources on teaching other legal subjects and topics (such as Constitutional Law or Criminal Law), where issues related to professional ethics were also addressed partially. The manual and database searches had no time limits and were conducted both in English and in Hungarian. The author of this thesis has had access to the major databases via the Boots library of Nottingham Trent University. The following types of publicly available sources were consulted during the research project: academic sources (relevant textbooks and journal articles); legal texts (blackletter law, relevant legislative and administrative documents); and professional sources (policy papers, accreditation and professional standards and guidelines, curricula and other documents made available by government agencies, professional bodies and higher education institutions).

Concerning the academic sources, this research is based on the review of four different types of academic literature:

1. the literature on ethics education in general, and with special regard to morality in the region to which Hungary belongs (i.e. former Communist countries in Central and Eastern Europe);
2. the literature on legal ethics education practices in the USA and in England and Wales (instead of the whole UK, for reasons of practicality);
3. academic sources on legal and ethics education in Hungary; and
4. the literature on research methodology.

Legal texts were consulted in the Hungarian context, in relationship with the organization of, and the expectations from, legal education. Professional sources provided information about academic accreditation and professional standards, and education practices related to legal ethics in each of the countries concerned.

Using the academic sources on ethics education in general the documentary research found that culture is a very important factor; thus, the regional specificities related to moral issues in Hungary

were explored to inform the international audience about the cultural context of Hungarian legal ethics education. The review of the academic sources also found various concepts and recommendations, but no consensus about how professional ethics can be learnt and taught at the tertiary level and beyond. Based on the academic sources the stages of the formal learning route to becoming qualified legal professional and beyond, i.e. the pre-qualification and the post-qualification stages of legal education were identified as comparable areas, and a framework was developed for evaluation of legal ethics education practices throughout the continuum in the USA, in England and Wales, and in Hungary. All of the above can be found in Chapter 3.

Concerning legal ethics education in the USA and in England and Wales, academic sources focusing primarily on legal ethics education practices at these stages (N.B. due to the different education systems there is only an academic component during the pre-qualification stage in the USA, there is no vocational one), and the related current academic and professional standards were reviewed, as available on the websites of the respective professional organisations. The communities of legal academics and practitioners in both countries produced reports on legal education, and the academic literature provides with overviews of legal ethics education practices in the country, analysis of the above mentioned reports, as well as insights into institutional solutions. The majority of the academic sources on legal ethics education in the USA and in England and Wales focus on the academic component of the pre-qualification stage; thus, professional sources were also consulted, especially for the other stages, as appropriate. As mentioned in Chapter 1, only sources focusing exclusively on legal ethics education were consulted, sources on other academic subjects partly covering legal ethics topics were not investigated due to feasibility reasons. After the summary of the relevant standards and practices in the respective country, the author evaluated legal ethics education as per the evaluating framework. See Chapters 4 and 5 for findings of the documentary research on, and the evaluation of legal ethics education in the USA and in England and Wales, respectively.

As already mentioned in Chapter 1, a gap was identified in the academic literature concerning Hungarian legal ethics education. Academic sources on Hungarian legal education in general, both in English and in Hungarian, are rare, but sufficient for providing with an overview of the academic and vocational components of the pre-qualification stage. Detailed reports co-produced by academics and practitioners on legal education do not exist, as opposed to the USA practices and

the ones in England and Wales. Due to the dearth of academic and professional literature on legal ethics education in Hungary, information was gathered from other sources, which were only available in Hungarian: the Ministerial decree on the academic standards related to legal education, programme and course descriptions from websites of Hungarian law schools, and relevant materials from the websites of government and the bodies of Hungarian legal professions. However, in order to better understand and connect the various pieces of information gathered from these sources, further information was also needed from knowledgeable individuals, who are dealing with legal ethics education issues at various stages. Qualitative interviews were thus conducted with representatives of major stakeholders in Hungarian legal ethics education: representatives of the policymaker responsible for current standards, representatives of academia involved in law schools' practices, and representatives of the professional bodies dealing with legal ethics education after the academic component in Hungary. The data collected from these 'elite' interviews (see details later in this chapter) partly supplemented the written sources and partly filled gaps in the sources. Identification and interpretation of information gathered from these written sources and from the interviewees for the first time were possible because of the author's insider role: personally experiencing the local culture, the various stages of legal education, and working as a legal practitioner and later as an educator. The details of the interviews are described later in this chapter; the major characteristics of legal ethics education in Hungary and its preliminary evaluation are in Chapter 6.

Summary of the findings regarding legal ethics education in the USA, in England and Wales, and in Hungary, including the evaluations, are in Chapter 7. The comparison of legal ethics education in these countries can also be found there. Contrasting legal ethics education practices was possible because the author has some personal experience across systems, because of the expertise and knowledge of the supervisory team concerning professional ethics education and specifically legal ethics education in the USA and in England and Wales, and because legal education is an international phenomenon. The last chapter also contains conclusions and recommendations for future research, including methodological issues.

### *Planning qualitative research: starting with a self-assessment*

In their academic textbook on research methods, Cohen, Manion and Morrison (2007) provided useful recommendations for planning qualitative research. In the design of such a research process, it is best to commence with a self-assessment and self-reflection of the researcher. An appropriately self-assessed acknowledgement of both the position of the researcher in society and the skills and competencies of the researcher necessary for conducting the research is vital for a feasible research plan. The social capital required for a qualitative research project which plans to use the so-called ‘elite interviews’ needs to be carefully assessed in terms of how existing professional relationships can help in securing participants in the research, and necessitates a realistic forecast of the likely success of reaching out to people via this existing network, and also outside of the network. The researcher should be aware of the need for being skilled in managing information gained from secondary sources and also in conducting interviews (Cohen, Manion and Morrison 2007, pp. 78-81). As a starting point, the author’s own relevant competencies and social capital were duly evaluated. Preparation of research papers during previous studies and expertise in interviewing others gained during the author’s professional career were regarded as essential fundamental skills in managing various sources, necessary for conducting this research project. The author’s professional network, as it existed at the beginning of the research, included former professors and classmates from law school, and co-workers during the professional career, which were assessed as being sufficient to commence the project: connections with both academics and practitioners working for universities and professional bodies. Every individual within this network, who were approached during this research project, promised and indeed provided support for finding key information: important documents and knowledgeable interviewees.

### *Sampling for the “elite interviews”*

After the self-assessment of the researcher concerning social position and skills necessary for qualitative research, the next step was the sampling process: the selection of the individuals from whom important information can be gathered. In the case of qualitative research, the principle of “fitness for purpose” is also applicable to the size and composition of the sample selected for interviews: the sample size should be large enough to provide sufficient information about the research topic (Cohen, Manion and Morrison 2007, pp. 100-101). When in-depth knowledge about

particular issues is necessary to provide answers to the research questions, researchers may “handpick” the individuals to be included in the sample on the basis of their possession of such knowledge or other important characteristics. This sampling strategy is called purposive sampling, and this strategy is used to access the people who have in-depth knowledge because of their professional role or expertise (Cohen, Manion and Morrison 2007, pp. 114-115).

As mentioned in Chapter 1 and detailed in Chapter 6, the review of various documentary sources on Hungarian legal ethics education found that there are no specific sources on legal ethics education in Hungary. The academic sources on Hungarian legal education in English are rare and based on reviewing literature in Hungarian and the self-reflection on the authors’ own academic experiences. In order to verify and confirm the other sources (see details earlier about the documentary research), and to learn about current practices and future institutional plans regarding legal ethics education, of which no, or just non-detailed written sources are available, a non-random, purposive sample was needed. The participation of specific key individuals was found necessary, who, because of their roles and higher positions at important stakeholders, can provide with essential, sometimes internal information on existing practices and future plans regarding legal ethics education in Hungary. Interviews with such individuals, who possess not just expertise, but also positions by which they have power to take decisions influencing the research topic, are called “elite interviews” by Bogner et al. (Bogner et al. 2009, p. 108). According to them, the “elite” status is often set by the actual research (Bogner et al. 2009, p. 103). Goldstein added that in the case of sampling for elite interviews, it is important to hear from “different sides and different types of organizations” to confirm that the information is balanced and non-biased (Goldstein 2002, p. 671). The sampling process for this research started with the identification of the following three major stakeholders of Hungarian legal ethics education (listed below in alphabetical order):

1. Academia – recognized, accredited higher education providers of academic programmes preparing future practitioners in the field of law. In Hungary, these are the law schools offering accredited Doctor Juris programmes.
2. Policymakers – authorities in charge of issuing expectations from, and monitoring delivery of the above mentioned academic programmes. In the case of Hungary this the relevant department of the government (the Ministry dealing with education, currently named as

Ministry of Human Capacities), collaborating with the Hungarian Accreditation Committee, which is tasked with monitoring quality of academic programmes.

3. Professional bodies – organisations dealing with various issues related to legal professions, include training and professional development. There are four main legal professions in Hungary: judges, advocates, prosecutors and public notaries. Their professional organisations and the Ministry of Justice are the relevant bodies in Hungary. (For details of these stakeholders, see Chapter 6.)

Interviews with ideally more than one representatives of law schools and professional bodies, and with a representative of the policymaker were planned to gather information supplementing the written sources and to fill gaps in them. Following ethical approval by the Business, Law and Social Sciences College Research Ethics Committee (CREC) of Nottingham Trent University, the author of this dissertation approached representatives of the major stakeholders in Hungarian legal ethics education and managed to conduct interviews with six of them during the summer of 2017, and conducted two follow-up interviews during the summer of 2018. The first step in finding respondents was identifying relevant individuals, using publicly available information (i.e. websites of law schools and professional organizations) and the professional network of the author (due to the small size of individuals dealing with ethics-related issues, some were directly or indirectly known by person), followed by emailing potential participants. These two steps were successful: former professors and colleagues in relevant positions agreed to be available for interviews and also helped by recommending key individuals. The involvement of the six participants was secured as follows:

With regard to academia, at least two representatives of the field from universities in different geographical areas were planned to be involved, to obtain key information concerning practices and plans at their respective law schools, and to identify differences in the academic programmes, which are strictly regulated (see Chapter 6). Initially, the websites of the eight accredited Hungarian law schools were used to identify the leader of a Legal Ethics course (if available), or the Head of Department responsible for Legal Theory/Jurisprudence courses, as the legal ethics courses are offered by these departments at each university. Next four law professors of Legal Theory/Jurisprudence from different law schools were approached: a former professor who was head of the respective department at a university in the countryside; the heads of the respective

departments at two universities in Budapest, where the author had previously studied; and the most prominent author in Hungarian legal education, who was also head of the respective department at a university in another part of the country. Two out of the four law professors replied positively and were available for an interview, providing insight into current practices and plans regarding legal ethics education at their respective institutions. These two professors were interviewed again a year later about the experiences of the first year of teaching compulsory legal ethics courses (referred to as “Professor A” and “Professor B” in chapters 3 and 6). The other two did not reply to the enquiries and follow-ups of the author.

The Hungarian Accreditation Committee (HAC), which is the local equivalent to the quality assurance agency of UK higher education (QAA), advises the Hungarian government in policy making and deals with quality enhancement in higher education, including development of quality standards at programme level (similar to QAA’s Subject Benchmark Statements – see Chapter 5). The HAC has adopted the practice of inviting academics from the Hungarian Academy of Sciences (HAS) to inform its deliberations. Therefore, a senior executive at HAS, an expert in legal science, was identified on the website of HAS and invited to participate in an interview about policymaking in the field. This executive was keen to participate (referred to as “HAS expert” in chapters 3 and 6) and this interview revealed changes in the procedure of issuing the latest academic programme requirements, which also led to the introduction of a compulsory Legal Ethics course into the law school curriculum for the first time. Since these requirements were issued in the format of a decree of the Ministry of Human Capacities (i.e. the governmental body in charge of education at the time of the interviews), this Ministry was contacted via email by the author, seeking clarification of the nature of, and reasons for these changes. The Ministry responded to this query and informed the author of this thesis about the procedural changes and the reasoning of introducing the compulsory course.

The professional bodies relevant to vocational and the ‘post-qualification’ legal ethics training are the Ministry of Justice and the professional organisations of the four legal professions in Hungary. In order to become a qualified lawyer in Hungary, one should earn a Juris Doctor degree from an accredited law school and complete the vocational training, followed by a special examination: a series of written and verbal assessments. The special examination is administered by the Ministry of Justice and conducted by senior professionals at the request of the Ministry. At least one senior legal practitioner who frequently acts as an examiner was invited to be involved. Since there is no

officially published list of examiners, such interviewee was identified using the professional network of the author and agreed to be interviewed about the current assessment practices used during the special examination (referred to as “Examiner” in chapters 3 and 6). The professional organisations of the four legal professions in Hungary are the National Judicial Council, responsible for the Judicial Academy and the Code of Judicial Conduct; the Hungarian Bar Association; the Prosecutors’ Office and the Hungarian Chamber of Civil Law Notaries. The websites of these organisations are not very informative concerning professional development training (see details in Chapter 6). Executives from at least two professional organisations, knowledgeable about ethics education issues relevant to the respective profession, were planned to be involved, to learn about practices and future plans of the professional organisations, and to identify any differences in their approaches to legal ethics training. Out of the four organisations, senior executives at two different organisations were identified within the author’s professional network and approached consequently via email: one from the Notariat, the organisation of public notaries, and a senior executive of the Hungarian Bar Association. Both of them agreed to be interviewed about current practices and plans regarding training law graduates in professional ethics (referred to as “Bar executive” and “Notariat executive” in chapters 3 and 6).

Therefore, six interviewees in total were recruited to form the sample for this study. All six interviewees were male law professionals. Four of them were in their 40s, and two of them were older than 50. The youngest had 15 years of professional experience; the oldest had more than 35 years. The special exam examiner had been assessing professional exams for more than four years at the time of the interview (summer 2017). During the interviews, none of the interviewees referred to any religious or other influence regarding legal ethics. As mentioned earlier in this section, purposive sampling was found suitable for this research. Thus, the sample was not representative, and these statistical features were not explored further as they were not relevant to this research. However, they are referred to in the final chapter of this thesis, with regard to further possible research in the topic (see Chapter 7).

### *Conducting the “elite interviews”*

Once the sample was confirmed, the interviews were conducted in order to collect data relevant to this qualitative research. The interview as a research instrument was selected, as it can explore the

views and experiences of individuals on specific matters, and as it is regarded as the most appropriate research instrument when the topic is largely un-researched (Gill et al. 2008, p. 292): in the case of Hungarian legal ethics education, there is a dearth of literature and therefore a need to elicit the opinions and experiences of the interviewees, who could be expected to be highly knowledgeable about the area of the research.

When thematizing and designing the interviews, researchers are translating the research objectives into questions to be asked (Cohen, Manion and Morrison 2007, p. 356). In this case, the interview questions were based upon the research questions of this thesis (see Chapter 1), and the aims of the interviews were twofold: verifying the research contained in the small number of written sources on the one hand, and collecting further information around personal opinions, and institutional practices and future plans regarding legal ethics education in Hungary, on the other. Based on the documentary research, different interview questions were formulated for each stakeholder, with some common elements. The common elements included a common approach and common questions. The common approach meant that the stakeholder-specific questions inquired about present and future: they were related to the current state of legal ethics education (i.e. practices at the time of the interview) and the future plans. The common questions emerged partly from the review of the academic literature and partly from the dearth of literature on Hungarian legal ethics education. The first of the two common questions inquired about the interviewees' opinion whether they think that the regional specificity (i.e. the low morale in the societies of CEE countries) justifies the need for legal ethics education. The second question emerged because there is no information available about how legal ethics is defined in Hungary, or which teaching approach should be used. Thus, each interviewee was asked about his personal definition of legal ethics, and his opinion about the "ideal" way of teaching it.

Concerning the three major types of interviews (unstructured, structured and semi-structured) the latter one was selected: the semi-structured type typically consists of several key questions but is also flexible enough to diverge from them if necessary (Gill et al. 2008, p. 291). Also, "the person interviewed is more a participant in meaning making" (DiCiccio-Bloom and Crabtree 2006, p. 314) and thus, this format is consistent with the qualitative, interpretative study being undertaken. The semi-structured interview contained the key questions developed according to the documentary research and allowed for exploring the topic freely further when necessary, and thus

the interviewees helped in finding the meaning of legal ethics and the related educational practices in Hungary. In a qualitative interview, the questions are recommended to be open-ended (requiring more than just a yes/no answer), neutral (not “leading” to any answer) and understandable (Gill et al. 2008, p. 292): the questions were phrased accordingly. The logical sequencing of the questions was based on the chronological perspective, where inquiring about future plans for legal ethics education came only after the clarification of the current practices. The interviews started with clarifying the position of the respondent, and then the personal opinion about the meaning of legal ethics. The questions related to current practices and future plans, aiming to gather the most internal, sometimes confidential information key to the research followed. (For further details, see the interview schedules enclosed as Appendix 3.)

According to Gill et al., the participation of the interviewees should be voluntary and on the basis of informed consent, with the right of withdrawal within a set deadline. The participants should be informed about how confidentiality and anonymity or pseudonymity will be maintained in the report (Gill et al. 2008, p. 292), clearly referring to any risk that they still might be identified, especially in those cases where only a few people have the information key to answering the questions. The information and consent forms for the interviews conducted during this research project were prepared accordingly, and received approval from the CREC, verifying that the interview plans are in line with the relevant code of research ethics. These forms were distributed to the interviewees and duly explained. (The information and consent forms are enclosed as Appendices 1 and 2.) Empirical research is not part of the scholarship traditions concerning Hungarian legal education as a research topic, and the interviewees expressed their interest in participation. Each participant answered all questions; no topics remained unexplored.

With regard to the content, researchers following the positivist paradigm argue that a qualitative interview is not an objective, scientific method and its results are biased, and is therefore not acceptable. Kvale’s (1994) answer to these objections was moving beyond these paradigmatic binary approaches by accepting that there is no consensus either in the definition of ‘science’ nor ‘objectivity’. The interview produces new knowledge, which is valid in its context. In the case of a qualitative interview, the interviewer is the ‘tool’, not the instrument: the key is the “craftsmanship” of the skilled, trained, competent interviewer. Bias is reduced by this “craftsmanship”, evidenced in appropriate design and conduct of the interviews (Kvale 2003). In this very case, whilst the usually recommended piloting of the interviews could not happen due to

its unfeasibility (since the researcher has been working outside of Hungary and could only use the summer vacation for conducting the interviews), “craftsmanship” is a result of that the researcher gained expertise in interviewing earlier in his career. Furthermore, the details of the interviews received approval of the respective committee of the university, and the instrument was designed to include the key questions, which emerged from the documentary research (see earlier in this chapter).

When it comes to the validity of qualitative interviews, Cohen, Manion and Morrison (2007) asserted that “there is no single canon”, the applicable kind of validity depends on the purpose and type of the interview (Cohen, Manion and Morrison 2007, p. 372). In the case of these very interviews, their internal validity is related to clarity and credibility of the data, and the validity of their content is related to the demonstration of comprehensively covering the topic the research aims to investigate (Cohen, Manion and Morrison 2007, pp. 135-138). Clarity was ensured by conducting the interviews face-to-face, making immediate clarification of any issue possible, and in Hungarian, the mother tongue and working language of the participants, to avoid misunderstanding of different terminologies. The informed consent mechanism was used to ensure that each interviewee understood the research details and the documents were also explained in Hungarian. As for credibility, during the interviews, the author took notes in addition to tape recording, transcribed and translated the interviews himself, and sent the transcriptions to the interviewees for approval.

### *Qualitative data analysis*

After conducting the interviews, the next step is transcribing them and analysing the data. The author personally transcribed the interviews using the handwritten notes made during the interviews and the tape recordings. The author then translated them into English and sent them to the relevant interviewee for approval. After the approval of the translated and transcribed interviews by the interviewees, the data analysis started. The usual stages of qualitative data analysis include categorization and classification of items, coding, and explanation (Cohen, Manion and Morrison 2007, pp. 368-372). The first stage refers to generating units from the respondents’ answers. The approved interviews were structured according to the interview questions, following the template approach (DiCiccio-Bloom and Crabtree 2006, p. 318):

identifying text segments (editing) related to the interview questions, using the interview plans. Codes (labels for the text segments) were assigned for keywords or key expressions based on their meanings. Start codes, i.e. keywords and expressions were identified according to the literature review, such as low morale, codes, laws related to lawyering, course content, collaboration with others (or the lack of it). Further codes emerged from the data collected via the interviews: the ones derived from answers to the common questions were related to start codes, elaborating them, such as universal or regional characteristic of the low morale, details of assessment (or the lack of it) and reference to the social context of lawyering when defining legal ethics by going beyond the laws and codes. The vast majority of the answers were direct responses to the research questions: so called “manifest coding” items (Aberbach and Rockman 2002, p. 675). Coding was also helped by the fact that the insider interviewer and interviewee could use the same terminology, and thus the terms and phrases could be as they were, which is regarded as paramount in the case of “elite interviews” (Bogner et al. 2009, p. 36). The approach to data analysis was a deductive, thematic one. The first step was a systematic identification of patterns of meaning (themes) across the data set, to “see and make sense of collective or shared meanings and experiences” (Braun and Clarke 2012, p. 57). The main themes in the interviews about practices and personal opinion regarding legal ethics education in Hungary were the following: what do the interviewees think about the regional specificities (effects of communism and the transition period on legal ethics education), the definition of legal ethics (narrow or wide interpretation) and the related delivery issues (a module or a lecture or more, about the rules of lawyering or more, theoretical versus practical, etc.). Afterwards a constant comparative analysis was applied to find similarities and differences among the responses of the interviewees (Thorne 2000, p. 69). The comparison of the common themes emerging from the interviews were related to reasons and characteristics of legal ethics education in Hungary: the low morale of the society, the differences between the narrow and broad interpretation of legal ethics, the theoretical approach towards the topic, etc. Finally, the findings from the interviews were contrasted with the information gathered from the documentary research to see whether the interviewees confirmed the information or not. The interview data is discussed and evaluated in Chapter 3 and Chapter 6, and supported certain recommendations in Chapter 7.

### *Ethical issues*

To protect the interviewees and to maintain the integrity of the research, no personal or confidential data was intended to be collected during the interviews. Interviewees were approached as publicly known professional experts whose name and role/title was publicly available on institutional websites. Should any personal or confidential data be revealed during an interview, such data was not translated and transcribed, and the relevant parts of the audio recordings were deleted. The transcribed interviews were emailed to the interviewees, and all of them approved the transcripts used for the analysis (see the analyses in chapters 3 and 6).

An important issue needed to be considered with regard to the confidentiality of the research: the possibility that certain interviewees might be identified even if their names are not revealed, due to the relatively small size of people involved in legal ethics education. This is a particular issue in academia, as there are only eight accredited law schools in Hungary offering a Juris Doctor programme and the number and identity of faculty members teaching legal ethics(-related) courses is thus small and recognisable. As the number of individuals serving as executives at professional organisations and as special examination examiners is bigger, the identification of these interviewees is less likely. Interviewees were informed by the informed consent form about this possibility and advised that the thesis would not contain their name unless they agreed. All of the interviews were also conducted on the basis that any sensitive issue remained ‘off the record’ until and unless the interviewee approved the transcript. (A similar method was used for elite interviews by Paterson – see Paterson 2013.) All of the interviewees noted the above and confirmed their availability (including a possible follow-up interview, as appropriate) and support regarding this research. In the case of “elite” interviews with people in key positions or in possession of political, economic or other types of power, the interviewers can find themselves in an uncomfortable situation, which might lead to unethical, abusive behaviour, or to incomplete or invalid interview outcomes (Cohen, Manion and Morrison 2007, pp. 127-130). The interviewees were happy to participate in the research and had no complaints about the interview process. The author’s personal impressions were that all interviews were conducted in a friendly manner, and the author did not observe any power-related or otherwise unethical issues.

The data analysis related to the interviews with representatives of major Hungarian stakeholders is presented in Chapter 3 and Chapter 6. The comparison of the legal ethics education systems and their evaluations, based on the documentary research and the interviews, are in Chapter 7.

## **CHAPTER THREE: AN OVERVIEW OF TEACHING AND LEARNING PROFESSIONAL ETHICS IN HIGHER EDUCATION AND BEYOND**

As mentioned in Chapter 1, this chapter focuses on professional ethics education in general, addressing the sub-question: *How can an education system prepare professionals to become ethical?* It is important to note that this research concentrates on the ‘how’ and not the ‘what’, concerning professional ethics education: identification of the ‘right thing to do’ in specific situations and analysis of the content of ethical codes of any profession is an interesting and challenging topic, but it is not the focus of this thesis. This research assumes that the relevant professional rules cover the expected ethical responses to specific situations and in this chapter academic literature on ethics education, i.e. learning and teaching ethics, is explored only, starting with how ethics can be learnt at tertiary level.

The academic sources contain some evidence of learning and emphasize the importance of culture in ethics education; thus, the chapter leads to introducing the context of Hungarian legal ethics education: the ethical characteristics of the societies in Central and Eastern Europe, the region Hungary belongs to. Due to the dearth of relevant sources on the context of Hungarian legal ethics education, the interviewees (for details see the previous chapter) were asked about their opinion with regard to this context and their respective answers are investigated here in this chapter.

The documentary research in this chapter then explores professional ethics education in specific: it reviews the academic sources defining professional ethics education, followed by an introduction to Rest’s “Four Component Model”, describing the possible aims of professional ethics education. The chapter then reviews the recommended methods and solutions related to achieving the possible aims of teaching ethics in higher education and beyond. It explores the academic literature on learning and teaching ethics in higher education (the ‘academic’ component of the pre-qualification stage) and beyond to train professionals in general, leaving the specific details of the various approaches existing in the USA and the UK academic and professional literature to defining, learning and teaching ethical issues in legal education to chapters 4 and 5. The literature related to Hungarian legal ethics education is reviewed in chapter 6.

The chapter ends with detailing a framework developed for evaluating legal ethics education, according to Rest's model and the recommendations of researchers. This framework is used for evaluating legal ethics education practices in the USA, in England and Wales, and in Hungary in the upcoming chapters.

### **Learning ethics: Kohlberg's cognitive moral development (CMD) model and its critique, pointing at the importance of culture**

As Pritchard found when reviewing the academic literature on pedagogy, there is a range of definitions regarding learning, mostly referring to a process of acquisition or gaining knowledge. Many definitions also add that this process leads to change in behaviour, as certain researchers focus on the result of learning (behaviourists) or the process of it (constructivists) (Pritchard 2013). Concerning learning ethics, as per the in-depth overviews provided by Wright (1995) and by Fleming (2006), the process of moral development was in the focus of the so-called stage theories. Their most acknowledged representative, Kohlberg, examined moral reasoning in responses to hypothetical dilemmas by different age groups from early childhood up to young adults. He has identified three levels, with two stages (sub-levels) in each level, according to the observed person's different comprehension of social rules. According to Kohlberg's cognitive moral development (CMD) model, the individuals (usually in early childhood) who are following moral rules imposed by others, are in the pre-conventional level; the stages of this level are characterised by avoidance of punishment and then by satisfying individual needs. The main feature of those at the conventional level (mostly teenagers) is the group aspect, and the stages at this level include the desire to conform with the group, followed by the need for guidance in resolving conflicts. The moral reasoning by ones at the highest level, the so-called post-conventional level, took account of the interests of all parties and universal principles developed by the individual. Kohlberg used interviews in examining moral reasoning, but later the "Defining Issues Test" (DIT), developed by Rest, became the widely used measurement tool of the CMD level. (Wright 1995, pp. 17-18; Fleming 2006, pp. 1-15) The importance of Kohlberg's research for this thesis is the evidence of learning of ethics in adulthood: moral judgment "continues to develop" (Nicolson 2008, p. 158)

during tertiary education and beyond. Kohlberg's CMD model became influential in the field, even in legal ethics education (see Dhanaraj 2000, in the next chapter).

However, whilst it became influential, the CMD model was not fully accepted at all. Wright (1995) and Fleming (2006) enumerated the various issues raised by researchers who criticized Kohlberg by stressing the cognitive factors exclusively. These issues include gender and other factors impacting reasoning such as age, education, socialization, group situation, emotions, the influence of culture, and the workplace (Wright 1995, pp. 18-20; Fleming 2006, pp. 14-15), which led to various empirical results and questioned the "stages". Jensen (2015) presented a collection of inputs by an international group of scholars from different areas, who found that moral reasoning develops across the life course and these individual developmental trajectories vary across cultures. The group offered a "template" approach, which charted these developmental trajectories across the life course for three kinds of moral reasoning: autonomy (focusing on the self), community (focusing on social group membership) and divinity (focusing on the spiritual/religious entity). Their research found that moral reasoning changes over time and influenced by the cultural context (Jensen 2015, pp. 1-4). The difference between moral judgment and moral action is the other main area where other researchers criticized Kohlberg and attempted to find an explanation. Armon (1998) found various factors such as gender, own experience, and cultural and political context, which caused differences between moral judgment and moral action (Armon 1998, pp. 9-11). Branco (2012) found that there is no universal pathway to moral development and asserted that there is no clear explanation of the difference between moral reasoning and action, concluding that there is a need to move away from cognitivism. She asserted that cultural constructivism is the appropriate path towards explaining the difference, concluding that psychology needs to meet social sciences in examining moral development (Branco 2012, pp. 3, 25-27).

According to the above findings, ethics, at least in the sense of moral reasoning, can be learnt at tertiary level and beyond, but non-cognitive factors impact upon learning. Of these non-cognitive factors, the cultural context of learning ethics is of great importance: it influences moral reasoning and also moral action, across the lifetime of an individual. Prior to see how professional ethics education could consider non-cognitive factors and changing moral reasoning and moral action, the cultural context of learning legal ethics in Hungary is explored: the next section overviews the special characteristics of the morality of the societies in the region to which Hungary belongs.

## **Cultural context: morality in Central and Eastern European countries**

A common characteristic of Central and Eastern European (CEE) countries, the region Hungary belongs to, in relationship with the morality of these societies, is due to their shared historical experiences since the Second World War. First of all, they have spent 45 years under Communism. These countries shared a common experience of a planned economy and Marxist-Leninist ideology, implemented by a very powerful bureaucracy (Pine and Bridger, 2013). Many researchers described the impact of Communism on morality in CEE countries as a very negative one. Under communism morality eroded, the people developed a “survival ethic” meaning avoidance or by-passing rules. The standardized Soviet economic system meant selective labour market plans, quotas and incorporation of ideology into economic processes, which led to a fertile ground for “crime, cronyism and corruption”, resulting in cynicism in the whole society (Sexty 1998, p. 1312; Bokros 2013, pp. 144, 151, 154; Terama, Kou and Samir 2014, pp. 108-110). And these societies with eroded morality entered into a new era in the early 1990s.

### *The era of transition*

With the change of the system in the early 1990s, the era of transition, a period to democracy and market-oriented economy commenced. The term “transition” is rather regarded as a loose concept, due to the lack of clarity in social, political and economic definitions (Pine and Bridger 2013; Wallace and Latcheva 2006). Most of the authors agreed in its main features, though: an unprecedented, chaotic period with a wide range of changes in every sphere of life, at a very high speed. The transition is regarded as a complex process with political, economic and socio-cultural components, out of which the political and economic transition to democracy and market-oriented economy have ended by now, but the socio-cultural component of the process is still not over yet. This component is regarded as one taking the longest time, and reaching higher morality in the CEE countries was considered as crucial for a sustainable and successful transition (Simai 1999, pp. 185-189, 176; Rose 2009, pp. 19-27; Horky 2012, pp. 18-19, 27-28; Bokros 2013, pp. 14-18). Researchers recently reviewing the academic literature on the transition period of the CEE countries found that it focuses mainly on political and economic issues with much fewer sources dealing with ethical issues (Topalli and Ivanaj 2016, p.756), but even the ones about political and

economic aspects of the transition process show a picture of societies with low moral standards rooted in the destructive Soviet system and in the negative effects of the transition process. Pine and Bridger asserted that transition is “about loss, in terms of past certainty, economic stability and moral order” (Pine and Bridger 2013, p. 7). In the economy, the new issue of competition along with complete re-engineering of the legal and political system caused high uncertainty in the changing environment led to a focus on survival and not on ethics. Societies with low morality due to the legacy of Communism faced new tempting opportunities in the transition process, and the costs of this process further affected the health of the society negatively (transitional crisis). Concerning the political system, Schopflin emphasized the mismatch between the existing realities and the institutions of Western democracy introduced into the CEE countries: he asserted that democracy demands a set of values for “both rulers and ruled that involves self-limitation, compromise, bargaining and the like”, which post-communist societies could not learn overnight (Schopflin 1991, p. 236). With regard to the process of legal transition, it finished relatively quickly at the legislative level, but the change of legal culture is regarded as a much slower process (Fogelklu 2002; Giaro 2013), in societies where corruption and loss of trust in public institutions are common (Wallace 2006). The transitional crisis also included the erosion of the quality of the public services with a long-lasting effect, not just of the economy: the transition from a low to a high-performance system revealed the lack of competency of public servants, which led to unethical behaviour (Hegarty and Tihanyi 2000, pp. 419-420; Garcia-Zamor 2002, pp. 241-243; Cooper and Dorfman 2003, pp. 382, 385-387; Bokros 2013, pp. 57-58, 124, 134-137, 143-144). Additionally, the survival of former elites led to distrust in the new system. Former elites were not just “not accountable”, but also unwilling to recognize their own role in the negative effects of Communism (Rose 2009, pp. 191-198; Tismaneanu and Iacob 2015, pp. 45, 493-495). As a result of experiencing the above negative effects of the transition in economy and politics, Eiroa Orosa found unhappiness and dissatisfaction in CEE countries, when he explored how social changes influence psychosocial wellbeing of individuals, using Bandura’s self-efficacy and base of control theory (Eiroa Orosa 2013, pp. 485, 489).

Pine and Bridger found a lack of consensus in the societies of the CEE countries about both the direction the countries should take and the ways in which socialism should be evaluated. Because of the continuing internal tensions, the social costs of the transition were found too high, leading to the rejection of even the very concept of liberal democracy and of the market economy itself

(Pine and Bridger 2013). Tucker used the term “post-totalitarian societies” to describe the CEE countries, which still suffer from common legacies of totalitarianism, including elite continuity (political elite was replaced, but the late-totalitarian elite transformed its political power to economic wealth), scarcity in the supply of justice for the wrongs of totalitarianism, weak rule of law and high level of corruption, leading to loss of trust in democratic institutions which “failed” to ensure transition to prosperity (the promise made by the elites when the transition started) and to that “politics decides morality” (Tucker 2015).

### *Higher education in the CEE countries*

According to the literature on higher education in CEE countries, educators coming from the West found in the classrooms that students view work ethics or economy differently, as they have culturally and historically different concepts; a different way of thinking, different values than ones the West has. Students are rather accustomed to lecturing and not to interactive, critical learning (Sexty 1998, pp. 1314-1316; Garcia-Zamor 2002, p. 236). Academic discipline (cheating) is treated differently: according to a recent study, Hungarian students were found to be more permissive towards cheating (Doro 2014). These features are not so surprising, considering that higher education was dependent from and controlled by the state before the transition (Tucker 2015). With regard to the whole system of education, the transition brought low investment and salary, along with administrative rigidity (Terama, Kou and Samir 2014, p. 114). The strive for becoming a learning economy, brought by the EU’s Lisbon Strategy caused a further challenge. The Lisbon Strategy has very high related costs, and due to financial pressures, CEE countries cannot invest heavily in human development. Furthermore, the mobility aspect of the strategy results in a brain drain from these countries (Strietska-Ilina 2007, pp. 154-156, 255).

According to Szerletics and Rodak (2017), the “specificities of the region’s legal culture also affect the character of legal education”: the region’s legal thinking is rather positivist and formalist, and “law schools continue to educate students in the traditional way”. The result is the “output of ‘legal technicians’ with low creativity, a lack of critical thinking and poor sensitivity towards social problems”, which can be explained by the “unfinished transition in legal academia and its apparently successful attempts to stop reforms” (Szerletics and Rodak 2017, p. 1585). In a paper reviewing many CEE countries, Kelley and Kirsiene found that the impacts of Communism and transition affected the lawyers and asserted that legal education should contain legal ethics, going

beyond memorization of rules related to lawyering, in order to support a new, moral culture (Kelley & Kirsiene 2015, pp. 139, 147, 151). Klimas warned that changing mindsets of law educators in the CEE countries is a slow and challenging process (Klimas 2004, p. 322). Concerning the legal education in Russia, Genty noticed that similarly to other civil law countries, the doctrinal and lecture-based approach results that professional and practical issues are seldom discussed (Genty 2012, p. 291).

Ethics education, in general, is in transition in Hungary after the change of the political system, with ongoing nationwide debates about its role and features in education. Faith-based institutions are at the forefront of related scholarship (Kozma 2005, pp. 498-500; Kovacs 2012, pp. 145-146). As for the legal culture in Hungary, corruption is common and is related to the instability of society, which leads to a focus on personal interests (Burai 2017). Gajduscsek found that due to the historical specificities, the citizens have inconsistent values and attitudes towards the legal system (Gajduscsek 2017). The legal professionals in Hungary are traditionally expected to contribute to social, economic and political development (Sajo 1993, pp. 142, 144-146), which further confirms the social demand for ethical practitioners. Similar to other countries, Hungarian lawyers work not just for local law firms, courts and government offices, but also at local offices of international law firms (Lehoczky 2010, pp. 477-480; Silver et al. 2009, pp. 1447, 1449, 1452-1453). Thus, the demand for ethical professionals can also be extended to an international level.

The above discussed research shows a picture of societies with low moral standards rooted in the destructive Soviet system and in the negative effects of the transition process. Being from the region, the author of this thesis found that researchers of the field provide with a properly detailed analysis of the complexity of the transition crisis, and its negative effects on the societies of CEE countries, including legal culture. The few sources on legal education in the CEE point at the need for legal ethics education in the region, but also suggests that changing the mindset of educators who are not used to discussions about professional and practical issues is expected to be a long process. However, due to the dearth of literature on Hungarian legal ethics education in specific, the interviewees were also asked to opine about whether the regional specificities result in a special need for legal ethics education in Hungary.

*“Do you think that there is a special need for legal ethics due to regional specificities, such as the transition from Communism to democracy?”*

Every interviewee referred to the low morale of the Hungarian society, including among lawyers. Their opinions were almost identical about this social characteristic: “in many ways there is short-sightedness, cynicism and immorality in Hungarian society” (HAS expert 2017); “the average morality level of the society is unfortunately very low” (Bar executive 2017), “deep down the practices in reality are immoral” (Professor B 2017); “we are living an era of moral crisis” (Notariat executive 2017); “more and more lawyers tend to disregard moral expectations. This is the world we live in, caused by the known historical events in the region” (Examiner 2017). Two of them also mentioned that people tend to avoid responsibility for their actions: “there is a tendency to (...) avoid being responsible and accountable for actions” (Professor A 2017), as “there seem to be no consequences of apparent and severe immoral behaviours” (HAS expert 2017).

All six interviewees emphasised the importance of legal ethics education or training to address this issue clearly, such as “training the future generation to become a responsible professional is very important” (Professor B 2017) or “there is a need for ethics training to stop this crisis” (Notariat executive 2017). However, two of them also stated that they expect this to be a very slow process: “It would take a very long time, it would be a very long journey to change for the better. For legal ethics to make sense, you need a society in which morality is valued and cherished. This is not the case in today’s Hungary” (HAS expert 2017) and [legal ethics training] “will be just a very small step in the desired positive change in the morality of the Hungarian society” (Examiner 2017).

The interviewees confirmed the academic literature on the low morale of the Hungarian society and some of the interviewees clearly linked the low morale with the history of the country and the region. One interviewee, however, regarded the moral crisis as a global phenomenon, valid beyond the region: “its signs are in every country, not just in Hungary or in Eastern Europe” (Notariat executive 2017). This is an interesting response since it referred to a wider than a regional problem, but this thesis could not investigate it further: this issue will be listed in the last chapter as a potential area for further research.

The interviewees also confirmed the need for legal ethics education: in the given context, legal education and training was regarded as a necessary and important element in addressing the moral problems and changing the society for the better by ensuring that law professionals behave

ethically. The people in these societies seem to be living in an era when they experience their life being rather in transition than in consolidation, which has an impact on morality (Thoma and Rest 1999, p. 323, see later in this chapter). In a recent paper Jakab “put it more provocatively and comprehensibly: Hungarian society is in a moral crisis” and added his opinion that education is one of the key tools of changing this (Jakab 2018, p. 25). Henceforth there is a justified need for ethics education in Hungary as well as in other CEE countries due to double negative effects of Communism and transition on these societies. And, consequently, there is a need for ethics education in the professions, among which this thesis focuses on lawyers. This confirmation of the need for professional ethics education in Hungary leads to the next sections of this chapter, which, after this brief journey to the cultural context of Hungarian legal ethics education, goes back to the academic literature on ethics education explores professional ethics education in specific: the definition and the possible aims of professional ethics education, and the possible solutions to achieve these possible aims.

### **Professional ethics education: a wider approach**

A definition of professionalism, that “can and must be taught and refined over a lifetime of practice” (Lesser et al. 2010), is useful for educational purposes (Crues, Johnston and Crues 2004). However, no conclusive definition of this increasingly complex, multi-dimensional construct with various levels and types varying across time periods and cultural contexts (Hafferty and Castellani 2010; Goldie 2013) seems to exist. According to Martiminiakis, Maniate and Hodges (2009), there is no consensus about professionalism as some authors focus on individual behaviour, whilst others emphasise organisational and social issues. Muzio, Brock and Suddaby (2013) argued for connecting research on professional organizations with the sociology of professions. When reviewing the academic literature to identify the term for medical students, Birden et al. (2014) found no universal or standardised definition: according to them, the reason is the dynamically changing organisational and social context of the medical profession. Similar reasons of the changing nature of legal professionalism were also referred to by Boon (2010b), who assumed that legislative changes and restructuring of legal services in England and Wales lead to a new regulatory methodology, i.e. a switch from rule-based to principle-based regulation.

Boon asserted that this switch, in addition to other changes, will lead to the fragmentation of the profession, and the traditional normative dimension and the related heterarchical structure based on collegiality among equals will turn into a rather hierarchical structure, where firms can have their own ethical arrangements with the regulator on the firm's own interpretation of the principles (Boon 2010, pp. 224-225).

There is no consensus in the academic literature about the definition of professional ethics (Fox, Lonne and McDonald, 2001) either. According to DeMartino (2013), the approach to professional ethics varies, there are differences at profession-level and also at organizational level. Most definitions are related to the behaviour of the member of a particular profession, how the professional's specialist knowledge is used (Poon and Hoxley, 2010). The definition of 'professional ethics' in the academic literature, as reviewed by Banks, is often related only to the conduct of practitioners (the actions) following rules as prescribed by codes of ethics (Banks 2008, p. 56). A wider approach towards this term, which also considers the practitioner's character and context, emotions and important life events, is recommended by Banks and also by Bagnall (Bagnall 1998, pp. 326-327; Banks 2008, p. 62). Such wider interpretation is closer to the above described approaches to 'professionalism' as a complex, multidimensional construct and better suited to this thesis: this very research is interested in the education of a professional, focusing on the conduct and character of the person, influenced by culture. When reviewing the academic literature on professional identity development in higher education, Trede, Macklin and Bridges (2012) found that there is no consensus about the term 'professional' either. Most of the articles they reviewed referred to "reconciling personal with professional understandings of what values, morals and dispositions underpin their future practice", but just a few articles focused on external influences (Trede, Macklin and Bridges 2012, p. 378).

The wider approach towards professionalism, which goes beyond the codes and recognizes its complexity, suits the topic of this thesis since it looks at the training of legal practitioners in the USA, in England and Wales, and in Hungary as a lifelong learning which has an academic component during the pre-qualification stage and continues after graduation (for details see chapters 4, 5 and 6). The next sections review the academic literature on professional ethics education in general, concerning this wider interpretation: what can be the possible aims of such widely interpreted professional ethics education, and how can these aims be achieved?

## **Learning professional ethics: Rest's Four Component Model of Moral Action**

As discussed earlier in this chapter, Kohlberg found evidence of learning when researching moral reasoning and focusing on the cognitive aspect. He asserted that such learning happens in stages: once a higher level is achieved, that is retained by the individual. His critics, however, highlighted the differences between moral reasoning and moral action, and the impact on learning of non-cognitive factors, out of which culture was found very important. Rest and his colleagues found that Kohlberg's moral stages are not constant either (Thoma and Rest 1999) and thus instead referred to schemas, rather than “hard” stages, in moral thinking development. The schemas are similar to Kohlberg’s stages, but they envisioned moral development as a series of changes “from the less to the more complex”, but always influenced by the circumstances: schemas are “activated by current stimulus”. The first out of their three schemas is the Personal Interest schema, developing in childhood, which linked decision with a personal appeal. The second schema is the Maintaining Norms one, a more advanced level, where the decision on an action follows the rules of people regarded as authorities. The highest is the Post-conventional schema, where moral obligations are logically coherent and based on any shared ideals (Rest et al. 2000, pp. 384-389).

These studies by Rest and his colleagues on these changing schemas provided useful information about moral development and about the importance of ethics education having an impact on moral development. Concerning the difference between moral judgment and moral action (see the critique of Kohlberg’s model earlier in this chapter), Bebeau (2002) asserted that, due to the costs and complexity of empirical studies on this difference, most probably there are no good methods to reliably and satisfactorily answer the question on the reason for the difference between knowing and doing. Regarding moral development, courses tend to focus on moral theories and their application to cases, and the major focus of the related research was on moral judgement (Bebeau 2002, p. 290). Instead of these foci, Bebeau, Rest and Narvaez (1999) suggested that ethics education should have an expanded view and focus on the four distinct but integrated elements of moral behaviour, as identified by Rest. The curriculum of such education needs to cover Rest's Four Component Model of Moral Action (FCM), leading to ethical action by an individual:

Component 1: Moral sensitivity – the “awareness of how our actions affect other people” in a given situation. This component is interpreted for this thesis as one with two interlinked parts: it

contains the recognition that a situation poses an ethical problem, and also the understanding of what that ethical problem is.

Component 2: Moral reasoning and judgement – formulating a “morally defensible course of action”.

Component 3: Moral motivation and commitment – giving preference to moral values over other ones.

Component 4: Moral implementation – having courage, persisting, overcoming distractions and obstacles to implement the right action.

The FCM was found useful in comparing different approaches to moral education, to identify which components are covered (Bebeau, Rest and Narvaez 1999, pp. 22-25). To ensure coverage of each component, an interdisciplinary collaboration was recommended for developing curriculum and assessing outcomes for such professional ethics education: the team ideally should be comprised of a representative of the profession for relevant content, a representative of the field of ethics, i.e. from philosophy, and a psychologist for assessment. Assessment methods were devised for each component, but all need further improvement (Bebeau 1993, p. 323). Bebeau also emphasized the need for studies focusing on the influence of moral climate and culture (Bebeau 2002, pp. 290-291). Furthermore, it is also important to note that the model was developed and tested mainly within the USA higher and professional education system. Hence the findings, such as reference by Rest and Thoma to strong evidence that “college education had a positive impact” on the students’ moral development, especially on their moral reasoning skills, should be interpreted in this context, along with their note on the need for further research (Rest and Thoma 1985, p. 714).

Understanding the inconclusive theoretical background of learning ethics, there is no consensus with regard to this topic, but researchers refer to its complexity, the impact of non-cognitive factors. The FCM is a plausible way of summarising the aims of moral learning, as the model embraces this complexity. The next step is to explore the links between ethical issues and teaching in higher education and ‘beyond’: what solutions can support the components incorporated in the FCM? Whilst research on further exploring the links with culture and also on the valid measurement of the four components are apparently ongoing, and the academic literature provides with a set of recommended good practices with regard to curriculum design and teaching methods and techniques.

## **Ethics education: scholarly thoughts on teaching**

With regard to the various scholarly thoughts on teaching ethics, the reviewed academic sources are grouped around three areas: the largest area is about teaching solutions supporting the FCM in higher education, followed by recommendations regarding ethics education after graduation and expectations from the professional ethics educator.

### *Teaching solutions supporting the FCM: the academic component*

Rest's colleagues have been conducting a series of projects on ethics education at various professional schools (mostly medical and law schools) in the USA, reported by Bebeau and Monson (2008). When reviewing accreditation standards for teaching ethics and professionalism, they found very broad guidelines. During their research to see what might work, the four components of the FCM were used to “conceptualize the capacities required for effective moral functioning” (Bebeau and Monson 2008, p. 558) and they found that “our capacities to recognize, reason about, commit to, and implement actions judged by others to be moral, continue to develop across the life span” (Bebeau and Monson 2008, p. 575). They developed measurement methods for each component and found evidence that “professional growth and personal development is best accomplished in a cooperative and collegial learning environment—one that uses multiple educational paradigms and multiple methods of assessment” (Bebeau and Monson 2008, p. 575). Based on these findings they made a number of recommendations for professional schools on how to reach FCM as a goal, emphasizing that the focus of professional education should be on the formation of professional identity: internalizing professional expectations (Component 3) (Bebeau and Monson 2008, p. 567). The instructional process is recommended to begin by discussing the main features of the profession. Knowing the respective regulations and codes, and recognizing when they apply (Component 1) and enhancing the capacity of reasoning attentively about dilemmas related to the respective profession (Component 2) are key elements. However, teaching should go beyond the code to avoid the “notion that conduct not prohibited by the rules is ethically permissible” (Bebeau and Monson 2008, p. 562). The instructor should promote “the profession’s collective responsibility for the welfare of society” (Bebeau and Monson 2008, p. 576). In order to foster the capacity of implementing solutions to challenging problems (Component 4), the

researchers argued for collaboration with other courses in the integration of content and assessment. In terms of content, a focus on how to resolve practical problems related to the area involving ethical challenges is recommended. Bebeau and Monson noted that since the components of the FCM are interrelated the various methods, and approaches targeting one of more components also affect other ones. Collaborative and continuous (i.e. not a 'one off') assessment of the character and competence of the student during complex clinical situations and case simulations, with qualitative feedback rather than numerical ratings is another advice of the authors. Finally, the researchers emphasised the importance of ethical operation of the whole institution, so students can witness a "moral milieu". Similar to previous research, they also emphasised the need for further research on the topic (Bebeau and Monson 2008, pp. 575-576).

Many other authors had similar conclusions concerning the various issues Bebeau and Monson raised above, although not specifically in relationship with the FCM: they made separate recommendations on teaching ethics in higher education, which can be linked to one or more components of the FCM. Regarding the purpose of higher education, Lovibond referred to the "upbringing" of virtuous characters (Lovibond 2004, pp. 55-56, 60-61). Walker argued that higher education pedagogies should be used for preparing undergraduate students for lives of moral and civil responsibilities (Walker 2005, pp. 3, 11-13, 53-54). In the classroom, the recommended methods and techniques include exposure to real-life problems, such as meeting with white collar offenders (Wright 1995, p. 27). These recommendations are well related to components 3 and 4. Martin argued that in value-laden disciplines like arts, humanities and social sciences the in-class activities are often about making judgments about right and wrong, and these judgments are expected to be well-informed (Martin 2008, p. 300), which is congruent with component 2. Armon concluded that education regarding moral reasoning is not enough; the personal and emotional connection is also important (Armon 1998, pp. 16-18), which is related to components 2 and 3. Further to component 3, Heinrichs et al. emphasized that undergraduates should have internship opportunities under the guidance of a qualified practitioner. They argued that moral motivation could be a result of professional development focusing on moral identity: understanding expectations and developing a sense of professional responsibility (Heinrichs et al., 2013). Concerning components 1 and 4 many authors recommended integration of ethics into the whole curriculum (Wright 1995, p. 24; Nucci 2001, pp. 192-195), in order to learn about how to handle problematic ethical situations and how to avoid becoming involved in them in the first place (Crane

2004, p. 151). Cruess and Cruess shared this opinion, adding that a “strong institutional commitment to supporting the teaching program throughout the educational process” is required (Cruess and Cruess 2006, p. 207).

Being aware of that the empirical evidence is “mixed” regarding the various possible aims of ethics education (Warnick and Silverman 2011, p. 274) and most of the above researchers found that further research is necessary, the following conclusion can be drawn regarding teaching professional ethics in higher education. First, due consideration should be given to the external factors such as the sociocultural environment and the milieu of the higher education institution. Second, the four components of the FCM can be regarded as capacities (albeit some might find Component 3, moral motivation awkward as a capacity), which might be developed during the academic component during the respective formal learning programmes. Whilst there is no consensus about the various teaching methods and techniques, the reviewed sources suggest an integrated approach, which might work best for developing all the four capacities. This integrated approach would include not just a separate course where the students learn more about ethical issues and moral reasoning than just the content of the respective code of their profession and how to apply it. This integrated approach also means ethical issues permeating other courses as well, with a practice-oriented perspective. The integration would also mean the use of a variety of teaching and assessment methods, and the experiential learning experience is regarded as a key element: internship (clinic) and simulations were mentioned by many researchers as useful methods.

### *Ethics education after graduation*

Wright, in reviewing the literature on ethics education, found that researchers argue for the continuation of ethics education after graduation (Wright 1995, p. 25). Falconbridge and Muzio asserted that in addition to universities, “other sites of education deserve increasing attention because of their influence over processes of professionalization”: the impact of corporate training on professionalization is considerable (Falconbridge and Muzio 2009, p. 1357).

Wyatt-Nichol and Franks emphasized the importance of regular ethics training for practitioners, delivered by small group discussions to support self-directed, experiential learning and reflection. The combination of applied and theoretical perspectives was suggested (Wyatt-Nichol and Franks,

2009). Sekerka has investigated professional ethics training in the workplace. He identified good practices such as promoting values, focusing on prevention of unethical behaviour, explaining the code of ethics, addressing key compliance requirements (reporting channels, whistle-blower protection), and being relevant to daily tasks of the participants. Fostering personal development is recommended by involving participants in processes related to the development of codes, ethical risk assessment and the design of the training programme rather than disseminating information. In addition to online elements, face-to-face delivery is desired to encourage reflection and dialogue. Such training is recommended to be repeated regularly (Sekerka 2009). Most of the ethics training was found by Sekerka and Godwin to mirror the coursework model used in higher education: content-focused and instructor-driven. Instead, a more engaging method is recommended, the Balanced Experiential Inquiry (BEI): a workshop session focusing on real ethical challenges based on the participants' experiences, both positive and negative. The BEI workshop has three parts, starting with each participant describing an ethical challenge they faced, including what were their thoughts and emotions. A pair-work follows, discussing the details of the ethical challenges with a peer, and conclusions are shared during a plenary session, facilitated by the instructor. This conversational learning was found supportive for both individual reflection and also collective meaning-making (Sekerka and Godwin 2010). Gentile's 'Giving Voice to Values' (GVV) is very similar to what the BEI aims to achieve. The core question of GVV is "once you know what you believe is right, how can you get it done, effectively?" This method promotes internal discussion opportunities in order to find ways to voice and enact values within the organization, supporting moral action (Arce and Gentile 2015, p. 537).

Summarizing the above, a regular ethics training with a practical approach is recommended for professionals after graduation. This is in line with the lifelong learning approach (see Chapter 1) towards professional development. Such regular training might contribute to the development of the four components of the FCM as capacities, or the further development of them if the professional's academic programme already addressed them.

### *Expectations from the educator*

In addition to the teaching methods and the continuing approach, another important issue was raised by various authors: the special expectations related to an ethics instructor. Concerning the

moral aspects of the educator-learner relationship in adult education, Jarvis asserted that education is not a transaction but a moral interaction. According to Jarvis, values can only be realized in relationships. Thus, there is a moral responsibility towards each other in the teacher-learner relationship. (Jarvis 1995, p. 3) Mujtaba and Mujtaba suggested that since diversity is getting more and more important in adult education, teachers should be supported by training to become “T.R.U.E” global educators: ones, who tolerate, respect, understand and examine differences. (Mujtaba and Mujtaba 2011, pp. 71-72) As for guidance on ethical education, there is an ongoing debate on the need for a code of ethics. According to Campbell (2000), codes of ethics have been criticised for many reasons, but codes do provide a significant source of ethical decision making. The majority of the authors of related academic sources supported the development and adoption of a code of ethics or other ethical guidance for educators (Lawler 2001, p. 19; Ianinska and Garcia-Zamor 2006, pp. 17-18; Sork 2009, p. 25).

To support efficient teaching of ethics, Frisque et al. asserted that universities should also provide ethics training programs to academic faculty, supported by the leadership team. Additional support could be via a hotline, or by the establishment of a compliance office and research centres on teaching professional ethics with resource repositories and events, and by the development of a code of ethics. Proper consideration of the cultural diversity of students and staff and the role of leadership for creating an ethical workplace was also found of importance (Frisque et al. 2004). Berthiaume identified important components of teaching: the teacher’s knowledge about teaching, his or her beliefs relating to teaching, and his or her goals relating to teaching. Additionally, the sociocultural and the epistemological structure of the discipline are also of importance (Berthiaume 2008). These above findings and assertions support the need for professional ethics training for educators, and also for understanding the cultural context of their students. Herkert even asserted that such faculty development is not complete until the faculty are “enthusiastic about and comfortable with discussing ethical issues” (Herkert 2000, p. 311).

*Summary: recommendations on how to teach legal ethics to achieve the components of the FCM*

The author of this thesis shares Wright’s opinion in that there is scientific evidence for a measurable learning process, but the whole of the moral development theory is still not fully justified (Wright 1995, p. 27). The author thus tends to accept Jarvis’s statement that “ethics is not an empirical science” (Jarvis 1995, p. 4), which means that expecting full verification of the theory,

seems, as per the complex web of variables and the data available to date, unrealistic. This thesis henceforth just relies on the conclusion drawn from the academic literature reviewed in this chapter that, concerning professional ethics education in its broad interpretation (i.e. that it is more than just learning rules and applying them, it is about formation of professional identity), addressing each of the four components in Rest's Four Component Model is a possible, achievable goal of such education.

In order to achieve these possible goals, professional ethics education researchers provide us with a list of interrelated recommendations concerning teaching methods and techniques. According to these recommendations, an integrated approach might work best for developing all the four capacities. This integrated approach contains a separate course devoted to ethics but going beyond covering only the respective rules of the profession, in addition to the pervasive method, meaning that other courses also need to address ethical issues. Other recommended key elements of the integrated approach in professional ethics education are experiential learning experience, use of various assessment methods, trained educators, the "institutional milieu" and lifelong learning: regular training after graduation.

Concerning legal ethics education in specific, Nicolson asserted that "in an ideal world law schools would teach ethics pervasively, as well as in dedicated course, support expository teaching with critical discussion, role plays, simulations and clinical experience" (Nicolson 2008, p. 18). Holmes (2015) argued that "students graduate knowing the law of lawyering, indeed they may get top marks in 'Legal Ethics'", but there is a gap between these graduates' knowledge and action. She supported "more contextualised and interdisciplinary approaches" to legal ethics education, since law graduates will "find themselves in situations in which getting the right thing done (rather than just knowing the right thing to do) will take courage and skill" (Holmes 2015, pp. 116, 119, 137). Evans also recommended an integrated approach in the law schools to develop professionalism and character (Evans, 2014), where legal ethics education appears in the context of substantive law subjects (Palermo and Evans, 2005). Evers and Townsley (2017), reviewing the literature on legal ethics education, found that the "preferred" approach is a pervasive and incremental approach, meaning that legal ethics is "embedded throughout the law curriculum" and that "knowledge and skills are developed in stages with increasing complexity" (Evers and Townsley 2017, p. 21). They also referred to the debate on "where ethics as an area of learning should be

situated – in academic or vocational legal education and training, in the continuing professional development phase or as a continuum of all three stages?” (Evers and Townsley 2017, p. 19). As for situating legal ethics, Floyd (2012) concluded that “because empirical research demonstrates that a person’s capacity to behave ethically continues to develop over a lifetime and that the growth is a result of their experiences in addition to education, it is vital that lawyers are supported in their continued development ... after they graduate from law school” (Floyd 2012, p. 224). Abel’s findings also support this conclusion, referring to lawyers who learnt unethical behaviour during practice (Abel, 2012). Evans and Palermo (2005) added though that formal legal education (undergraduate and professional) can be regarded as just one sub-system influencing ethical decision making, referring to the importance of informal learning.

Considering all the academic sources reviewed in this chapter and in line with Regan and Sach’s (2016) recommendation on using Rest’s FCM as a pedagogical tool in legal education, the author of this thesis interpreted the recommendations of the various researchers and expanded Bebeau and Monson’s suggestions for developing the four components as moral capacities during an academic programme to all stages of the formal learning routes during the whole legal education continuum. Due to the differences among the educational systems of the three countries investigated during this research, this thesis looks at these learning routes as ones with two stages: a pre-qualification stage and post-qualification one. The first stage of the formal learning route, pre-qualification, may include one or more of the following components: academic component, vocational component, and workplace learning component. The academic component is an academic programme leading to a degree in law, which might be an undergraduate, a postgraduate or an integrated programme, offered by a recognised and accredited higher education institution (referred as a ‘law school’ throughout this thesis). The vocational component normally builds on the academic component, and contains a training for law graduates, preparing them for the examination required for becoming a qualified lawyer (such as the ‘Bar exam’, see later in the following chapters). The workplace learning component in legal education covers any structured work experience, during which the law student or the law graduate performs legal activities under the supervision of a senior lawyer. The academic and the vocational components might be delivered by the same provider or different ones, and might be delivered in a single programme or separate ones. The workplace learning component might be part of the academic component, or the vocational component, or both. The post-qualification stage refers to formal learning after

becoming a qualified lawyer, normally organized by an organisation related to the legal profession. The structure of legal ethics education during these two stages was regarded as “functional equivalents” in the three countries concerned, and was investigated in this thesis.

Legal ethics teaching is recommended to be approached in an integrated way throughout the two stages. With regard to the pre-qualification stage, the recommendations include the expectation of a separate course, a pervasive approach and experiential learning. During this stage, the formal learning route is proposed to include a separate unit dedicated for legal ethics, and this course is recommended to cover the following elements: the content of the respective code of ethics (or, rather, the rules related to “lawyering”), the application of these rules, and developing the learner’s capacity to recognise ethical issues and to argue for moral actions in various situations. Such course could be part of the academic component, or the vocational component, or both; and including all these three elements such course would develop mainly the capacities related to Component 1 and Component 2 of the FCM: moral sensitivity and moral reasoning. The pervasive approach during the pre-qualification stage means that other courses of the academic component, or the vocational component, or, ideally, both components, address ethical issues important to lawyers: for example, Criminal Law courses would include discussion of ethical problems related to crimes, criminals and law enforcement, and so on. Experiential learning refers to internship, simulation, clinic, or equivalent learning experiences, during which learners are exposed to ethical issues emerging during legal practice. The pervasive approach and the experiential learning experience are argued to develop capacities mainly related to components 3 and 4 of the FCM: moral sensitivity and moral implementation. The lifelong formal learning process of legal ethics education does not end with graduation and receiving the licence for practice, but recommended to continue with regular training sessions related to legal ethics: such training during the post-qualification stage would develop further all the four moral capacities of qualified lawyers. It is very important to note two issues: first, researchers of the FCM emphasised that whilst the four components are distinct, their development is interrelated. They found that developing one affects the other three as well. Second, the integrated way of teaching legal ethics goes beyond the above suggested organisation of the formal learning routes, i.e. containing a separate course, a pervasive approach, experiential learning and regular post-qualification training. Assessment, instructor development and the ethical “institutional milieu” are also expected to be integrated into both stages of formal learning. According to all these recommendations, in order to achieve all the components of the FCM as

goals, formal legal ethics education in a given country is recommended to include each and every elements: a separate course, pervasive approach and experiential learning with an integrated assessment and faculty development during the pre-qualification stage, continuing after qualification with regular training.

This thesis, however, does not intend to describe an ‘ideal’ way of legal ethics education. As written in Chapter 2, this research is not about how legal ethics education ‘should’ be done, it rather explores how legal ethics education ‘could’ be done: the lack of consensus of researchers about the aims and methods of legal ethics education, and the limited amount of evidence available led to the conclusion that an investigation of a ‘possible’ way of legal ethics education is feasible only. Furthermore, due to the lack of comparable data and lack of resources, certain important factors such as informal learning, assessment details or faculty development schemes are omitted from this current investigation, as mentioned earlier in this chapter. These can be explored by future research projects (see Chapter 7).

Concerning the above mentioned ‘possible’ way of legal ethics education, this thesis concentrates on how the teaching of legal ethics is organised throughout the continuum in three countries: in the USA, in England and Wales, and in Hungary. This research investigated the current practices of the major stakeholders in these countries: policymakers, academia and the legal profession, with regard to legal ethics education, during the pre-qualification and the post-qualification stages. Two out of the four objectives of this research are related to describing legal ethics education practices in these countries. The first objective is to present legal ethics education in Hungary to the international audience, for the first time, in order to fill a gap in the literature. The second objective is to provide the Hungarian audience with an overview of legal ethics education in the USA and in England and Wales, to contribute to the scholarship legal ethics education in Hungary. In line with the traditional comparative education approach, the “functional equivalents” are investigated to identify similarities and differences (see Chapter 1) among the legal ethics education practices in these three countries. In the upcoming chapters (chapters 4, 5 and 6), the current legal ethics education practices during the two stages of formal learning in the given country are described in the same structure: expectations of the relevant policymaker and the major characteristics of the delivery by academic and professional providers are overviewed for each stage. Starting with the USA (Chapter 4) and then moving on to England and Wales (Chapter 5), the formal learning route

to becoming a qualified lawyer and formal learning after becoming a qualified lawyer in the given jurisdiction are described: relying on the professional and academic literature, the current accreditation standards issued by the policymaker, the academic practices of the law schools and formal training delivered by the professional bodies prior and/or after qualification are investigated. The same structure is used to describe the Hungarian practices during both stages in Chapter 6; however, due to the dearth of relevant academic literature, the investigation is based on professional sources and “elite” interviews with representatives of the three major stakeholders in legal ethics education. Chapter 7 contains a summary of these chapters with a table showing the national practices in one table, where the identified similarities and the differences can be clearly seen.

### **A framework for evaluating legal ethics education**

#### *Evaluation in comparative legal ethics education*

Further to the two objectives mentioned at the end of the previous section of this chapter, this thesis has another objective concerning the current legal ethics education practices in the USA, in England and Wales, and in Hungary: it aims to evaluate them. In addition to the identification of differences and similarities (Objective no. 3 of this thesis), comparative education researchers sometimes also evaluate education practices of various countries time to time by benchmarking them (see Chapter 1), and this thesis attempted to evaluate legal ethics education practices in the three countries concerned. The thesis benchmarked them to an evaluating framework, developed by the author of this thesis according to the various recommendations related to achieving the four components of the FCM as possible goals of professional legal ethics education (see earlier in this chapter). Concerning evaluation of formal learning at tertiary level in general, the academic literature mainly suggests programme-level evaluation tools and warns about the complexity of the task. With regard to evaluation methods of educational programmes, Cook (2010) found that such methods are mainly quantitative, where the ‘success’ of a programme is measured by data such as satisfaction scores of participants. According to his opinion, comprehensive evaluation of educational processes, which “concludes with a summative objectives-oriented evaluation at the end”, are “very resource-intensive and complex, thus usually employed in part rather than in full”

(Cook 2010, pp. 297-298). Ryan, concerning vocational programmes, even asserted that due to the complexity of the important factors influencing educational programmes, any evaluation “must then be provisional and tentative” (Ryan 2003, p. 159). Mumford, Steele and Watts, when reviewing the academic literature concerning systematic evaluation of ethics education programmes in specific, found that such evaluations have been “sporadic” (Mumford, Steele and Watts 2015, p. 38).

Based on these findings and opinions of researchers, an attempt on evaluating legal ethics education practices in the USA, in England and Wales, and in Hungary, even if it were necessarily incomplete due to the complexity of the topic, would definitely contribute to knowledge in the field. As a starting point in the evaluation process, researchers are advised to identify the information needed to “determine the merit or worth” (Cook 2010, p. 296) of the educational issue to be evaluated. Since the focus of this research is on legal ethics education throughout the continuum, academic sources on evaluation of legal ethics education and on evaluation of legal education across the continuum were searched for, but no relevant literature was found. The upcoming chapters include the few academic sources, which partially deal with any evaluation of national practices or any international comparison in relationship with legal ethics. These sources contain very useful information and relevant recommendations, but they were found as not fully suitable, since they either contain opinions of the researchers concerning the educational practice in the given country only (e.g. the McCrate or the Carnegie reports for the USA legal education – see Chapter 4), mainly focus on the academic component of the pre-qualification stage (such as Boon’s model curriculum – see Chapter 5), or identify similarities and differences in a very specific area only, such as codes of ethics for legal professions in various countries. The ABA’s Legal Education Reform Index is the closest to an evaluation tool suitable for this research, but its inclusion of legal ethics is not sufficiently detailed (ABA, 2019). Therefore, without any relevant academic source available for the comparative evaluation of legal ethics education throughout the continuum, a decision had to be made on what type of evaluation would be feasible during this research. As mentioned earlier, due to the lack of comparable data available for each of the three countries with regard to their legal ethics education practices, certain important factors such as informal learning, assessment details or faculty development schemes were omitted from this current investigation: these factors are not part of the evaluation, and only briefly mentioned in the upcoming chapters if referred to by academic or professional sources. Due to lack of resources to

conduct a comprehensive data gathering in each of these countries, e.g. a systematic data collection in the USA, in England and Wales, and in Hungary concerning student and faculty satisfaction with current legal ethics education practices, such quantitative evaluation was also deemed as not feasible. Therefore, the following, novel approach was selected: a framework was developed for evaluating how legal ethics education is designed and implemented across the whole legal education continuum in a given country, benchmarking the national practices to the various recommendations related to achieving the four components of the FCM as possible goals of professional legal ethics education. Concerning other possible ways of comparing legal ethics education practices, Chapter 7 contains ideas for future research.

### *The evaluating framework*

Apostolou, Dull and Schleifer (2013) suggested a framework to facilitate the curriculum design of an ethics course within an undergraduate programme in accounting. They asserted that “one should consider the rules and requirements of the accrediting body” and suggested a course covering more than just the respective code of conduct, with a variety of teaching and assessment methods (Apostolou, Dull and Schleifer 2013, pp. 3-12). This thesis suggests a framework for contrasting legal ethics education practices of a given country by evaluating how legal ethics education is designed and implemented across the whole legal education continuum. As per the recommendations summarized in the previous section, the framework considers requirements and guidelines issued by accrediting bodies, the importance of relevant codes of conduct and other norms related to the legal profession, and teaching methods such as covering ethical issues in various courses including a separate course and experiential learning. The framework provides with an overall evaluation tool of how the national practices address the components of the FCM, even if there is no agreement on the model or no explicit statement of achieving the components as goals of legal education in the given country. As mentioned earlier in this chapter, this is a simplified approach since assessment details or faculty development schemes were omitted. In its current format the evaluation relies on the analysis of accreditation standards/guidelines and the extant academic literature focusing on legal ethics education only, supplemented by data gathered via the “elite” interviews for Hungary due to the gap in the literature.

The framework focuses on legal ethics education design and implementation from a lifelong learning aspect: it looks at the legal ethics education practices during the route to becoming a qualified lawyer in a given country (pre-qualification stage), and at any existing practices after qualification (post-qualification stage). During these stages the framework looks at expectations and solutions regarding legal ethics: how does the organization in charge of developing expectations from the formal education providers recognize the importance of professional ethics (i.e. who is the policymaker for the given stage and what are the accreditation standards related to legal ethics), and how do the providers address these expectations? These practices are benchmarked with the recommendations discussed earlier. In order to achieve all the components of the FCM as goals, formal legal ethics education in a given country is recommended to include each and every elements: a separate course, pervasive approach and experiential learning in an integrated manner and faculty development during the pre-qualification stage, continuing after qualification with regular training. These elements are ‘paired’ with a component of the FCM, following the simplified approach and interpreting the recommendations of the academic literature by identifying which component of the FCM has the strongest link with a particular element. The framework also considers the role of the major stakeholders in legal ethics education during the continuum: what are the expectations of the policymakers and how the providers of legal ethics education meet such expectations. Each country’s legal ethics education practices were benchmarked to this framework. The framework is used to evaluate the existing practices by a “traffic light” colour coding marking scheme, adopting the technique developed for the Balanced Scorecard method by Kaplan, Norton and Rugelsjoen (2010). Depending on to what extent the existing practices cover these elements, a specific colour is added to each of the two stages: red, yellow or green, signalling that the elements are not covered, partly covered or fully covered. The overall evaluation of the continuum summarises the evaluations of the two stages.

Each one of the countries investigated by this thesis has its own legal education system, within which the aspiring law professionals should follow a formal learning route to become qualified lawyers, and some formal learning activities also exist after qualification in these countries. The framework focuses on the functional equivalents of these routes and is used for evaluating these routes, considering the roles of the three major stakeholders in these routes.

Concerning the pre-qualification stage, the framework first looks at the policymaker within the national context of the given country. The expectation of a separate course, a pervasive approach (i.e. whether other courses are expected to address ethical issues or not) and an experiential learning requirement (internship, simulation, clinic, or equivalent) are checked in the accreditation standards or their equivalents related to the law degree, as these can provide the opportunity to develop all the four capacities. The next step is to look at how the accredited higher education providers address these expectations. After analysing the relevant accreditation standards, the academic sources on how legal ethics is taught during the pre-qualification stage in the given country is reviewed to explore the current practices of law schools. How do law schools teach the respective codes of ethics (or, rather, the rules related to “lawyering”) and their application: is there a separate course on legal ethics? Do the law schools teach the rules only, or do they go beyond teaching the code to develop capacity to recognise ethical issues and to argue for moral actions in various situations? Are ethical issues addressed during other courses as well? Are the students exposed to challenging ethical situations in clinical settings, internships, simulations, etc.?

If the formal learning route to becoming a qualified lawyer includes a further, vocational component (as this is the case in England and Wales and in Hungary), the framework looks at the expectations and the solutions again: is legal ethics education required by the policymaker in charge of the vocational stage, and if yes, what are the legal ethics education practices during the vocational stage? As the academic and the vocational stages complement each other, the four components of the FCM might be covered by these two stages jointly.

The last element of the evaluating framework focuses on the post-qualification stage. The lifelong formal learning process of legal ethics education does not end with graduation and receiving the licence for practice (referred as “qualification”), but recommended to continue with regular training sessions. Such lifelong learning would help the professional during his/her career to develop all the four capacities further, depending on how the training sessions are organized. The professional organization(s) related to the legal profession(s) may have clear requirements of continuous self-development, within which professional ethics is a mandatory element. The framework looks at the existence of such requirement and of such mandatory element.

The criteria and the evaluation of the practices in a given country are summarised in the below table format:

STAGE	EVALUATION (‘Red’: recommended elements are not covered / “Yellow’: recommended elements are partly covered / ‘Green’: recommended elements are fully covered)
<b>1. Pre-qualification stage</b>	
Does the <i>policymaker</i> require a separate course? ... pervasive approach? ... experiential learning experience?	
Do <i>law schools</i> offer a separate course on legal ethics?  Do they cover the respective codes of ethics / the rules related to “lawyering” and their application?  Do law schools go beyond teaching the rules to develop capacity to recognise ethical issues and to argue for moral actions in various situations?  Are ethical issues addressed during other courses as well?  Are the students exposed to challenging ethical situations in clinical settings, internships, simulations, etc.?	
Is legal ethics education required by the policymaker in charge of the <i>vocational</i> component? (If applicable)  If yes, what are the legal ethics education practices during the vocational component?	
<b>2. Post-qualification stage</b>	
Do the professional organization(s) related to the legal profession(s) have clear requirements of continuous self-development, within which professional ethics is a mandatory element?  Are there regular training sessions?	

<b>OVERALL EVALUATION OF THE CONTINUUM</b>	
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In line with this framework, the next chapters of this thesis focus on curriculum design and implementation, with regard to legal ethics education in the USA, in England and Wales, and in Hungary. The relevant academic accreditation standards and professional requirements, along with the academic literature, provide with information about the local expectations and the major characteristics of legal ethics education in the three countries concerned. As for the first two countries, a partial literature review was conducted due to the size and complexity of their systems, but this provided sufficient information to identify the salient features of their legal ethics education practices. Due to a gap in the literature, qualitative interviews were also conducted to acquire insights into Hungarian practices.

The chapters are structured to present information about the current characteristics of legal ethics education in these countries, in line with the research questions (see Chapter 1) which are related to the above framework. Starting with a brief overview of the legal education system within which legal ethics training takes place, the requirements of the relevant formal learning programmes needed for qualification are reviewed first. The investigations of these requirements are followed by a review of the academic literature (and, in the case of Hungary, the analysis of interviewees' responses) regarding legal ethics education practices. The chapters continue with checking whether there is a requirement of continuing professional development with regard to legal ethics. The chapters conclude with the evaluation of the current legal ethics education practices in the given country, as per the evaluating framework described above.

## **CHAPTER FOUR: LEGAL ETHICS EDUCATION IN THE USA**

This chapter is based on academic and professional literature about legal ethics education in the USA, using the evaluating framework described in the previous chapter. In line with the objectives and research questions listed in Chapter 1, this chapter aims to provide an overview of legal ethics education in the USA. The chapter starts with the description of the route to becoming a qualified lawyer in the USA and then focuses on the pre-qualification stage: it enumerates the relevant accreditation requirements for legal ethics education, then a review of academic literature on legal ethics education practices follows. The chapter then provides with an overview of legal ethics in the ‘post-qualification’ stage, and concludes by using the evaluating framework related to the FCM (see the end of the previous chapter).

### **The route to becoming a qualified lawyer in the USA**

In order to become a qualified lawyer in most of the states of the USA one, after earning an undergraduate degree in any field, should enrol in a law degree programme of an accredited school. In the USA, accreditation is a non-governmental peer evaluation process, and the accrediting bodies seek approval from the U.S. Department of Education (U.S. Department of Education 2019a). Concerning legal education, the U.S. Department of Education names the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association (ABA) as the recognized agency of “accreditation throughout the United States of programs in legal education that lead to the first professional degree in law” (U.S. Department of Education 2019b). Graduating from the law school and passing the Bar exam entitles the graduate to start working as a lawyer: the legal profession in the USA is a unitary one, so the graduate may perform any legal activities and join any private or public organisation authorised to provide legal services (Bolocan 2002, p. 3).

The ABA accreditation standards for the approval of law schools contain the expectations of the law schools in terms of resources, operations and the content of law degree programmes (called Juris Doctor or J.D. programmes). Changes to the standards are made after a group of experts have reviewed legal education in the USA and issued a report with recommendations for the ABA. Concerning legal ethics, for instance, the McCrate Report in 1992 identified and detailed the skill of “recognizing and resolving ethical dilemmas” as one of the ten fundamental lawyering skills (ABA 1992, pp. 203-207). Another important report concerning legal ethics education was the Carnegie Report in 2007, which proposed three universal strands of professional education “metaphorically designated as three formative apprenticeships, all of which are essential to full preparation for professional work”: the first apprenticeship is related to the necessary knowledge, the second apprenticeship is about the essential skills, and the third apprenticeship is “concerned with providing entrants to the field effective ways to engage and make their own the ethical standards, social roles, and responsibilities of the profession, grounded in the profession’s fundamental purposes”. The Carnegie Report “confirmed the importance of the MacCrate Report’s urging to make professional formation more effective” (Sullivan 2018, pp. 333-336, 338). The most recent changes to the accreditation standards of J.D. programmes were made in 2014 and gave law schools flexibility in developing their curricula.

### **Accreditation standards related to legal ethics**

With regard to legal ethics, the ABA noted in the explanation of the recent changes that the requirement of “preparation for ethical participation in the legal profession” is one of the most important objectives of the programme of U.S. legal education. The ABA also emphasized the need for more experiential courses such as clinics, simulations or field placements in their explanation of the changes, as such courses support legal ethics education (ABA Explanation of changes 2014). Below are those current ABA accreditation standards for the approval of law schools in the USA, which are related to legal ethics (selection of standards are by the author of this thesis):

*Standard 301. OBJECTIVES OF PROGRAM OF LEGAL EDUCATION*

*(a) A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession. (...)*

*Standard 302. LEARNING OUTCOMES*

*A law school shall establish learning outcomes that shall, at a minimum, include competency in the following: (...) (c) Exercise of proper professional and ethical responsibilities to clients and the legal system (...)*

*Standard 303. CURRICULUM*

*(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following: (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members (...)*

*Standard 304. EXPERIENTIAL COURSES: SIMULATION COURSES, LAW CLINICS, AND FIELD PLACEMENTS*

*(a) Experiential courses satisfying Standard 303(a) are simulation courses, law clinics, and field placements that must be primarily experiential in nature and must: (1) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302. (ABA Standards, 2018-2019)*

The above standards show the following two requirements from USA law programmes regarding legal ethics:

1. Preparation for ethical conduct is expected to be an overarching aim and one of the learning outcomes of the programme.
2. This aim and the related learning outcome of the programme is expected to be achieved by providing students with a separate course on professional conduct and with opportunities to attend experiential courses integrating legal ethics with knowledge and skills.

Expectations of learning legal ethics in the USA are, however, not related only to the J.D. programmes provided by accredited law schools: legal ethics appears not just in the pre-qualification, but also during the post-qualification stage. According to the website of the ABA, many states require mandatory continuing legal education (CLE) (ABA MCLE 2018). Similar to the situation concerning the professional code of conduct, there is no one single federal set of rules: the states can issue their own rules for this area, too (see National Conference of Bar Examiners, 2020). Most of the states chose to adopt the ABA Model Rule for Minimum Continuing Legal Education and Comments up to a certain extent, which requires lawyers to take on average one credit per year in the area of ethics and professionalism: such course is expected to address not just the code of conduct applicable to the given state but also “tenets of the legal profession by which a lawyer demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other lawyers, witnesses, and unrepresented parties.” (ABA MCLE Model Rule, 2018)

As reviewed above, it is mandatory for law schools in the USA to teach legal ethics as they are required to do so by the accreditation agency. (For further reasons of teaching legal ethics see the next section of this chapter.) Aspiring lawyers in the USA are expected to pass a special professional responsibility course along with other courses (including experiential learning) incorporating some aspects of legal ethics during their J.D. programme (as available), and, depending on which state they are going to practice, they are also expected to participate in legal ethics-related courses regularly after graduation from the law school. According to the above, the lifelong learning approach to legal ethics exist during the legal education continuum in the USA: the legal profession, as policymaker, requires formal learning of legal ethics both in pre-qualification and also in the post-qualification stage. The below table summarises the legal education continuum in the USA.

THE LEGAL EDUCATION CONTINUUM IN THE USA			
Pre-qualification stage →		Qualification →	Post-qualification stage
<i>Academic component</i>	<i>Vocational component</i>		
Postgraduate J. D. programme	- (no separate vocational component during the pre-qualification stage)	Bar exam	CLE (continuing legal education)

**Legal ethics education practices of law schools in the USA**

This and the following section review the academic literature on legal ethics education practices in the USA. The majority of the sources focus on the pre-qualification stage and describes the reasons for introducing the mandatory course and the law schools’ approaches to ABA requirements. Very few sources deal with the post-qualification stage, and those that do emphasise the importance of the stage in professionalism and urge for further steps and research.

*The beginnings*

According to Moliterno, legal ethics education started at American law schools in the early twentieth century, but until the late 1960s, there were only various institutional practices and recommendations by the ABA (Moliterno 1991, pp. 86-92). The involvement of many lawyers in the Watergate scandal (1974) was the main reason the ABA decided to require the teaching of legal ethics in the law schools (Egan et al. 2004, p. 307). Further to the scandal, Hempel and Saron (2011) asserted that three other factors also contributed to the issuance of this requirement: the increase in the size of the profession; the changes in the social composition of the profession; and a political move leftward, which all challenged the elite of the bar. Because of the new ABA standard, each law school was required to provide instruction on the responsibility of the profession. This standard was soon followed by the introduction of the compulsory Multistate Professional Responsibility Exam (MPRE), a national exam on legal ethics, required to qualify for the bar. Later on, in 1992, the ABA McCrate Report emphasised the importance of teaching professional values by clinical programs (Hempel and Saron 2011, pp. 176-177). The ABA’s

requirement also led to public debates, events, articles and books, and an academic and professional community in the USA, which was a pioneer in this area: the first country in the world where a legal ethics community emerged (Terry 2000, p. 68). The academic literature produced by this community about teaching legal ethics is reviewed in the following sections, using the elements of the evaluating framework detailed in Chapter 3.

### *Knowing the codes*

Since the ABA's requirement of teaching professional responsibility was the main driver of legal ethics education at law schools in the USA, the content of legal ethics teaching is mostly associated with the rules related to lawyering, and other official sources (Boothe-Perry 2009, p. 541). The primary source of professional legal ethics is the ABA model code of conduct as adopted by the judicial branch of the state's government (usually the Supreme Court in the given state). There is a significant variation in the rules of legal ethics from state to state. Additionally, there are other sources of the rules related to lawyering both at the federal and state level: various statutes and court rules (Terry 2000, p. 67; Bolocan 2002, pp. 5-7). As Kelly stated about the different "meanings" of legal ethics in the USA, these professional rules are the "primary meaning" of legal ethics (Kelly 1980, p. 22) which are taught at law schools, but the concept of legal ethics itself lacks a common definition. Chambliss found that when practitioners use the term, they mean these formal rules of legal ethics (Chambliss 2012, p. 56). Bolocan added that "legal ethics" and "professional responsibility" are used interchangeably in most American academic and professional sources (Bolocan 2002, p. 1); although according to Boothe-Perry professionalism is a much broader concept than legal ethics as an "attorney who acts unprofessionally does not always act unethically" (Boothe-Perry 2009, p. 522).

The author of this thesis during an earlier research found that the mandatory legal ethics courses required by the ABA accreditation standards mostly focus on the codes: the ABA Model Rules of Professional Conduct and usually also the ABA Model Code of Judicial Conduct, along with the laws and cases related to lawyering in the given state (Andrasi 2013a, p. 10). After examining the curricula of USA law schools post-2014, Krantz and Millemann found that these courses are mostly offered in higher years and argued for expanding the topics covered (Krantz and Millemann 2015). Regarding teaching methods and techniques, the use of simulation exercises and

involvement of practising lawyers (Hempel and Seron 2011, p. 188), dialogue about right or wrong (Rodes 2007, p. 260) and interactive learning such as problem-solving and role-playing (Boothe-Perry 2009, pp. 546, 550) were proven useful for enhancing skills in ethical analysis. Stories (fictitious and real-life case studies related to legal ethics issues) were also found useful to deepen moral reasoning as students can see the development of a situation, understand the wider context, others' opinion about the same situation, and consequences and effects of behaviours (Menkel-Meadow 2000).

These mandatory code-centered Professional Responsibility courses support in part the components 1 and 2 of the FCM: ethical awareness and reasoning. For full support, such courses need to go beyond teaching knowledge and application of the codes and use the techniques mentioned by the above academic sources. Moliterno added that law students “can profitably be exposed to different modes of moral reasoning, providing an opportunity to examine different systems of thought regarding the process of distinguishing good from bad” (Moliterno 1991, p. 97). However, the students regard these courses as preparation for the MPRE only, and the “intellectual content” of the course is also viewed with scepticism by a number of law professors (Hempel and Seron 2011, p. 178). Economides and Parker (2011) reported about an academic roundtable discussion where the following four major objections to mandatory ethics courses in the curriculum were discussed: academic autonomy, lack of resources, the perception that ethics cannot be taught, and even if it can be, then ethical reasoning cannot objectively be assessed. The participants of the roundtable addressed and refuted all these objections, but also admitted that their rebuttals are not based on consensus. The author of this thesis agrees with those rebuttals, but the review of the various sources (see this Chapter and the following ones) confirms the lack of consensus about legal ethics education not just in the USA, but also in England and Wales, and in Hungary, too.

An important note here is that the academic component of the pre-qualification stage of legal education in the USA is ‘postgraduate’ only: a ‘pre-law school’ stage (i.e. a bachelor degree in any field of discipline) is required prior to admission to a Juris Doctor programme offered by an ABA-accredited law school (Law School Admission Council 2019). This feature of legal education in the USA means that some students enrolling to a J.D. programme might already have learnt general or even professional ethics at the undergraduate level, supporting these two components.

### *Going beyond the codes*

In addition to the focus on the laws of lawyering, legal ethics in the USA is becoming a dynamically expanding field covering, among others, the ethical aspect of law (i.e. a critical approach towards the laws and the legal system), the moral development of the lawyers (for details see the last section of this chapter), and the context and environment within which lawyers practice (especially the influence of the organizational settings of their practice on their behaviour). According to Luban and Wendell (2017) the history of USA theoretical legal ethics suggests three different waves: the first wave says that legal ethics is a subject in moral philosophy, in relationship with client-lawyer relationship; the second wave of philosophical legal ethics says that legal ethics is a subject in political philosophy, with a focus on resolving disputes in a pluralist society, while a possible third wave seems to be about behavioural legal ethics (based on findings of psychology), virtue ethics or the fiduciary theory (complexity of the client-lawyer relationship). The different understandings and various meanings of legal ethics are well reflected in the topics ABA covered in a recent handbook on the qualities of a professional lawyer: these include, among others, civility, diligence, honesty, integrity and loyalty, and the lawyer with such qualities should also be aware of issues such as reputation, appropriately handling money, online service, pro bono and public service, organizational issues, the effects of globalization and his or her own health and wellness (including mindfulness) (Haskins 2013). Due to the growing number of law firms and the emergence of new organisational forms in which lawyers and non-lawyers collaborate, Chambliss (2001) reported about the need for moving away from individual rule-based professional regulations to a different type of approach, considering ethical issues at firm level. The Association of Professional Responsibility Lawyers (APRL) has formed the Future of Lawyering Committee to propose amendments of the legal ethics rules to the ABA and the various states. They focus on the regulations that govern multijurisdictional practice and the unauthorised practice of law: non-lawyer entrepreneurs utilising modern technology in the provision of legal services. (APRL 2018) Due in part to the changes in the accreditation standards in 2014, which gave flexibility to the law schools in developing their curricula, innovative approaches emerged to provide students with interactive, engaging learning opportunities. For instance, at the University of California in Irvine (UCI) the students take a two-semester long Legal Profession course in the first year, which prepares them for placements and has an interdisciplinary approach by which students are exposed to ethical issues in various fields of law (Hempel and Seron 2011, pp. 187-188). The University of

St. Thomas School of Law, which uniquely developed a J.D. programme in line with the FCM, provides students with higher-level courses related to various fields of the law, which also reflect on lawyering, morality, and justice. Electives are available for exploring additional topics relevant to legal ethics, such as practical legal skills and leadership. The students complete assessments of moral capacities: the Defining Issues Test (DIT – see Chapter 3) and a short essay assessment on ethical identity development. As per the test results, the students experience growth in moral development and professional formation, although some students' scores were found to be decreased over their three years of law school (Hamilton, Monson and Organ 2012, pp. 29-37; Bebeau, Thoma and Cunningham 2016, pp. 624-629). Mental health issues, and techniques for supporting mental wellbeing such as 'mindfulness' is also gaining popularity in law schools such as the one at the University of Miami, Florida (Jacobovitz and Rogers 2014): studies in neuroscience showed that mindfulness could increase attentive qualities and thus support more ethical decision-making (Usman 2015). Albrecht et al. (2019) reports about similar positive results due to the introduction of a wellbeing initiative at Santa Clara Law School. Concerning future developments in legal ethics education in American law schools, involving topics related to ethical issues arising from different organizational and employment relationships of lawyers are recommended (Perlman 2000, p. 876), along with problems emerging from the development of technology or globalization (Chambliss 2011, p. 337). Egan et al., contrasting legal and medical ethics education, argued for going beyond the codes and targeting character and virtue, with "more imaginative pedagogical devices to trigger the moral imagination of law students" (Egan et al. 2004, p. 325). Informal learning opportunities outside the classroom, such as the opportunity to see others as role models are regarded as very important: the behaviour of both faculty members and administrators as examples are of importance, according to Dhanaraj (2000, p. 2069). Senior faculty members acting as mentors are found important for moral development, too (Egan et al. 2004, p. 320). However, it is very important to note here, that while ABA provides numerous materials and many researchers contribute to the field, there is no consensus in the USA about the definition of legal ethics, the role and the content of the mandatory course, and the incorporation of legal ethics into the curriculum: the examples mentioned above are rather single initiatives and not representing the majority opinion of law professors and practitioners.

### *Experiential learning*

In accordance with ABA Standard 304 (see earlier in this chapter), law schools in the USA provide students with the opportunity to participate in simulations or gain work experience by internships (legal clinics within the law school), externships (work placements) or other ‘pro bono’ activities. Still, according to Hempel and Saron “at most law schools, clinical education is not incorporated into the curriculum”. One of the examples of good practices they report about is the UCI, where the law school is committed to making an in-house clinic experience available to every student (Hempel and Saron 2011, pp. 182, 189). At the University of St. Thomas School of Law, each student is assigned to work with a practitioner mentor during their studies, in addition to clinics and placement opportunities, and a public service requirement, providing a wide range of experiential learning (Hamilton, Monson and Organ 2012, pp. 35-36).

The above examples prove that there are initiatives apparently at some law schools to go beyond the dominant practice: just meeting the minimum requirements by delivering a code-centred course and offering some experiential learning opportunities for the students. With regard to the FCM, components 1 and 2 are thus achievable by most of the law schools (see the comments on these courses earlier in this chapter), but only some schools’ practices support components 3 and 4. One can conclude that law schools in the USA are just on their way towards the “continuing method” (Rhode 1992, p. 53), i.e. where ethics appears in various courses throughout the J.D. programme, but they are far from the fully pervasive approach with faculty collaboration and integrated testing strategy, as recommended by Rhode in her widely cited article (Rhode 1992, pp. 53-56).

### **The post-qualification stage**

After graduation and being licensed, in line with the previously described continuing legal education requirements, new lawyers are expected to participate both in formal and informal professional development programmes (Chambliss 2012, p. 52). Concerning ethical issues, these programmes are especially important, due to the large number of misconduct cases in the various states (see Abel, 2009 and 2010). The required course is usually just about the minimum standards and disciplinary issues (Maine 1999, p. 1084). New lawyers, in addition to the compulsory course, may attend training and events such as conferences or mock trial courses organized by local and

state bar organizations, private, public and in-house training, ‘job-shadowing’ and mentoring programmes. Senior partners at law firms participate in business development and leadership skills development training and contribute to the in-house programmes or to internal and external events as speakers, act as mentors, or author articles or blog posts (Gaffney 2016). Many states and local bar associations, and state judiciaries also have special committees or commissions which provide ethical guidance to local lawyers (Boothe-Perry 2009, p. 534). These learning opportunities all have an applied approach and incorporate ethical issues related to the legal profession. However, as for the effectiveness of the mandatory CLE programmes, there is only varying anecdotal evidence (Genty 2011, p. 60) and whilst Green urged the legal profession in the USA to have a “serious discussion” about the efficacy of these programmes (Green 2006, p. 1118) this is yet to be conducted. The USA practices are still far from Rhode’s 1985 recommendations, who argued for more ethically rigorous norms in the ABA Code of Conduct, the use of the pervasive method in law schools, and the need for law firms and bar associations engaging in discussion of ethical matters (Rhode, 1985).

### **Evaluation of legal ethics education in the USA**

The above sections of this very chapter can be summarized as follows, according to the evaluating framework described in Chapter 3:

#### *Evaluating the formal learning route to becoming a qualified lawyer*

In the case of the USA, this route contains a postgraduate academic component as pre-qualification only. With regard to this stage, the policymaker entitled to issue accrediting standards for law schools is the ABA, the body of the legal profession. Legal ethics is recognized by ABA as one of the main aims and an important element of legal education. In line with the respective standard of the ABA, accredited law schools’ postgraduate Juris Doctor programme curricula contain a separate mandatory course focusing on professional responsibility. Furthermore, ABA standards expect the law school to offer experiential ethical learning opportunity. Thus, the policymaker recognizes the importance of legal ethics by expecting a mandatory course and an opportunity for

experiential learning. The ABA provides law schools with flexibility in designing a curriculum which might address all the four components, depending on the law school's decision.

According to the academic literature, because of the wording of the standards, law schools tend to offer the mandatory courses with a focus only on the knowledge and application of the "laws of lawyering": federal and local laws and regulations (codes of conduct). Such courses do not go beyond teaching the relevant rules and thus can only partially cover components 1 and 2 of the FCM: moral awareness and moral reasoning. Still, there are examples of going "beyond the code": such courses may address components 1 and 2 appropriately. The researchers agree with the importance and efficacy of the fully pervasive method, referring to Rhode's seminal work in the field. However, institutional practices show that just a few law schools managed to design their curriculum according to the integrated approach of the "continuing method". The use of various methods also shows a similar picture: there are examples of using various teaching techniques, but providers mainly follow the traditional method, the case study-based discussions in class. The academic sources also suggest that whilst becoming widely used, the experiential learning opportunity is not available for every student and not incorporated fully into the curriculum. Consequently, current legal ethics education practices at the pre-qualification stage in the USA seem to put emphasis on enhancing the first two components of the FCM (components 1 and 2) with some attempts in developing the other two.

With regard to the FCM, the unique J. D. programme of the University of St. Thomas School of Law is a good example of developing moral capacities by covering all of the four components of the FCM. Other law schools also provide with good examples of the integrated approach by incorporating legal ethics into other courses and using a wide range of experiential learning elements, which support components 3 and 4.

#### *Evaluating the formal learning route after becoming a qualified lawyer*

Concerning the post-qualification stage, the policymaker is the ABA again. The assessment for qualification after the academic component of the pre-qualification stage is regulated at state level, mostly containing a multiple-choice test for professional responsibility. There is a requirement of mandatory professional development at the federal level in relationship with legal ethics, but there

are local differences in the various states. The efficacy of this part of legal ethics education is questioned by researchers, and this area is apparently under-researched.

*Evaluation of USA legal ethics education during the continuum*

Overall, there are many initiatives by the accrediting body, certain law schools and providers of CLE courses to foster each component throughout the pre- and the post-qualification stages, but these are yet to be coherent and common characteristics of legal ethics education in the USA. Many providers of the J.D. programmes seem to meet the bare minimum standards and focus on the content and application of the relevant codes only. The legal profession and legal academia are however engaged in a discourse about the topic and continue the “pioneering” spirit by experimenting with the wider interpretation of legal ethics via separate courses or some form of integration during the academic component. The post-qualification stage would, however, require further research. See summary of the evaluation of the pre- and post-qualification stages, and overall evaluation of current legal ethics education practices in the USA continuum below:

<b>STAGE</b>	<b>EVALUATION</b> (‘Red’: recommended elements are not covered / ‘Yellow’: recommended elements are partly covered / ‘Green’: recommended elements are fully covered)
<b>1. Pre-qualification stage</b>	<b>YELLOW</b>
Does the <i>policymaker</i> require a separate course? ... pervasive approach? ... experiential learning experience?	The policymaker (ABA) expects a practice-oriented postgraduate J. D. programme with a mandatory course on legal ethics (Professional Responsibility) and provision of students with experiential learning opportunity.
Do <i>law schools</i> offer a separate course on legal ethics?  Do they cover the respective codes of ethics / the rules related to “lawyering” and their application?  Do law schools go beyond teaching the rules to develop capacity to recognise ethical issues and to argue for moral actions in various situations?	Law schools seem to cover the “laws of lawyering” only during the mandatory course. There are some examples of following the “pervasive method” and addressing ethical issues in other courses, but it is yet to be a salient characteristic of USA legal education. Experiential learning is becoming a

<p>Are ethical issues addressed during other courses as well?</p> <p>Are the students exposed to challenging ethical situations in clinical settings, internships, simulations, etc.?</p>	<p>more and more common practice, but it is not available to all students and rarely linked with legal ethics.</p>
<p>Is legal ethics education required by the policymaker in charge of the <i>vocational</i> component? (If applicable)</p> <p>If yes, what are the legal ethics education practices during the vocational component?</p>	<p>Not applicable: no separate vocational component during the pre-qualification stage.</p>
<p><b>2. Post-qualification stage</b></p>	<p>YELLOW</p>
<p>Do the professional organization(s) related to the legal profession(s) have clear requirements of continuous self-development, within which professional ethics is a mandatory element?</p> <p>Are there regular training sessions?</p>	<p>Differences exist among the states concerning the implementation of the expected CLE. Many states requires regular, mandatory ethics-related training, but this area is under-researched.</p>
<p><b>OVERALL EVALUATION OF THE CONTINUUM</b></p>	<p>According to the academic and professional sources legal ethics is an important element of legal education and there is the requirement of formal learning throughout the USA legal education continuum. The emphasis is rather on enhancing the cognitive skills (learning the rules and their application) than on professional identity formation. There are some examples of teaching towards components 3 and 4 of the FCM (moral motivation and implementation) but the formal learning during the continuum is rather related to components 1 and 2 (moral sensitivity and reasoning).</p>

## **CHAPTER FIVE: LEGAL ETHICS EDUCATION IN ENGLAND AND WALES**

In addition to the USA, the UK is another actor that dominates the global markets both in legal education and in legal services (see Chapter 1); thus, its legal ethics education practices are worth investigation. As mentioned earlier, the focus of this thesis is, more precisely, on England and Wales. Certain special rules are applicable to Scotland and Northern Ireland, but these are out of the scope of this thesis. Similar to the previous one, this chapter is also based on the review of academic and professional literature about legal ethics education with regard to England and Wales, using the evaluating framework described in Chapter 3. The chapter commences with an overview of the most common routes leading to becoming a qualified lawyer in England and Wales. A review of the various accreditation standards and professional requirements related to legal ethics education practices throughout the various stages follows. The chapter closes with an evaluation of legal ethics education in England and Wales, as per the evaluating framework.

It is also important to note here, that this account and the evaluation is related to the currently existing standards and practices (meaning early 2020): major changes will occur to the legal education system in England and Wales, especially to its vocational component (see in the next section), but this thesis is not containing their details and evaluation.

### **The route to becoming a qualified lawyer in England and Wales**

When comparing the USA and the UK legal education systems, Flood describes the UK as a “polycentric” one, as opposed to the “monocentric” American system. Whilst in case of the latter there is a “single” legal profession and one general route to becoming a qualified lawyer via an ABA-accredited law school (see Chapter 4), there are multiple routes in the UK (Flood 2011, pp. 14-16). One reason is that there are various legal professions in England and Wales, among which the two most important and sizeable ones are the solicitors and barristers. As Ching (2018) noted, the traditional distinction between their activities (barristers were advocates whilst solicitors were

transactional lawyers) by today is less apparent due to authorised overlaps. The majority of people aspiring to be lawyers in England and Wales would either like to be barristers or solicitors and follows the “conventional” route to become one of these. This “conventional” route starts with an academic component of the pre-qualification stage: an undergraduate (Bachelor) degree in law (a qualifying law degree) or by a non-qualifying undergraduate degree in any subject and a Graduate Diploma in Law (GDL). The GDL is usually delivered over one year. A vocational component follows with practice-oriented courses such as the Bar Professional Training Course for aspiring barristers and the Legal Practice Course for aspiring solicitors. After these courses, the lawyers who would like to become barristers and solicitors should prove themselves during a period of supervised practice: an experiential, work-based learning component needs completion to become a qualified barrister or solicitor (Ching 2018, pp. 9-10). This existing “conventional” route is very different from the “monocentric” USA approach, which only contains a postgraduate academic component during the pre-qualification stage, followed by passing an examination and obtaining the license for practice (see the previous chapter). Due to reasons of practicality, this thesis examines this “conventional” route only. The next section overviews the current expectations regarding the academic and vocational components of the pre-qualification stage with a focus on this “conventional route”, in relation to legal ethics.

### **Accreditation standards related to legal ethics**

As mentioned above, in the case of legal education in the USA there is only the academic component during the pre-qualification stage: academic studies on a postgraduate level exist as formal learning route, where the relevant accreditation standards are issued by the ABA (see Chapter 4). The formal learning route to becoming a qualified lawyer in the case of England and Wales contains two components during the “conventional” route described earlier: the academic and the vocational components of the pre-qualification stage. The respective policymaker and its expectations concerning legal ethics during these two components are examined in the following sections.

### *The academic component of the pre-qualification stage*

The Quality Assurance Agency for Higher Education (QAA) is the “designated quality body” in the UK (Department for Education 2018) setting standards for higher education institutions. Its expectations are in the relevant subject and qualification benchmark statements (QAA Our work, 2018). The subject benchmark statement in effect for Honours law degrees (the Bachelor in Law or Bachelor in Legal Studies programmes) was developed in 2015. As for ethics, the statement in section 1.2 contains the general “requirement on the student to apply their understanding of legal principles, rules, doctrine, skills and values”. Furthermore, the following is expected from law students and law schools:

*1.4 At the undergraduate level, students are aware of the consequences of law as a human creation and that it is subject to the ethics and values of those that make and apply it. The implications of this in the context of securing justice and the public interest is considered as part of legal study. Law schools will determine for themselves how ethics are addressed in the curriculum, but it is expected that students will have opportunities to discuss ethical questions and dilemmas that arise in law and to consider the features of ethical decision making.*

The summary of changes from the previous version of the benchmark statement explains that “awareness” regarding ethics means “being informed, cognisant, conscious, sensible”. Section 2.4, point (iii) emphasises that a graduate of law should demonstrate the “awareness of principles and values of law and justice, and of ethics”. The benchmark statement also contains recommendations regarding the use of a variety of teaching methods (including experiential learning) and assessment methods (including clinic-based assessments). (QAA Law Benchmark Statement 2015, pp. 6-7)

It is important to note here that for the academic component the benchmark statement is issued by the QAA separately, as well as the vocational component is also regulated separately by the two professions (i.e. barristers and solicitors). There are obvious differences between the academic and the professional bodies in terms of their purposes or discourses, which may have led to conflicts concerning the expectations related to the content of legal education. The professional bodies of barristers and solicitors issued a Joint Statement about the academic component in 1999, practically approving and recognising it. Section (A), point (iii) of Schedule One of the Joint Statement said that students should “demonstrate knowledge and understanding of a wide range

of legal concepts, values, principles and rules of English law and to explain the relationship between them in a number of particular areas” by the end of the academic component (Joint Statement 1999). This approach to the academic component has changed with the issuance of the Common Protocol by these professional bodies, which has replaced the above Joint Statement concerning undergraduate law degree courses started in or after 2019. The barristers’ body “reduced its regulatory involvement in legal academic learning to a minimum”, while the solicitors’ body “will cease to be involved in the approval or recognition” of the academic component (Common Protocol 2020a). This new, differing approach indicates that, since the Common Protocol and the benchmark statements are created by different authors, they may conflict and cause significant changes in legal education (see review of related academic sources later in this chapter).

#### *The vocational component of the pre-qualification stage*

The two professions (i.e. barristers and solicitors) issued a competence statement about the expected outcomes of this component and required completion of a professional training course, aiming to develop these competencies. Each training course includes professional ethics as an important element. It is important to note that these training courses reviewed below are not designed to fully achieve the scope or level of the two professional competence statements: these statements are designed for the point of qualification, meaning the completion of both the relevant training course and the following supervised work experience.

The Professional Competence Statement issued by the Bar emphasizes ethical behaviour, professional conduct and “complying with regulatory requirements set down by the Bar Standards Board, including the Code of Conduct” (Professional Statement for Barristers 2016, p. 4). The Professional ethics course is a vital and compulsory element of the Bar Professional Training Course (BPTC), aiming to “inculcate the fundamental concepts of professional and ethical values required of a practising barrister at the Bar of England and Wales”, to “provide knowledge and understanding of the philosophical issues and purposes underpinning ethical behaviour, including the concept of duty in professional life both to the client and to the rule of law” and to “provide in-depth knowledge and understanding of the equality requirements of the Code of Conduct” (BPTC syllabus 2019-20, p. 61). The course is currently assessed by a closed book examination

of two hours, comprised of six short answer questions, but will be an open-book one and split between the BPTC and the pupillage, or work-based learning, which follows the BPTC (BSB Future requirements 2018). Ethics is regarded as paramount, which is evidenced by the “Red Light Rule”: not addressing an ethical issue appropriately as per the Code of Conduct during any assessment is considered as a “fatal flaw” and results in a fail (BPTC Handbook 2020c, p. 36).

Ethical issues and professional conduct are also a fundamental element of the competence statement for solicitors. Compared to the Bar’s statement, which is rather about understanding and applying the ethical rules, the solicitors’ one adds further expectations such as “resisting pressure to condone, ignore or commit unethical behaviour” (SRA Competence Statement 2015). The Legal Practice Course (LPC), however, is only aiming to develop an understanding of the “key ethical requirements contained in the SRA Principles of Regulation and Code of Conduct, understand where these may impact and be able to apply them in context” (SRA 2019, p. 5). The LPC has two stages: Stage 1 covers three practice areas (Business Law and Practice; Property Law and Practice; and Litigation, together with the Course Skills, Professional Conduct and Regulation, Taxation and Wills and Administration of Estates), followed by three elective courses in Stage 2. Upon completion of the Professional Skills Course taken during the training contract, trainees should be able to “identify and understand the significance of client care, ethical and professional conduct issues and be able to respond in an appropriate way within the training context”, as well as to “apply appropriate professional standards (SRA 2020). Professional conduct and ethics are pervasive elements. Professional Conduct and Regulation is assessed not just separately, but also within each of the assessments of the three practice areas of stage 1 (LPC Information Pack 2018).

#### *Evaluation of the accreditation standards and professional requirements*

As per the above, especially sections 1.2 and 1.4 of the Law Benchmark Statement, the policymaker in charge of the academic component of the pre-qualification stage provides law schools with flexibility with regard to addressing moral awareness and moral reasoning (components 1 and 2 of the FCM) explicitly, and recommends the use of a variety of methods, including experiential learning, which might support the other two components. Thus the law schools are expected to develop the first two components of the FCM at best, whilst the wording of the majority of the relevant sections of the Law Benchmark Statement and the Joint Statement

mostly refer to understanding, which seems to be an emphasis on Component 1. Furthermore, these standards can be regarded as rather just expectations than requirements: there is no specific requirement of delivering a specific course or providing experiential learning (as opposed to the USA practices, see in the previous chapter), only recommendations. The introduction of legal ethics into the undergraduate law programme is debated in the UK academic literature: the next section reviews this debate, along with some institutional practices.

The vocational component, however, contains the requirement of learning professional ethics, mostly the respective codes and their applications. The different professional bodies are not following the same approach, though. The barristers' body focuses on the understanding of their Code of Conduct and its application, which partly addresses FCM components 1 and 2. The solicitors' competence statement expects more than just awareness and applications of the rules, compared to the barristers' approach: it indicates the aim of motivating ethical behaviour (Component 3). Both professions require though experiential learning, where professional ethics is a pervasive element: this common solution is in accordance with the recommended approach for components 3 and 4 of the FCM.

### **Legal ethics education practices in England and Wales**

This section reviews the academic literature on legal ethics education practices in England and Wales. For reasons of practicality, only those sources were examined which focus on legal ethics education primarily. The majority of the sources identified concentrate on the academic component of the pre-qualification stage and reveal a debate on how to incorporate legal ethics into the law schools' curriculum. Few sources deal with the vocational component and the post-qualification stage: similar to the respective section in the previous chapter about the USA practices, the researchers indicate the importance of these parts in professional education and the need for further research. It is important to note that UK academic and professional sources refer to academic and vocational 'stages', but the thesis continues using the term 'component' (see Chapter 3) when referring to them.

### *Reports on legal education*

Similar to the USA, legal education in England and Wales has also been reviewed from time to time by expert teams composed of representatives of academia, government and bodies of the legal profession (mostly the two biggest professions, barristers and solicitors). In his historical overview of such reviews concerning legal ethics, Boon (2002) found the following: the first reports by Ormrod, issued in 1971, and by Benson, issued in 1979, just stressed the importance of ethics but not indicated changes in the law school curriculum in this regard. The Marre Committee (1988) was the first acknowledging the need for including “substantive ethics material”, but the next report issued in 1996 (the so-called ACLEC report) rather referred to the vocational component as the place of professional ethics education. Boon stated that all these reports regarded the law degree as a liberal and not a professional education, and this distinction is the basis of the debate: what should the law curriculum focus on, the study of the law or preparation for the profession? (Boon 2002) The last report on legal education was issued in 2013 and mostly found the legal education and training system in England and Wales as of good quality but identified a number of gaps and deficiencies. One of these deficiencies is related to legal ethics, values and professionalism, as the current practices were found of “variable quality”. The following recommendations were made:

*Recommendation 6: LSET (Legal Services Education and Training) schemes should include appropriate learning outcomes in respect of professional ethics, legal research, and the demonstration of a range of written and oral communication skills.*

*Recommendation 7: The learning outcomes at initial stages of LSET should include reference (as appropriate to the individual practitioner’s role) to an understanding of the relationship between morality and law, the values underpinning the legal system, and the role of lawyers in relation to those values.*

*Recommendation 9: Learning outcomes should be developed for post-qualification continuing learning in the specific areas of: Professional conduct and governance (...).*

The report called for actions by regulators with regard to implementation (Webb, Ching, Maharg and Sherr 2013). To date, no changes were made by the QAA with regard to legal ethics. The professional bodies, however, made changes in the areas identified by LETR (Ching et al. 2018),

which is expected to affect legal education significantly. The Bar still considers the academic component important and expects the aspiring barrister's degree in line with QAA standards, which remained unchanged yet. The solicitors' professional body, however, decided to implement a new approach to the academic component (Brannan et al. 2018; Ching 2018; Ching et al. 2018). Starting in 2021, all those wishing to qualify as a solicitor will need to pass the Solicitors Qualifying Examination (SQE), which is planned to have two parts: one testing the candidates' functioning legal knowledge, and the other the practical legal skills (SRA on SQE, 2018). With regard to this new plan on SQE, as opposed to the unchanged position of the Bar on the undergraduate degree, Ching asserted that universities need to make a decision on whether to reconfigure their programme to include preparation for the SQE or not (Ching 2018, pp. 30-31). Concerning the vocational component and the work-based learning elements, the Bar also plans to make changes starting in 2021, which includes a centralized assessment in Professional Ethics, but no details are available yet (BSB Curriculum and Assessment Strategy 2019, p. 1). The consequences of recent changes concerning competence development and assessment are yet to be seen; this is estimated to take further years or even a decade (Ching et al. 2018, p. 396).

#### *The debate on the inclusion of legal ethics in the undergraduate programme*

Regarding the academic component of the pre-qualification stage, in the absence of a specific requirement of teaching legal ethics by the QAA or by the professional organizations of barristers and solicitors, there is an ongoing debate on the inclusion of legal ethics in the undergraduate degree programme. The authors arguing for inclusion refer to the QAA standard requiring awareness of the underpinning values of law and the legal profession, but there are various approaches towards the aims and the focus of 'values education'. Boon asserted that focusing on the critique of the legal system and the codes of professional ethics would fit the liberal character of the undergraduate law degree (Boon 2002, pp. 66-67). He later proposed a model course aiming to "stimulate students to reflect on the nature of legal ethics", which could be added to the undergraduate liberal degree programme. Its recommended syllabus covered the relationship between law and morality, the role of the profession in the society, and an overview of the most important codes (Boon 2010a, pp. 4-6). Duncan proposed that legal ethics should rather be a vertical subject, taught by willing faculty members, and the law schools could decide what would

be their focus. He added that the aim of teaching legal ethics in the liberal undergraduate degree programme should be developing the person, not meeting vocational expectations (Duncan 2010 and 2015). Ferris and Johnson argued that critical understanding and practical, creative use of law also should be an important aim of undergraduate legal education (Ferris and Johnson 2013, pp. 272-273). Others recommended teaching legal ethics in an international context. Flood and Balan both argued that due to the globalization of the legal profession, ethical standards should be taught in an international context (Flood 2011, p. 10; Balan 2017, p. 280). D'Silva added that legal ethics could develop an understanding, not just the internal personal values but also external cultural values. Thus, the students can be prepared for doing activities across borders, such as international arbitration (D'Silva 2013, pp. 91-92).

In addition to the possible aims and topics of legal ethics during the academic component, teaching methods are also part of the ongoing debate. Twining advocated for interdisciplinary collaboration: he asserted that cooperating with education departments, psychologists and neuroscientists is necessary to update methods used in legal education (Twining 2018, p. 248). Ferris asserted that using positive psychology in legal education supports the students' wellbeing, personal development, and reflection on values and personal identity (Ferris 2016, p. 8). As for the assessment, Ferris even asserted that the key aims of ethics education should be regarded as non-assessable (Ferris 2014, p. 27). The importance of experiential learning was also promoted by many authors. According to Boon, clinics and pro bono work during the academic component would be useful for legal ethics education, but, as a general introduction of these is expensive, progress could also be made by discussing hypothetical situations and using simulations (Boon 2002, p. 63). Duncan echoed the importance of such experiential learning (Duncan 2010 and 2015). Ferris also advocated for the use of clinics, referring to the educational theorist, Dewey. He argued that Dewey's problem-solving oriented approach could be an alternative to the liberal degree model, and thus help in incorporating professional elements into the undergraduate curriculum (Ferris 2009). Balan's recent paper is a synthesis of the above arguments, recommending a combined approach to ensure the provision of "skills, values and attitudes that any professional should possess" and preparation for legal practice: "law schools ought to teach ethics both throughout the programme and in compulsory dedicated modules", including using clinics. The University of East London is planning to revise its law curriculum according to this combined approach (Balan 2018, pp. 15-16). Still, when it comes to empirical evidence supporting

legal ethics education, there is a dearth of studies, apart from the one by Moorhead et al. (2016). Surveying law students in England and Wales, they found that law students “do show signs of ethical growth”, but the “strongest influences on ethical identity are external to or only peripherally related to legal education”. Their literature review showed that there are rare and inconclusive empirical works in this field, and they called for further research (Moorhead et al. 2016, pp. 257-258). Overall, there is evidence of a robust literature on legal ethics arguing for certain interpretations of the pertaining QAA standard, but there is no consensus about ‘value education’. The vague characteristic of the very standard of QAA, whilst inspires scholarly work and practice (see examples in the next section), seems to be a major problem itself. A clearer description of ‘value education’ would be a welcomed development, especially in the light of the recent changes introduced by the respective bodies of barristers and solicitors, to support the earlier forecasted revision of the undergraduate law curriculum (see p. 95).

### *Institutional examples*

As a consequence of no clear and binding requirement of teaching legal ethics during the academic component, it is up to the law schools how they are dealing with the topic. As there is a resistance from academic faculty members and less interest in the topic from the students (Boon 2002, p. 64), the institutional practices vary. Some reports are about separate courses covering legal ethics. Newbery-Jones referred to the University of Exeter and Plymouth Law School, where the development of the students’ critical awareness of the role of law and the lawyers in the society is supported by interactive and engaging methods such as discussions based around popular culture, using online polls, screen casting, field trips and film screenings. The overall aim of such courses is to develop critical thinking and critical awareness about the role of law in dealing with the challenges of social change in the twenty-first century (Newbery-Jones 2016). According to D’Silva, the ‘Lawyers: Practice and Ethics’ course at University College London also aims to develop an understanding of the ethical challenges students will face: their role in society and their professional duties (D’Silva 2013, p. 92). Madhloom reported about the clinic at Bristol Law School, where lawyering skills are taught in combination with legal theories and a professional code of conduct. Students reflect critically on the law, and also face ethical dilemmas related to litigation (Madhloom 2018).

A more complex approach is described by Sandford-Couch and Bainbridge. The four-year exempting degree programme at Northumbria University integrates the academic and vocational components. In Year 1, the induction programme includes a lecture about ethics and the 'English Legal System' course covers profession-related issues and a court visit. In year 2, professional conduct is discussed in an integrated module: tort, litigation and evidence. Within the framework of a simulated case study, students practice client interviews, mediation and advocacy. This simulation prepares the students for the clinical activities in the final years, where they are involved in legal research, legal writing and negotiation. Sandford-Couch and Bainbridge also revealed the difficulties of this integrated legal ethics programme: increased workloads, staff reluctance to change their teaching methods and budgetary and administrative issues related to class sizes and contact time are listed (Sandford-Couch and Bainbridge 2015).

The overall picture about teaching the area during the academic component shows rare reports about institutional or sometimes individual initiatives of one or more faculty members, attempting to design and deliver a course related to legal ethics. There is no consensus as to the purpose or the importance of legal ethics in the undergraduate law curriculum. Consequently, there is no generally accepted model or paradigm in the academic practice in England and Wales. The methods and techniques mentioned in the literature are about the benefits of the use of technology for student engagement, the use of a critical approach towards the law and the lawyers' role in the society, and the deployment of experiential learning opportunities. Most of these institutional practices are related to components 1 and 2 of the FCM: creative approaches to developing moral awareness and reasoning. The report about the integrated practice at Northumbria University shows an attempt of covering all the four components of the FCM.

#### *After graduation from the law school*

Concerning the vocational component, there is much less in the academic literature. A team from the University of Birmingham conducted a survey of 966 lawyers and found the importance of virtue ethics in the moral development of lawyers. Their recommendations included more time for ethics education at all stages and beyond in CPD, using various theories, including virtue ethics. They also emphasized the importance of role models and informal learning (Arthur et al. 2014, p. 24). After interviewing corporate finance lawyers working at global law firms based in the City of

London, Vaughan and Oakley found that there is an apathy: a lack of concern or interest about ethics on the part of corporate lawyers. They found that there is a lack of ethical infrastructures in large firms and a lack of ethical leadership. Ethics training was largely focused only on the specific rules of the codes (Vaughan and Oakley 2016, p. 50). With regard to the central role of codes in legal ethics education, Nicolson (2005) differentiated between the two extreme approaches used for developing codes: “aspirational codes” just set standards, whilst “disciplinary” ones contain details of rules and sanctions. He asserted that a combination of these, called “contextual” codes, would be useful for developing both deontological and virtue ethics. Such codes would commence with broad, aspirational principles but also outline more specific duties with legal consequences for breaching them, supported by guidelines and commentaries (Nicolson 2005, pp. 606-607). According to Economides and Rogers (2009), there is no formal evidence for evaluating the vocational component: with regard to solicitors, they refer to some reports only about problems with the assessment. Due to unfamiliarity with qualitative assessment methods, the focus is mainly on assessing technical skills and knowledge. They advised the adoption of methods working in medical education: focus on virtue ethics and using role models and “buddies” in helping young professionals. (Economides and Rogers 2009) As for the relevant LETR recommendations, Ching found that the majority of the professional qualification frameworks now include competencies or learning outcomes regarding ethics (Ching 2018). Regarding the assessment of these competencies, similar to Economides and Rogers above, Sylvester also advised on considering the experiences and practices of medical education: a system-orientated approach is recommended with a variety of assessment methods used in multiple assessment points (Sylvester 2015, p. 256). Guth and Hervey asserted that the plans for using multiple choice questions in SQE would lead to no or very limited opportunity for critical thinking (Guth and Hervey 2018, p. 366).

With regard to the post-qualification stage, only professional sources were found, very briefly describing what is expected from qualified barristers and solicitors. After completing all the components, new barristers are expected to continue to develop themselves professionally, as per the New Practitioner Programme: after starting practising as a barrister, forty-five hours of CPD must be completed within a three-year period. This must consist of at least three hours on ethics (BSB 2020b). Similar to new barristers, solicitors completing the vocational component are also expected to create their own CPD plan, but there are no requirements regarding hours and topics (SRA 2016).

As a summary of legal ethics education after the academic component, there is a clear recognition that professional ethics are supported in some manner or other, but it seems the initiative has been with the regulators as to what is taught and why. Very few academic publications were found on the purpose and content of ethics education at the vocational level. The knowledge and the application of rules of the respective codes are clearly in the core of the various training programmes. Thus the awareness and the reasoning components (Components 1 and 2 of the FCM) are partly covered. The pervasive feature of professional ethics during the training courses and the work-based learning elements support moral motivation and implementation (Components 3 and 4). The latter is further strengthened by the compulsory CPD element in the case of the barristers. However, some of the studies mentioned earlier confirm the need for more training going beyond the codes: developing virtues and better alignment with informal learning at the workplace and during CPD are recommended to be added to the existing scheme (Arthur et al. 2014, p. 24; Vaughan and Oakley 2016, p. 75). The below table summarises the legal education continuum in England and Wales.

<b>THE LEGAL EDUCATION CONTINUUM IN ENGLAND AND WALES</b>		
<b>(‘conventional’ route for barristers and solicitors)</b>		
<b>Pre-qualification stage →</b>		<b>Post-qualification stage</b>
<i>Academic component</i>	<i>Vocational component</i>	
Undergraduate LL. B programme	Compulsory training scheme (BPTC / LPC), ending with Bar exam / Qualification exam for solicitors and followed by supervised work-based learning	CPD (continuing professional development)

### **Evaluation of legal ethics education in England and Wales**

Using the evaluating framework detailed in Chapter 3, legal ethics education in England and Wales can be summarized and evaluated as follows:

### *Evaluating the formal learning route to becoming a qualified lawyer*

The formal learning route to become a qualified lawyer in the case of England and Wales contains two main components during the pre-qualification stage in the so-called “conventional” route for those aspiring to become members of the two biggest legal professions, barristers and solicitors: the academic component and the vocational one.

The policymaker in charge of the academic component is the QAA, an academic body. Its standards are rather just vaguely expressed expectations and recommendations on “instilling values”, compared to more specific requirements of the ABA in the USA (see Chapter 4). These standards are currently accepted by the professional bodies of barristers and solicitors. The standards provide law schools with flexibility with regard to addressing moral awareness and moral reasoning (components 1 and 2 of the FCM) explicitly; thus, the law schools are expected to develop the first two components of the FCM at best. The wording of the standards mostly refers to understanding ethical issues, which seems to be an emphasis on Component 1. As for the future, starting in 2021 the solicitors’ body decided to make changes with regard to admission to the profession, which is expected to affect the academic component, but there is no reaction by QAA yet.

Due to these vaguely expressed standards, the introduction of legal ethics into the undergraduate law programme is debated in the UK academic literature and shows no consensus and no generally accepted approach to the topic. The overall picture about teaching the area during the academic component shows rare reports about institutional or sometimes individual initiatives of one or more faculty members, attempting to design and deliver a course or an activity related to legal ethics. Most of these institutional practices are related to components 1 and 2 of the FCM: creative approaches to developing moral awareness and reasoning. Addressing legal ethics in other courses and use of experiential learning, which support the other two components of the FCM also exist in some law schools’ practices but rarely with an integrated approach to legal ethics. As for the future, the above mentioned changes made by the solicitors’ body are expected to result in a revision of the current academic practices, but these are yet to be known.

The policymakers in charge of the vocational component of the pre-qualification stage of the “conventional” route are the relevant bodies of barristers and solicitors. Their expectations contain the explicit requirement of learning professional ethics by a separate course. The barristers’ body

focuses on the understanding of their Code of Conduct and its application, which partly addresses components 1 and 2 of the FCM. The solicitors' competence statement expects more than just awareness and applications of the rules, compared to the barristers' approach: it indicates the aim of motivating ethical behaviour (Component 3). Both professions require an experiential learning element though, including supervised work-based learning elements, and also expect that professional ethics is a pervasive element (this pervasiveness seems to be stronger in the case of the solicitors): this common solution is in accordance with the recommended approach for Components 3 and 4 of the FCM.

Looking at the two components together, as of now the formal "conventional" learning route to becoming a barrister or solicitor covers the four components of the FCM but not in full and not in an entirely integrated way. This route provides students with a minimum of addressing moral awareness (Component 1 of the FCM) during the academic component if the law school decides to meet only the bare minimum of QAA expectations, and with a partial integration of all the four components during the vocational component. The academic component of the pre-qualification stage might cover further FCM components depending on the law school's decision. The two parts of the vocational component (i.e. the training programme and the workplace learning after the training), however, develop moral functioning by addressing all the four FCM components but not in an entirely integrated way. During the courses of the traditional learning part of the vocational component the knowledge and application of the respective code partly address the first two FCM components and the pervasive approach to ethical issues supports component 3 of the FCM, whilst the experiential learning part (the work-based learning) addresses Component 4. The forthcoming changes by the professional bodies will most probably affect the teaching and learning of legal ethics during the academic and vocational components in the future.

#### *Evaluating the formal learning route after becoming a qualified lawyer*

With regard to the post-qualification stage, very few sources were found. There is an expectation of continuing professional development from newly qualified barristers and solicitors both by the respective professional bodies. As of now, in the case of barristers, ethics is a mandatory element which strengthens and further develops moral functioning. As for solicitors, there are no specific requirements with regard to ethics.

*Evaluation of legal ethics education during the continuum in England and Wales*

Overall, there is no consensus in the UK with regard to the aims and content of legal ethics at the academic component, and a lack of academic literature about the existing practices at the vocational component and also at the post-qualification stage. The academic component of the pre-qualification stage mostly focuses on ethical awareness (FCM Component 1) only, whilst the vocational component seems to follow a partly integrated approach, which is closer to the recommendations for supporting all components of the FCM. However, the major changes announced by the legal professions for the vocational level most probably require the law schools to amend their curricula in the coming years. Such amendments will apparently affect ethics education both at the academic and the vocational components, but the details are yet to be seen. Concerning the post-qualification stage, further research is recommended to better understand legal ethics education practices. See summary of the evaluation of the pre- and post-qualification stages, and overall evaluation of current legal ethics education practices in the continuum in England and Wales below:

<b>STAGE</b>	<b>EVALUATION</b>
<b>1. Pre-qualification stage</b>	YELLOW (overall, including the academic and the vocational components of the conventional route)
Does the <i>policymaker</i> require a separate course? ... pervasive approach? ... experiential learning experience?	The policymaker for the academic component (QAA) only has vaguely expressed expectations and recommendations on “instilling values”. The wording of the standards mostly refers to understanding ethical issues, which seems to be an emphasis on FCM Component 1.  The standards provide law schools with flexibility with regard to addressing moral awareness and moral reasoning (components 1 and 2 of the FCM)
Do <i>law schools</i> offer a separate course on legal ethics?  Do they cover the respective codes of ethics / the rules related to “lawyering” and their application?	explicitly. Most of the institutional practices are related to components 1 and 2 of the FCM;

<p>Do law schools go beyond teaching the rules to develop capacity to recognise ethical issues and to argue for moral actions in various situations?</p> <p>Are ethical issues addressed during other courses as well?</p> <p>Are the students exposed to challenging ethical situations in clinical settings, internships, simulations, etc.?</p>	<p>addressing legal ethics in other courses and use of experiential learning, which support the other two components of the FCM also exist in some law schools’ practices but rarely with an integrated approach to legal ethics</p>
<p>Is legal ethics education required by the policymaker in charge of the <i>vocational</i> component? (If applicable)</p> <p>If yes, what are the legal ethics education practices during the vocational component?</p>	<p>During the “conventional” route, the relevant bodies of barristers and solicitors expect professional ethics learning during a separate course. The barristers’ body focuses on the understanding of their Code of Conduct and its application, which partly addresses components 1 and 2 of the FCM. The solicitors’ competence statement also indicates the aim of motivating ethical behaviour (Component 3). Both professions require an experiential learning element (work-based learning) and also expect that professional ethics is a pervasive element, thus addressing all the four FCM components but not in an entirely integrated way.</p> <p>As a summary of the pre-qualification stage, the academic component is rather just about components 1 and 2, and whilst during the vocational component the two main professions together cover all the four components, students may only choose one of the professions, hence the overall evaluation of the stage is only a yellow.</p>
<p><b>2. Post-qualification stage</b></p>	<p>YELLOW</p>
<p>Do the professional organization(s) related to the legal profession(s) have clear requirements of</p>	<p>Ethics is a mandatory element for barristers. As for solicitors, there are no specific requirements with regard to ethics.</p>

<p>continuous self-development, within which professional ethics is a mandatory element? Are there regular training sessions?</p>	
<p><b>OVERALL EVALUATION OF THE CONTINUUM</b></p>	<p>According to the academic and professional sources legal ethics is just barely addressed during the academic component of the pre-qualification stage, where law schools mostly cover FCM Component 1 (awareness). The vocational component addresses all the four FCM components but not in an entirely integrated way. The post-qualification practices of the traditional professions, barristers and solicitors, vary in terms of required content and hours regarding legal ethics.</p>

## CHAPTER SIX: LEGAL ETHICS EDUCATION IN HUNGARY

With regard to the need for legal ethics education in Hungary, this thesis has already identified a generic need and a specific one. As mentioned in Chapter 1, researchers found that there are general ethical problems lawyers need to deal with during their provision of various legal services, which are recommended to be addressed by relevant training. Legal services are similar in every country, and the related ethical issues are international phenomena, hence providing professional ethics education to lawyers also in Hungary is a justified expectation. Further to this generic need, however, the regional specificities urge for professional ethics education, too. As detailed in Chapter 3, the shared negative experience of Communism and the seemingly never-ending transition period by the CEE countries Hungary belongs to led to societies suffering from low morale. The academic literature reviewed in Chapter 3 refers to serious moral problems existing in both the public and the private sectors of these societies including Hungary, which were confirmed by the interviewees concerning the negative effects on Hungarian lawyers (see Chapter 3). In this context, there is a dire need for professional ethics education for lawyers in Hungary and this chapter provides with an insight into how legal ethics is taught during the various stages of Hungarian legal education.

The previous chapters on legal ethics education in the USA and in England and Wales examined academic literature, accreditation standards and reports prepared by legal educators and practitioners in relations to legal ethics education. Those chapters were structured to provide insights into what policymakers with regard to legal ethics education require, and what are the related practices of legal education providers throughout the “continuum”. Focusing now on Hungary an important note to be made is that different sources need to be identified and analysed to provide similar insights, since there is a dearth of academic literature and also of reports prepared by legal educators and practitioners (Andrasi 2018, p. 232). Hence this chapter, while it reviews the relevant academic literature available in English, which focuses on describing Hungarian legal education in general, is mainly based on information available on websites of government agencies, higher education institutions and professional bodies, translated from Hungarian by the author of this thesis. However, this documentary research could provide only

with an incomplete picture of Hungarian legal ethics education due to information unavailable or to the lack of academic and professional literature analysing the available information. Thus the various pieces of information collected by the documentary research about legal ethics education practices during the various stages of Hungarian legal education are supplemented by the data gathered from the “elite” interviews (see Chapter 2), so the chapter can contain a fuller picture of Hungarian legal ethics education practices. Representatives of the three major stakeholders in Hungarian legal ethics education were interviewed to learn the details about policymaking (how the accreditation standards concerning legal ethics were developed), academic practices (how law schools teaching the topic) and professional practices (how the organisations of the Hungarian legal professions addressed legal ethics after the academic component of the pre-qualification stage).

Based on the documentary research and the interviews this chapter of the thesis overviews Hungarian legal ethics education practices in the same structure as the previous chapters on the USA practices and the ones in England and Wales. The chapter commences with an overview of the formal learning route to becoming a qualified member of the legal professions in Hungary: a review of the academic literature on the Hungarian legal education system. Since major changes in legal ethics education occurred due to the amendment of the accreditation standards in 2016 (Andrasi 2018) the chapter reviews the accreditation standards and the academic practices before and after the amendment of the standards, and the related data collected from the interviewees. The analysis of the information gathered from documentary research and interviews in relationship with the vocational component of the pre-qualification stage and further professional development in the post-qualification stage follows. The chapter concludes with a preliminary evaluation of Hungarian legal ethics education practices, using the evaluating framework detailed in Chapter 3.

### **The route to becoming a qualified lawyer in Hungary**

The E-Justice portal of the European Commission lists prosecutors, judges, attorneys and notaries as the main legal professions in Hungary (European Commission 2017). The Euridyce portal of the European Commission notes that in the Hungarian higher education system there are undivided programmes where the students may obtain a Master’s degree, and those programmes include the

law programme (European Commission 2019). Bado and Nagy (2005) summarized the stages of the formal learning route to becoming a qualified lawyer in Hungary as follows:

*“(...) in Hungary the university is generally the only place where lawyers can get formal training before getting a law-related job. Legal education lasts 10 semesters (5 years), and at the end of their studies, students are required to take an oral examination in the most important subjects and must write a thesis. After they pass their final examinations, students receive the degree of doctor of law. In the Hungarian system, legal education has been unified, i.e., a lawyer having a law degree and a working experience of 3 years is allowed to take the final professional examination to obtain a general qualification for any legal profession. Having successfully fulfilled the examination requirements, graduates may become attorneys, or they can apply for other jobs, e.g., at the prosecutor’s office or at the courts.”* (Bado and Nagy 2005, p.8)

As also summarized by the author elsewhere (see Andrasi 2018), academic articles on legal education in Hungary in general provide with a detailed description of the system, which includes an academic and a vocational component during the pre-qualification stage. These academic sources describe the major characteristics of the academic component in general mostly, some of them also addressing briefly how ethics is incorporated by the law schools. Very few academic papers dealing with the vocational component were identified. All the academic sources available in English are based on a review of literature mostly available in Hungarian, and often on the self-reflection of the researchers on their own experience. The next section reviews these academic sources on Hungarian legal education, providing an overview for the international audience of this thesis. Most of the researchers cited are professors at three Hungarian law schools (Lorand Eotvos University, Peter Pazmany University, and University of Szeged), raising the need for research in the area. The above cited researchers, Bado and Nagy, Vice Rector and Associate Professor at University of Szeged, respectively, at the time of the publication of their paper, emphasized that “there has been little public discussion of problems of legal training and entry into the legal profession, the judiciary and prosecutors’ offices” (Bado and Nagy 2005, p. 7), confirming the gap in the literature. This chapter of the thesis aims to fill a part of this gap by providing a detailed insight into Hungarian legal ethics education practices.

*The legal education system of Hungary: an overview of academic sources*

The modern Hungarian legal education system originated in the 17<sup>th</sup> century and was influenced significantly by the German pedagogic tradition since its beginning, and also by the Soviet approach in the second half of the 20<sup>th</sup> century. Since the change of the political system in 1990, in total, eight law schools offer the 5-year long, Masters-equivalent “doctor of law & state sciences” programme to an increasing student body. The admission procedure was changed in the late 1990s from a rigorous written and oral examination series to written exams only in history and Hungarian literature and grammar, to admission on the basis of high school results exclusively in the early 2000s. (Gabor 1993, pp. 957, 959; Bado and Nagy 2005, pp. 8-11; Papai and Rubletzky 2008, p. 181; Fekete 2010, pp. 67-71; Pokecz-Kovacs 2011, p. 89; Nagy 2014, pp. 234-235; Mezei and Davis 2015, p. 199) Concerning the traditional 5-year long structure Professor Kiraly referred to that many European countries realized “the disadvantages of the 3+2-year Bologna system in legal education” and that Hungarian courts, law offices and the prosecution service would be “unwilling to employ graduates with a three-year Bachelor’s degree in law, whom we could refer to as legal technicians” (Kiraly 2010, p. 2).

Another important feature of Hungarian legal education is that the undivided academic law programme, as the title of degree also shows, traditionally has a “scientific” focus on both the law and the state (organization of the state and public administration). Public administration education was reformed in 2011-2012 with the establishment of a higher education institution specialized in the area, but the curriculum of law schools still addresses this dual focus. Professionalization (inclusive of expectation of ethical conduct) is also the main aim of the reformed public administration education, which was traditionally “legalistic”: the education and the profession of Hungarian public administration were dominated by legal topics and issues, but since 2011 the focus is on management science and managerial practices (Gellen 2013, pp. 97, 101-103; Gellen 2014, pp. 61-64). With regard to law, teaching at the law schools is primarily theoretical, focusing on the scientific concepts and doctrines of law. The courses are delivered by ‘classic’ lecturing method, supplemented by seminars (tutorials) discussing related national case law. Assessment methods changed from mainly oral examinations to mainly written examinations, testing primarily memorisation of the materials (i.e. codes in effect). At the end of the academic programme, a work placement, preparation and defence of a thesis, and a final oral examination series are also required.

(Gabor 1993, pp. 959-960; Jakab 2007, pp. 5-7; Papai and Rubletzky 2008, p. 178; Fekete 2010, pp. 72-73; Kiraly 2010, p. 5; Mezei and Davis 2015, p. 199)

Ethics in legal education is also theoretical and usually part of philosophy courses. Legal philosophy (jurisprudence) courses, which are either compulsory or optional according to the decision of the law schools, cover ethical issues from Natural Law perspective or by introducing new concepts such as law and literature, law and economics, or legal history, especially by faculty members of law schools of Christian universities. (Varga 2007, pp. 636-644; Varga 2009, pp. 300-316; Fekete 2010, p. 73; Szilagyi, 2012, p. 6; Andrasi 2013c, pp. 9-12; Varga 2014, pp. 2-5) Earlier Legal Philosophy was a mandatory course even in the final examination series at the end of the academic programme, but students can choose International and EU Law instead (Foldi 2010, p. 45). Jakab found in 2007 that “educating ethics is missing broadly in spite of voices urging change, and even if “legal ethics” is taught, it covers merely ethical codices of the Bar” (Jakab 2007, p. 5), supporting the need for a practical approach in Hungarian legal education, including legal ethics education. As mentioned earlier, the change of the accreditation standards in 2016 now requires law schools to deal with legal ethics (see details of the standards and practices later in this chapter) but since then, apart from a paper by the author of this thesis (see Andrasi 2018), no other academic sources were prepared about Hungarian legal ethics education.

Since the primary characteristic is the theoretical approach, Hungarian legal education consequently contains only a few practical elements. Apart from the work placement and the opportunity provided by the seminars (tutorials), just optional clinics, competitions and moot court possibilities are available. The lack of practical elements also forms the basis of student complaints. Preparation for the profession by introducing skills training and strengthening comparative and ethical approaches are recommended by scholars. (Gabor 1993, pp. 960-962; Jakab 2007, pp. 8-9; Fekete 2010, pp. 73-76; Kiraly 2010, p. 5; Lehoczky 2010, pp. 480-481; Wilson 2012; Mezei and Davis 2015, p. 199; Nagy 2014, p. 234; Fekete 2015, pp. 184-185)

The above characteristics of the academic component of Hungarian legal education, such as theory-centredness, with the requirement of memorisation of legal rules, was experienced by the author of this paper personally during his legal studies in the late 1990s. Since then only minor changes were introduced, especially within certain optional Jurisprudence courses (Varga 2007, pp. 636-644; Varga 2009, pp. 300-316; Fekete 2010, p. 73; Szilagyi 2012, p. 6; Varga 2013, p. 2-

5), proving certain efforts made and being made on revising and updating the curricula of Hungarian law schools. Still, any change will face resistance: according to Nagy “members of our legal profession insist on the historical way of instruction” (Nagy 2014, p. 235), which predicts that changes toward making legal education, in general, and also legal ethics education, in specific, more practical might take a long time (see similar opinion about higher education in CEE countries in general by Szerletics and Rodak 2017, earlier in Chapter 3). Concerning the most recent academic literature in Hungarian, the government allocated funds for developing legal education in 2016, and one of the law schools used this support to publish papers on pedagogic issues. The papers relevant to the topic of this thesis include an analysis of the new programme learning outcomes, referring to that these are value-centred (Fleck 2017, p. 23); a literature review on the importance of developing attitudes of law students (Galambos et al. 2017); and the overview of institutional practices of clinical education, which also supports ethics education (Toth 2017, pp. 20-21).

This overview of the academic sources shows that there are scholarly activities in Hungary focusing on the academic component of the pre-qualification stage. As for other components and stages, no academic sources were found: papers are rather about the academic component and just briefly refer to what happens with young lawyers after graduation. However, these articles also emphasize the need for a more organised vocational training scheme after graduation, including professional ethics. (Bado and Nagy 2005, p. 8; Jakab 2007, pp. 8-9; Fekete 2010, p. 69; Pokecz-Kovacs 2011, p. 90)

The above described academic component was changed in 2016 by amended accreditation standards. The following section details the changes of the accreditation standards, describing what the law schools were expected to cover before and after the change, concerning legal ethics. Furthermore, the following section also reviews the publicly available information about the vocational component and the post-qualification stage.

## **Accreditation standards related to legal ethics**

The development of the accreditation standards related to Hungarian legal education is different than the ones in the USA and in England and Wales. As the next sections show, with regard to the academic component of the pre-qualification stage the policymakers are the government and the Hungarian Accreditation Committee, whilst the vocational component and the post-qualification stages are regulated by the government and the organisations of the legal professions.

### *The academic component: issuing and monitoring standards*

As the author noted in his recent article (see Andrasi 2018), the content and structure of Hungarian academic programmes (not just in the field of law but also in other disciplines) are regulated by a binding administrative order: the branch of the government responsible for the area (i.e. the Ministry of Education, now called Ministry of Human Capacities) is entitled by the Higher Education Act to issue or amend a decree on the programme learning outcomes and topics expected to be covered in the curriculum. Until 2017 the Decree No. 15 of 2006 issued by the Ministry of Education was the rule concerned: for each academic programme higher education providers can offer it contained generic and programme specific expectations on programme content with credit ranges, and listed the expected competencies of graduates in separate appendices. Compared to the USA practices and the ones in England and Wales, the Hungarian approach is more prescriptive and provides higher education institutions with less flexibility in curriculum design. Institutional autonomy in this regard means that the institutions may live with the opportunity related to the credit ranges when designing course particulars. Concerning Hungarian law programmes, prior to 2016 law schools were not required to include legal ethics in their curriculum (Andrasi 2018, p. 234).

The monitoring and the evaluation of the quality of each academic programme is a task of the Hungarian Accreditation Committee (HAC), which can be regarded as an equivalent to QAA in the UK. All law programmes were evaluated by the HAC in 2006: in their report the evaluators made some remarks regarding the number of courses included in the curricula, the dominance of traditional assessment methods, and the involvement of practitioners as part-time faculty members and assessors, but nothing regarding legal ethics (Andrasi 2013c, pp. 3-6, 8-9). Apart from this

programme audit, the website of HAC contains information only about institutional re-accreditation of universities with law schools, evaluated in 2011-2012. These evaluations focused on the operation of the various schools (faculties) of the universities, examining resources and processes, but not the content of the curricula; hence, no remarks were made regarding legal ethics (HAC 2019).

### *New accreditation standards*

In 2016 the Ministry (formerly Ministry of Education, now called Ministry of Human Capacities) issued a new decree amending the accreditation standards, which resulted in a major change concerning legal ethics (Andrasi 2018). Starting in 2017 the law schools' curricula are expected to meet the new programme learning outcomes, including the following characteristics, relevant to the topic of this research: "70-80%" of the Juris Doctor academic programme is expected to be theoretical; it must contain legal ethics in the curriculum; and the programme is expected to prepare law graduates for becoming value-centred professionals, knowing generic and professional ethical norms, and recognising ethical dilemmas and challenges. With regard to the values, the decree lists constitutional order, humanism, democracy, human rights and the rule of the law to be respected by the graduates. The graduates are also expected to develop themselves, their professional identity. Apart from the generic expectations, the decree contains requirements regarding the content of the curriculum, listing knowledge elements related to areas of law and social sciences. The law programme should also contain a mandatory work placement relevant to the profession. (Ministry of Human Capacities 2016)

Since there was no publicly available information about why legal ethics was recently introduced into the law school curriculum, an interview was planned with the policymaker to inquire about the reasons of the changes of the accreditation standards. With regard to this stakeholder, the only information available was the Higher Education Act, according to which the Hungarian Academy of Sciences advises the Hungarian Accreditation Committee in developing accreditation standards. The respective interview with the expert from the Academy, however, revealed that the role of the advising body of the legislator is rather informal:

*"HAS researchers are informally, or semi-formally asked by the government or other bodies, such as the Accreditation Committee, to participate in various projects as an*

*advisor. There is an ongoing discussion about the future role of HAS. (...) Any involvement in policymaking in the field of legal education depends on the governmental decision on the future tasks of HAS.” (HAS expert 2017)*

The interview also revealed that in the case of the very amendment of the accreditation standards there was no official information available about any plans of changing the accreditation standards to include a mandatory course on legal ethics, and there was no official involvement of the HAS in the development of the standards (HAS expert 2017). Based on the above, the respective government body was approached for further information. In order to learn about the reasons for the changes in the respective standards, the author emailed the legislator (i.e. the Ministry) to inquire about the procedure and the reasoning of the amendments. The correspondence with the legislator clarified that in this case the respective committees of the Hungarian Rectors’ Conference were requested by the Ministry to propose an amendment of the content of programme learning outcomes (Ministry of Human Capacities 2017). Referring to this reply from the legislator, the President of the Committee of Law and Administration at the Hungarian Rectors’ Conference was identified on the website of the Hungarian Rectors’ Conference and approached via email. The President of this committee has informed the author of this thesis that now all academic programmes have “competency-based expectations (knowledge – ability – attitude – responsibility)” and thus such expectations from the law programme “presume the knowledge of, and adherence to, the requirements of legal ethics”, and that this is the reason of prescribing the mandatory course (Hungarian Rectors’ Conference 2017. The above cited expressions used by the President in her Hungarian email were translated by the author of this thesis.).

This part of the research revealed that there was a proper process behind the amendment of the accreditation standards, but unfortunately, no further information was found about its details. Thus, the reasons of following this process are unknown, so is any plans for future amendments. One of the law professors interviewed also confirmed the lack of information about the decision on changing the standards: “This legislative change seems very positive, albeit no reasoning was provided for the new standards.” (Professor A 2017) The practice of preparing comprehensive public reports about the state of legal education, such as the ones in the USA or in the UK (see Chapters 4 and 5), does not exist in Hungary, and the reports by the accrediting body did not contain such details either (see earlier in this chapter). Still, without any further detailed

background information available about the unheralded change of the accreditation standards related to legal ethics, the wording of the response seems to refer to a rather narrow interpretation of legal ethics, i.e. that legal ethics is a set of rules. The expressions “knowledge of, and adherence to, the requirements of legal ethics” suggest that the expected aims of knowing and applying these rules are related to components 1 and 2 of the FCM: moral awareness and reasoning mainly, while the use of the word “adherence” suggests a link with FCM component 4, moral implementation. Concerning the reference to the competency-based expectations from all academic programmes in the reply of President of this committee this new general approach to, and its impact on legal education would definitely worth further investigation (see Chapter 7), but this topic is beyond the scope of the thesis. Summarising the above information, until 2016 the policymaker in charge of the academic component did not require legal ethics as a mandatory course in the law curriculum (similarly to the academic component in England and Wales), but since then law schools are expected to teach legal ethics (like in the USA).

#### *The vocational component*

There is very little information available about this component of the pre-qualification stage: some information is available in Hungarian on the websites of the professional organizations and the government with regard to the legal careers and the special exam requirements. As described by the author in an earlier paper, following graduation law students are required to work under the supervision of senior lawyers for three years, followed by passing a special examination series to be able to practice law. (It is important to note here that this special exam is not fully equivalent with the American “Bar” exam as passing the exam series does not mean becoming a member of the Bar, which is the organization of advocates only in Hungary.) Depending on the legal profession the graduate chooses as a career path (i.e. advocate, judge, public attorney, or notary public) the respective professional organisation provides with particular support in preparing for the profession and for the special exam, but no details are available about these training. The professional exam is a single one (meaning that the same examination needs to be passed by every candidate regardless of the chosen legal profession) and organised by the Ministry of Justice. The exam series has three parts: Civil Law, Criminal Law and Public Law. The candidate can choose one part for the written component and should have a verbal exam in all the three parts before a

committee of experienced senior lawyers. The exam requires the memorization of laws and decrees, and the relevant decisions of the Constitutional Court and other courts. (Andrasi 2013c, pp. 13-14) This system, which the author of this thesis also experienced in person, was not changed in the past years and there is still no question regarding legal ethics during the exam series (Ministry of Justice 2019). According to the available information (or rather to the fact that barely any information is available) no conclusions can be drawn with regard to expectations related to the FCM yet: due to the lack of information interviews were conducted with “elite” experts to learn more about legal ethics practices during the vocational component (see later in this chapter). What is definitely worth to note here is that, contrary to the USA practices and the ones in England and Wales, the professional exam, the ultimate assessment to be passed to become a qualified lawyer in Hungary does not contain legal ethics at all.

#### *The post-qualification stage*

The lawyers who passed the special exam might pursue different career paths in Hungary. The lawyers choosing one of the four traditional legal professions follow the respective professional developments schemes created by the professional organisations of these four legal professions.

The Hungarian Bar Association, the professional organisation of advocates, organises its own professional development activities. The Bar Association has been advocating for inclusion of compulsory professional development mandated by the Act of the Hungarian Parliament on advocates for years, and this initiative was finally accepted: the compulsory professional development scheme has started in 2020, but there is no requirement related to ethical issues (Hungarian Bar Association 2020). The judiciary also has developed its own system within the Hungarian Academy of Justice, the training organisation belonging to the National Office of the Judiciary. The mandatory participation is required by the judges, and the sessions aim to develop a better understanding of the laws and court decisions related to the field of specialization of the judge (civil, criminal, etc.), or to enhance certain skills such as IT or communication with litigants. There is no reference to training in legal ethics. (Hungarian Judiciary 2018) The website of the public prosecutors refers to the Center of Development of Prosecutors, but there is no further, publicly available information about its activities on the website (Office of the Public Prosecutor 2019). The professional organisation of public notaries requires the notaries to participate in a

series of assessed training. The list of laws, judgments and other important decisions to be learnt contains the code of conduct of public notaries. (Chamber of Public Notaries 2019)

According to the above, the professional development practices of the organisations of the four traditional legal professions vary: apart from the advocates, each of the other three professions requires at least some compulsory professional development after passing the special exam and joining the respective legal profession. In the case of judges and prosecutors, there is no information about compulsory training sessions related to legal ethics. As per the publicly available information, the public notaries’ organisation expects that notaries attend compulsory training, which covers their code of conduct and the respective “laws of lawyering”: the knowledge and application of such norms are partly related to components 1 and 2 of the FCM. The below table summarises the legal education continuum in Hungary.

<b>THE LEGAL EDUCATION CONTINUUM IN HUNGARY</b>			
<b>Pre-qualification stage →</b>		<b>Qualification →</b>	<b>Post-qualification stage</b>
<i>Academic component</i>	<i>Vocational component</i>		
Integrated (i.e. Bachelor and Master’s levels are not separate) programme	Compulsory training scheme, followed by supervised work-based learning	Single special exam organised by the Ministry of Justice, independently from the training schemes	The requirements of the four legal professions vary

### **Legal ethics education practices in Hungary: the academic component**

According to the previous section, the requirements related to legal ethics in the Hungarian legal education “continuum” can be summarized as follows: legal ethics is a compulsory topic to teach by law schools during the academic component; it might be learnt during the vocational component but not assessed by the special exam at the end of the pre-qualification stage; and it depends on the professional organisations whether and how legal ethics is addressed during the post-qualification stage. Using documentary research and data gathered from the interviewees, this section and the next one provide insight into the existing practices at the various stages, along with

the personal opinion of the interviewees about the definition of legal ethics and the ideal way of teaching it.

This section focuses on the academic component of the pre-qualification stage and reviews data gathered from websites of the law schools and from the respective interviewees. The HAS expert and the two law professors representing academia as a major stakeholder in Hungarian legal ethics education were interviewed in 2017, and the law professors were interviewed again one year later. The sections provide with an overview of the sporadic attempts on teaching and researching legal ethics before the changes of the accreditation standards, and then of the new institutional teaching practices after the changes of the standards.

*The academic component before the change of accreditation standards*

Since the programme learning outcomes until 2017 only referred to legal ethics in the list of competencies of graduates as a generic expectation of responsible conduct (Ministry of Education 2006), Hungarian law schools barely offered Legal Ethics courses before the accreditation standards changed. Having checked the websites of the law schools for the 2016-2017 academic year in April 2017 only three law schools were found offering a course specifically on Legal Ethics or professional conduct: a Legal Ethics elective course analysing the codes of ethics of various legal professions (Eotvos Lorand University, Budapest, Faculty of Law 2017); an Introduction to the Legal Profession elective course focusing on the history and the current tasks of various legal professions (University of Debrecen, Faculty of Law 2017); and a Philosophy and Legal Ethics compulsory course introducing ethical theories followed by discussion of important lawyerly virtues and contemporary ethical challenges (University of Pecs, Faculty of Law 2017).

Concerning the situation before the introduction of the mandatory course into the law curriculum, there were only sporadic efforts both in terms of research and teaching legal ethics. Regarding scholarly activities, the HAS expert advised the author as follows:

*“(...) a very special area such as bioethics, the legal aspect of behaviour and actions of medical doctors, is investigated occasionally by a few researchers. There is no legal ethics education community in Hungary, just a few professors and researchers whose research topic has legal ethics aspect.” (HAS expert 2017)*

This information explains the dearth of academic information about Hungarian legal ethics education and also justifies the need for this very research. Legal ethics was, seemingly, not the subject of specific scholarly activities before, the topic was only addressed partly within other research projects.

As for teaching, one of the law professors identified how and when the idea of teaching legal ethics first emerged in Hungary:

*“Legal ethics education is a recurring topic. The idea came first in the middle of the 1990s when a US judicial code was translated into Hungarian. The idea was to have an elective course related to the codes of ethics, but it did not realize. Curricula of law schools contained Philosophy courses in general, and Jurisprudence courses, which included ethical issues. Later on, a professor at the Catholic University authored a book on Christian legal ethics, which became the textbook of a course offered at that law school. Certain Jurisprudence professors at other law schools was inspired by this development and wrote materials or designed elective courses on legal ethics, mainly on Natural Law basis, or with a focus on codes of ethics.”* (Professor B 2017)

The above information is in line with the theory-centred approach of Hungarian legal education, a salient characteristic discussed earlier in this chapter. The other representatives confirmed this by also referring to the above mentioned seminal work on Christian legal ethics and to the various Jurisprudence / Legal Theory courses at the law schools, which covered ethical issues from a theoretical perspective (HAS expert 2017, Professor A 2017). This is also in line with the above information regarding scholarly activities: some academic faculty members in Hungarian higher education were aware of the emergence of the topic in the USA and had ideas about introducing legal ethics into the curriculum, but it was not really implemented. Apart from offering some elective courses at a few law schools, no conferences were organized, and no academic publications were prepared either.

#### *The academic component after the change of accreditation standards*

According to the changes in accreditation standards, Hungarian law schools were required to launch a compulsory course on legal ethics, starting in the academic year 2017-2018. The websites

of the eight accredited Hungarian law schools were checked for information about this compulsory Legal Ethics course in 2018: its place in the model curriculum (revised according to the changes in accreditation standards), and its details. As such information is only available on the Hungarian pages, the below summary of the information about the Legal Ethics courses offered in the 2017-2018 academic year is translated by the author.

Depending on when the course is offered (i.e. in Year 1 or later), Hungarian law schools require passing pre-requisite courses prior to registering in the compulsory Legal Ethics course. Such pre-requisites were found only in the case of two law schools: these institutions offer the course for students not in their first year of studies and require passing a Philosophy course (Gaspar Karoli University 2018; Lorand Eotvos University 2018). The rest of the law schools offer the course in Year 1 and hence without a pre-requisite course (Peter Pazmany University 2018, University of Debrecen 2018, University of Gyor 2018, University of Miskolc 2018, University of Pecs 2018, University of Szeged 2018). In case of one law school, legal ethics education is divided into two parts: after the generic legal ethics course in Year 1 students can learn legal ethics courses in Year 3 related to their specialisation, such as Criminal Law or Private Law (University of Szeged 2018). The content of the courses mainly focuses on theoretical issues at five law schools: definition of ethics and discussion of ethical challenges and moral dilemmas both in general and in relationship with the legal professions (Gaspar Karoli University 2018, University of Gyor 2018, University of Miskolc 2018, University of Pecs 2018, University of Szeged 2018). One of the law schools focuses more on codes of ethics of various legal professions (Lorand Eotvos University 2018), one on recent and contemporary ethical problems (Peter Pazmany University 2018), and one also describes legal education systems with a comparative approach (University of Debrecen 2018) during the semester. Concerning compulsory learning materials, all law schools rely on textbooks and other materials in Hungarian as the language of tuition is Hungarian. Recommended literature refers to Hungarian translation of important, seminal works of foreign authors the USA and UK lawyers are also familiar with, such as Aristotle, Bentham, Dworkin, Fuller, Hart, Macintyre, Mill, or Rawls. The assessment strategies mostly contain written essays analysing ethical issues, with three law schools also requiring oral examinations at the end of the semester (University of Miskolc 2018, University of Pecs 2018, University of Szeged 2018).

In 2017 the two law professors, working for different law schools in Hungary were interviewed, and they reported about the process of the ongoing development of the new compulsory legal ethics courses at their respective departments as per the new accreditation standards. No details of the materials, syllabus or assessment strategy were available at the time of the first interviews (Professor A 2017, Professor B 2017). In order to learn about the experiences in teaching the mandatory Legal Ethics course for the first time and to gather further details about such courses in addition to the course descriptions analysed above, the two law professors were interviewed again one year later. These separate follow-up interviews, as approved by the respective committee of NTU, inquired about the process of course development, the aims, learning outcomes, content and assessment strategy of the course, and the evaluation of its delivery. Both professors reported upon a formal course approval process prior to the commencement of teaching, in accordance with the internal rules of their universities. They also confirmed that the courses were designed to align with the new accreditation standards. In the cases of the two law schools these professors work for, the courses started with a theoretical introduction to general ethics, then moved on to explore the relationship between ethics and law, concluding with practical examples of ethical problems that lawyers might face. Within each law school, the textbook was developed internally, supporting the delivery of the courses. The assessment strategies required written essays and both professors said that the course was meant to be an “easy”, “non-filtering” one. The development of the teaching materials and staffing (finding the instructor) were mentioned by the interviewees as challenging. Both professors reported about informal discussions within their law schools about the courses but no formal evaluations of the delivery yet (Professor A 2018; Professor B 2018). One of them also added that “unfortunately there is no inter-institutional communication” about legal ethics education (Professor B 2018).

According to the course descriptions and the information gathered from the interviewees, the emphasis of the law schools is on moral awareness and moral reasoning. From the perspective of the FCM, components 1 and 2 are in the focus of Hungarian legal ethics education on the academic component. Most of the law schools follow the common, theory-centred approach towards legal ethics, with only a few of them addressing the relevant codes, the “laws of lawyering”. Similar to the USA practices, Hungarian law schools commenced teaching legal ethics in a separate compulsory course, but the approach is theoretical rather than being applied, as in the case of the law schools in the USA. The Hungarian institutions apparently meet the new minimum

expectations of the amended accreditation standards by introducing the compulsory course and left the development and the delivery to the academic staff mainly belonging to the Legal Theory / Jurisprudence departments. These academic faculty members seemingly worked in their own “silos” on developing the courses without any specific inter-institutional collaboration or formal cooperation with the legal professions.

*Personal opinions about the definition of legal ethics and the ‘ideal’ way of teaching it*

Since there is no consensus about legal ethics neither in the USA nor in the UK (see chapters 4 and 5), and there is no literature at all about this topic in Hungary, the interviewees were asked about their own opinion on the definition and the ‘ideal’ way of teaching legal ethics, as their answers to these questions are regarded as important contributions to the body of knowledge concerned. With regard to the definition, the answer of one of the representatives of academia referred to the narrow interpretation of legal ethics, as a set of rules. He defined it as an area with ongoing expansion, assuming that “the new law on attorneys will lead to new codes, and later related judgments on the new law will be available, enriching the area” (Professor B, 2017). The opinions of the other two representatives of this stakeholder were rather in line with the broad interpretation of legal ethics, going beyond the rules-based approach. One of them put emphasis on its expected positive effect on the society and defined it as a “fine-tuning tool of social control, supporting the operation of a society” (HAS expert 2017), whilst the other referred to that a lawyer is expected to have an “ability to look for the just and fair solution for a problem” (Professor A 2017). Interestingly, when it came to the question about the ‘ideal’ way of teaching legal ethics, all the three of the interviewees envisaged separate courses going beyond the knowledge and the application of the codes. Whilst the discussion of the relevant theories were mentioned as important (Professor B 2017), going also beyond the theoretical, philosophical approach (HAS expert 2017) and the discussion of challenging practical situations and the possible ways of addressing them during such a course were recommended by the interviewees. Critical thinking on not just the situations but the rules themselves, and possibly in an international context were also mentioned as important (Professor A 2017). The interviewees regarded legal ethics education as a separate course; none of them mentioned the inclusion of the topic into other courses. This approach is rather related to components 1 and 2 of the FCM according to the academic literature

reviewed in Chapter 3. Still, there is apparently no consensus in Hungary (similarly to the USA practices and the ones in England and Wales) about the definition of legal ethics or about the content and the delivery of the course to be taught by the law schools, just various approaches and solutions by the academic faculty members tasked with teaching legal ethics.

### **Legal ethics education practices in Hungary: after the academic component**

As mentioned earlier in this chapter, Hungarian law graduates are required to work for minimum three years under the supervision of a qualified lawyer after graduation, in order to be eligible for starting the special examination series, which needs to be passed to become a qualified lawyer. During this period of work-based learning, the respective legal profession also organizes training sessions to prepare the graduates for the profession and to help them to pass the special exam. However, apart from the special exam requirements, practically there is no information available about the details of such training. The interviews with representatives of the legal professions aimed to gather information about the existing training practices and future plans, as well as about the special exam, concerning legal ethics. The executives of two of the legal professions, the Hungarian Bar and the Notariat (Chamber of Public Notaries), and a senior lawyer acting as examiner of the special exam for more than three years were interviewed in 2017 to learn about the current practices and future plans of the stakeholders they represent, concerning legal ethics.

#### *The vocational component*

The representative of the biggest professional organization, the Hungarian Bar Association, has described the current system as follows:

*“Since 2006, the establishment of the training centre of the Bar, the attorneys after graduation should work for three years to be entitled to attempting the [special] exam, and the training during these three years, running in parallel with work commitment, has two parts: in the first two years there is the training about being an attorney, provided by the Bar, and the last year is for the university again, who prepare the*

*attorney via lectures for the [special] exam where the focus is on memorizing the laws and important judicial decisions.” (Bar executive 2017)*

This information about the vocational component confirmed the findings of the research and revealed the two parts of the training after graduation from a law school, which runs in parallel with the workplace learning. According to this information, the training part of the vocational component for attorneys is practically divided into two separate periods: a two-year long period during which the Bar provides training to prepare attorneys for the profession, followed by a one-year long preparation for the special exam by a law school. This third year is about memorizing all the important laws of Hungary to pass the special exam (see earlier), similarly to how laws were assessed during the academic component, while the first two years are much more practice-oriented. The providers of these two separate periods are different, and law schools and the Bar Association are not collaborating during this component. This separation is understood to be a result of the “single” feature of the special exam: whilst each profession has specific rules with which the lawyers should be familiar with, the special exam is the same for each lawyer regardless in which profession they chose to start working in. And, apparently, this solution exists for a longer period of time, and thus numerous cohorts of law graduates and their supervising lawyers got accustomed to it.

Concerning legal ethics, the interviewee commented upon the specific course on legal ethics, and also about a pervasive approach. During the specific course, the code is explained in detail: “both the expectations and the background and reasons of the expectations”. But further to that, “everyday behavioural issues are also emphasized” and “it even touches etiquette in certain situations”. The pervasive approach means that “ethics is in the ‘background’ of each course delivered” during the training. The interviewee explained that this helps the graduates to understand the real role of an attorney, since, according to his experience, many of them only have an illusion about being “well-connected in the society” and having “success, money and recognition”. Via lectures, examples and situations the graduates understand the real context and learn the “proper models of communicating with and treating both the client and the other attorneys”. This approach also prepares the graduates for “self-reflection, learning about the self, how to behave in the future.” (Bar executive 2017)

The interview revealed that the Bar's training system goes beyond the knowledge of the respective codes and regulations, and is rather closer to the wider interpretation of the definition of legal ethics. Whilst the knowledge of the rules and their application is in the core of the legal ethics course, which is related to components 1 and 2 of the FCM, the pervasive approach and references to character development are related to Component 3, moral motivation and commitment. The way of addressing these three components of the FCM by the Hungarian Bar Association is similar to the practices in England and Wales, where both the aspiring barristers and solicitors have a professional training scheme during the vocational component of the pre-qualification stage, which includes a separate course on the content and application of the respective codes, and also a pervasive approach where professional ethics is covered by other courses, too (see Chapter 5).

The interviewee added that not every professional organization provides vocational training in the same way. One of the other organisations, which provides similar vocational training, is the Notariat. The representative of the professional organization of the public notaries reported about a "session on notarial ethics" as a mandatory part of their training since 2010. This lecture is about the rules related to the notarial function, and there is no compulsory assessment, just an "optional complex online test-type examination, which contains questions related to notarial ethics". (Notariat executive 2017) In the case of the public notaries, this compulsory lecture on legal ethics is seemingly cover in part components 1 and 2 of the FCM, moral awareness and reasoning. No pervasive approach was reported about in their case, but the introduction of an assessment (even if it is just optional) is a notable difference, compared to the Bar's training system.

The most notable difference between the vocational component in England and Wales and in Hungary is that the Hungarian practice apparently lacks a proper compulsory assessment of legal ethics: legal ethics education during the Hungarian vocational component is rather just lectures without a formal assessment requirement. The training is also separate from the single assessment for qualification, the special exam. Neither the Bar Association's training nor the Notariat's one is linked with the special exam, which feature was confirmed by the third interviewee. The senior attorney who has also been acting as examiner during the special exam for years explained that the Ministry of Justice is in charge of the complex special exam. The examiners are chosen from experienced senior lawyers working in various areas, who are also active in charities, pro bono or scientific activities. "It is not a well-paid task but gives the opportunity to give back to the

profession and also a networking opportunity.” The special exam is a “single” one: compulsory for all lawyers regardless of their chosen legal profession. Confirming what was already mentioned above mentioned by the Bar executive, the requirement set by the Ministry is the memorization of a wide range of laws, regulations and related cases (judgments) in effect. Ethical issues are not part of the special exam. (Examiner 2017)

Based on these three interviews, the lack of assessment of legal ethics is apparent during the vocational component, both within the professional training and the single special exam. All these three interviewees referred to that there are no specific plans for changes with regard to the lack of assessment. The Bar and the Notariat executives indicated no plans to changes neither in training before the special exam nor in their post-qualification activities; the only plans are just related to updating the content of relevant codes and regulations for the above mentioned Bar and Notariat lectures, as per any pertaining amendments in those rules. The Examiner also added that “unfortunately there is no quality assurance regarding the examination: no preparatory training, no detailed expectations regarding the approach or the length of an exam session.” (Examiner 2017) This latter issue was not investigated further, but it definitely raises the need for further research (see also in Chapter 7).

#### *Personal opinions about the definition of legal ethics and the ‘ideal’ way of teaching it*

Similarly to the academics, representatives of the professions were also asked about their personal opinion concerning legal ethics to learn about their approaches to the topic. The Examiner provided with a definition of legal ethics, which is in line with the wider interpretation of professional ethics. He referred to two imparts of legal ethics: one within the lawyer towards the case to meet own expectations, and the external one towards clients and society to meet expectations of law, Bar and social norms. The inner character was emphasised as very important as “the values brought from home help in being ethical during one’s career.” (Examiner 2017) Such reference to character, values and the ability to act are rather related to components 3 and 4 of the FCM: motivation and implementation. As opposed to the Examiner, the two executives of the professional organisations regarded legal ethics as strictly professional ethics related to specific lawyer jobs and codified by the law on the given legal profession and by the code of ethics issued by the professional organisation of such lawyers. The Bar executive even made a distinction between ethics of the

legal profession in general and of attorneys, “based on the fact that an attorney has a client, a principal, and there is a complex and special responsibility in this challenging situation”, which necessitates knowing specific rules, further to the general rules related to lawyers (Bar executive 2017). In the case of the representative of the Notariat, a similar rules-based definition was given, too. The Code of Ethics was mentioned as the first and most important rule, noting that the code of ethics and the Notariat’s disciplinary regulation are separate, where only the latter one contains sanctions. The Act of Parliament on notaries and the guidelines issued by the national chamber of public notaries define unacceptable behaviours for disciplinary issues. There is a standing committee within the Notariat in charge of ethical issues, preparing guidelines as necessary, and examining individual cases. This committee proposes modifications to the code of ethics. The code is continuously amended as “ethics is a constantly evolving phenomenon” (Notariat executive 2017). These interviews suggest that there is no consensus in Hungary about the definition of legal ethics and that the two major approaches described by the academic literature, i.e. the narrow and wider interpretations, are seemingly present among Hungarian lawyers. Concerning the narrow one, the emphasis on the behaviour according to the rules stipulating what can be done and what cannot by the two executives is close to the first two components of the FCM: moral awareness and moral reasoning.

With regard to the ‘ideal’ way of teaching legal ethics, the representatives of the professional organisations and the Bar examiner all envisaged legal ethics as a topic of training provided during the vocational component. As an integral continuation of the academic studies, the training schemes organized by the professional organizations are described as compulsorily covering professional conduct by the interviewees. (Bar executive 2017, Examiner 2017, Notariat executive 2017) The Notariat executive regarded the existing scheme “close to ideal” (Notariat executive 2017). The Bar executive expressed that the Bar might become a “provider of further (adult) education in the field via a separate training institution to be created”. He also referred to the need for regular and formal collaboration with universities throughout both the academic and the vocational components of the pre-qualification stage. (Bar executive 2017) Concerning assessment, the Examiner asserted that the knowledge of the code of ethics related to the candidate’s legal job could be assessed by the special exam, but expressed that it rather should be a compulsory part of training delivered by the respective professional organization (Examiner 2017). Identifying legal ethics education with a separate course or module is rather in line with the

narrow, rule-centred interpretation of legal ethics and supports components 1 and 2 of the FCM. Interestingly, the need for a pervasive approach was mentioned specifically neither for the vocational component nor for the academic one, let alone throughout both components. This probably means that the professionals were still thinking within the traditional boundaries and practices: the academic component is rather theory-centred and practical issues such as knowledge and application of the rules related to the profession is better placed at the vocational component.

### **Summary and preliminary evaluation of legal ethics education in Hungary**

Similarly to England and Wales, the formal learning route to becoming a qualified lawyer in Hungary has two components during the pre-qualification stage: an academic and a vocational component. The policymakers related to the academic component are the government and the Hungarian Accreditation Committee, whilst the vocational component and the post-qualification stage are regulated by the government and the organisations of the legal professions.

With regard to the first component, the extant academic literature on Hungarian legal education point on a doctrinal, theoretical integrated Master's programme, which is changing very slowly towards being more practice-oriented. Until 2016 the policymaker in charge of the academic component did not require legal ethics as a compulsory topic (similarly to the academic stage in England and Wales), but since then law schools are expected to teach legal ethics (like in the USA). The accreditation standards amended in 2016 have introduced a mandatory Legal Ethics course into an expectedly theoretical law curriculum starting in the academic year 2017-2018. The communication with the policymaker about this amendment revealed a complex but non-transparent change of the standards with regard to legal ethics. The wording of the response from the policymaker seems to be closer to the narrow, rules-centred interpretation of legal ethics. Whilst the new accreditation standards contain the list of values for the law graduates and expect them to become value-centred professionals (see earlier in this chapter), the core requirement is related to knowledge and application of the respective norms. This unheralded change in the accreditation standards was unexpected but welcomed by the representatives of the academic community interviewed for this research.

The course descriptions of the Hungarian law schools and the interviewees confirmed that the practical parts of the mandatory Legal Ethics courses focus on knowledge and application, whilst the dominant theoretical parts are rather jurisprudential in their nature. The assessment strategies required written essays and both professors said that the course was meant to be an “easy”, “non-filtering” one. The development of the teaching materials and staffing (finding the instructor) were mentioned by the interviewees as challenging. The representatives of academia confirmed the lack of legal ethics community and expressed the need for inter-institutional communication regarding legal ethics education. Their personal approach towards defining legal ethics was divided, as some represented the narrow rules-centred interpretation and some the wider interpretation, going beyond the rules related to lawyering. They all mentioned a practice-oriented course as an ideal way of teaching legal ethics.

There is no academic and professional literature available about the vocational component, even in general. According to the websites of the professional organizations and the government, whichever legal career is chosen by the law graduate, this period of time is about a training scheme, running in parallel with full time workplace learning. The training aims to prepare for the profession and ends with a special exam series required for qualification. The interviewees reported about various training schemes run by the body of the chosen legal profession, which mostly include lectures on legal ethics focusing on the respective codes and regulations, and a pervasive approach incorporating legal ethics into other topics of the training scheme in the case of the Hungarian Bar Association. The training part of the vocational component for attorneys is practically divided into two separate periods: a two-year long period during which the Bar provides training to prepare attorneys for the profession, followed by a one-year long preparation for the special exam by a law school. This third year is about memorizing all the important laws of Hungary to pass the special exam, similarly to how laws were assessed during the academic component, while the first two years are much more practice-oriented. The providers of these two separate periods are different, and law schools and the Bar Association are not collaborating during the third year of the vocational component. All interviewees confirmed that legal ethics is not assessed properly during the training schemes organized by the professional organizations, and, contrary to the USA practices and the ones in England and Wales (see chapters 4 and 5 about these practices), not part at all of the special exam organized by the Ministry of Justice, which must be passed to become a qualified lawyer in Hungary. The professional development practices of the

organisations of the four traditional legal professions also vary during the post-qualification stage: apart from the advocates, each of the other three professions requires at least some compulsory professional development after passing the special exam and joining the respective legal profession, but there is no emphasis on professional ethics.

Since the mandatory legal ethics course was just recently introduced into the Juris Doctor programme and no information is available about any formal evaluation or how courses in later years will be linked with it, and very little information is available about the vocational stage, it would be premature to conclude anything about Hungarian legal ethics education on the academic stage. Using the framework developed in Chapter 3, the following preliminary evaluation could only be made about legal ethics education in Hungary:

*The formal learning route to becoming a qualified lawyer*

From the policymakers' point of view, very few information is available. The accreditation standards expect Hungarian law graduates to become value-centred professionals and list their respective values. However, the standards contain only a mandatory course, there is no reference to pervasive approach or experiential learning, and there is no information available about how the listed values would be instilled by the law schools. The mandatory course, according to the information received from the policymaker, is expected to focus rather on the knowledge and application of the relevant professional norms, which are related to components 1 and 2 of the FCM: moral awareness and reasoning. During the vocational component, no specific requirements were found with regard to legal ethics, the general focus during this component is rather on the laws to be applied by than the laws applicable to the lawyers choosing the specific legal profession.

Starting in the academic year 2017-2018, there is a mandatory legal ethics course during the academic component. In accordance with the above-mentioned accreditation standards, these courses are rather theoretical and focuses on the knowledge and application of the relevant professional norms. The accreditation standards do not require the incorporation of legal ethics into courses other than the mandatory one. Since the changes in the law curricula started to be implemented only in September 2017, there is no information available about institutional practices yet apart from the course descriptions, according to which only one law school has legal ethics courses planned for the higher years, in relationship with specialisations. The work

placement is part of the law curriculum, but there is no requirement of integration with legal ethics by the standards, and no information is available yet about future practice of law schools. The above suggests that the Hungarian academic component is rather about components 1 and 2 of the FCM: moral awareness and reasoning.

The vocational component of the pre-qualification stage contains work experience in parallel with a training scheme. The practice of the two professional organizations investigated includes lectures on legal ethics, but there is no proper assessment. Legal ethics is also missing from the required topics of the special exam to be passed to become a qualified lawyer. The interview revealed that the Hungarian Bar's training system goes beyond the knowledge of the respective codes and regulations, and is rather closer to the wider approach to the definition of legal ethics. Whilst the knowledge of the rules and their application is in the core of the legal ethics-related unit of the Bar's training, which is related to components 1 and 2 of the FCM, the pervasive approach to ethical issues during other units and references to character development reported about by the interviewee are related to Component 3, moral motivation and commitment. The way of addressing these three components of the FCM by the Hungarian Bar Association is similar to the practices in England and Wales (see Chapter 5). In the case of the public notaries, the training scheme contains a compulsory lecture on legal ethics, focusing on the relevant rules. This lecture is rather related to components 1 and 2 of the FCM, moral awareness and reasoning.

The interviewees mostly identified legal ethics education with a separate course or module, which is in line with the narrow, rule-centred interpretation of legal ethics and again supports components 1 and 2 of the FCM. The need for a pervasive approach was not mentioned specifically by the interviewees, neither for the vocational component nor for the academic one, let alone throughout both the pre- and the post-qualification stages. This probably means that the professionals were still thinking within the traditional boundaries and practices: as per the traditional thinking the academic component is rather theory-centred and practical issues such as knowledge and application of the rules related to the profession is better placed at the vocational component.

#### *The formal learning route after becoming a qualified lawyer*

According to the websites of professional organizations, there is no harmonized requirement of continuous development. There is very little information available about this post-qualification

stage, and where there is such continuous professional development, legal ethics is not listed among the topics covered. As per the available information, the public notaries' organisation expects that notaries attend compulsory training, which covers their code of conduct and the respective "laws of lawyering": the knowledge and application of such norms are partly related to components 1 and 2 of the FCM.

#### *Preliminary evaluation of Hungarian legal ethics education during the continuum*

The overall picture shows elements of formal learning of professional ethics in Hungary, in relationship with the moral sensitivity and moral reasoning (Component 1 and 2 of the FCM) both during the academic component via the newly introduced mandatory legal ethics course and during the vocational component within the training scheme required by the respective professional organisation. Concerning the other two components, moral motivation and implementation, there is an indication of experiential learning opportunities during the academic component and of a pervasive approach in the vocational one in the case of the Bar Association, but these are seemingly not linked with legal ethics. The lack of assessment at the end of the vocational component is apparent, and there are no signs of changes in the special exam requirement in this regard.

There is no consensus in Hungary about the definition of legal ethics and that the two major approaches described by the academic literature, i.e. the narrow and wider interpretations, are seemingly present among Hungarian lawyers. Academics and practitioners attempt addressing the needs of legal ethics education, but there is neither a horizontal (inter-institutional) discourse nor a vertical (between academia and legal practice) cooperation officially to support it, albeit the interviews showed that both stakeholders would find it necessary. The current state of legal ethics education in Hungary seems to be a promising start towards a systemic approach, as both the academic and the vocational components contain elements of formal learning, driven by policymakers and also by professional needs. Still, further research will be necessary to see any effects of the new mandatory course at least within, and possibly beyond the academic component of the pre-qualification stage. See summary of the evaluation of the pre- and post-qualification stages, and overall preliminary evaluation of current legal ethics education practices in the Hungarian continuum below:

STAGE	EVALUATION
<b>1. Pre-qualification stage</b>	(No colour is assigned due to recent changes and lack of information.)
<p>Does the <i>policymaker</i> require a separate course?  ... pervasive approach?  ... experiential learning experience?</p>	<p>The policymaker (HAC) expects a mandatory course on legal ethics during the theory-centred integrated Master's programme. No requirements related to the pervasive approach or to experiential learning. Values are listed as programme outcomes, but no information about how to instill them. Internship is compulsory, but not linked with legal ethics.</p>
<p>Do <i>law schools</i> offer a separate course on legal ethics?  Do they cover the respective codes of ethics / the rules related to "lawyering" and their application?  Do law schools go beyond teaching the rules to develop capacity to recognise ethical issues and to argue for moral actions in various situations?  Are ethical issues addressed during other courses as well?  Are the students exposed to challenging ethical situations in clinical settings, internships, simulations, etc.?</p>	<p>Starting in the academic year 2017-2018, all law schools started to offer a mandatory course on legal ethics. Most of the law schools introduced this course into the first year of their curricula. In the case of one law school, legal ethics continues later in the programme. No pervasive approach is present otherwise, and the mandatory internship is not linked with legal ethics.</p> <p>The Hungarian academic component is rather about FCM components 1 and 2: moral awareness and reasoning.</p>
<p>Is legal ethics education required by the policymaker in charge of the <i>vocational</i> component? (If applicable)  If yes, what are the legal ethics education practices during the vocational component?</p>	<p>The vocational component of the pre-qualification stage contains work experience in parallel with a training scheme. The practices of the bodies of the Hungarian legal professions vary with regard to the training scheme. Professional ethics is mostly covered by lectures on the relevant codes and laws related to the very profession. The knowledge of</p>

	<p>the rules and their application are in the focus of these training schemes, which is related to components 1 and 2 of the FCM: moral awareness and reasoning. However, in the case of the Hungarian Bar the pervasive approach to ethical issues during other units of their training scheme and references to character development reported about by the interviewee are related to Component 3, moral motivation and commitment.</p> <p>An apparent, common feature of the component is the lack of assessment: legal ethics is not assessed during the training schemes and not required in the special exam to be passed to become a qualified lawyer either.</p>
<p><b>2. Post-qualification stage</b></p>	<p>(No colour is assigned due to lack of information.)</p>
<p>Do the professional organization(s) related to the legal profession(s) have clear requirements of continuous self-development, within which professional ethics is a mandatory element? Are there regular training sessions?</p>	<p>No harmonized requirement of continuous development, the practices of the Hungarian legal professions vary. Very little information available about this stage, and where there is such continuous professional development, legal ethics is not listed among the topics covered.</p>
<p><b>OVERALL PRELIMINARY EVALUATION OF THE CONTINUUM</b></p>	<p>As a result of the changes of the accreditation standards, since 2017 a mandatory legal ethics course during the academic component, which is theoretical in its nature complements the units of the various training schemes delivered by the legal professions during the vocational component. These units are rather lectures and focus on the codes and laws related to the very profession. The two components of the pre-qualification stage in Hungary contains a formal learning requirement regarding legal ethics, but it concentrates on knowledge and application of the relevant rules, thus only partly covering FCM components 1 and</p>

	<p>2. There are examples during both components to address legal ethics pervasively, which might support FCM component 3. There is no legal ethics-related assessment during the vocational component and legal ethics is not a required element of the special exam to be passed to become qualified lawyer.</p> <p>During the post-qualification stage not all of the professions require formal learning and there is no information about legal ethics during this stage.</p>
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## CHAPTER SEVEN: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

This chapter summarises the most important findings of the previous six chapters with regard to the research questions listed in Chapter 1. The chapter overviews the main characteristics of legal ethics education in the USA, in England and Wales, and in Hungary, and concludes with contrasting legal education practices of these countries, using the evaluative framework described in Chapter 3. It continues with a conclusion section, followed by a self-evaluation on how the objectives of this research were met and what original contribution to knowledge were made by this thesis. The chapter ends with recommendations mainly for the three main stakeholders in Hungarian legal ethics education: policymakers, academia and legal practitioners. The last section enlists possible research questions and suggest a prioritisation list for the recommendations.

### **Summary of the most important findings**

This section overviews the starting point of the thesis, the research questions, and the main findings in relationship with the research questions. In addition to the summary of findings related to country-specific legal ethics education practices, a table was also prepared to depict these practices in parallel with each other, throughout the legal education continuum.

#### *The starting point of the thesis and the research questions*

The starting point of this thesis, as described in Chapter 1, was that there is evidence of moral problems and ethical misconduct when it comes to lawyers. In addition to official records of misconduct, academic literature presents other empirical evidence regarding ethical problems related to lawyers. Authors refer to numerous findings, such as ethical fading, the diminished prestige of the legal profession, diversity of ethical issues due to the diversity of law practice, the changing nature of legal practice due to the arrival of greater specialisation, insecurity and instability of the profession, and the weakening impact of socialising institutions, when supporting

the need for legal ethics education. Since legal education has an important role in addressing ethical conduct, this thesis focused on how formal learning throughout the legal education continuum of the selected countries is organised to prepare future legal practitioners to become ethical professionals. The moral issues lawyers face and the role of legal education in addressing them emerged as international phenomena, with recommendations for further research, especially with regard to Hungary.

The main question of the thesis is *How does the legal education system in the USA, in England and Wales, and in Hungary prepare law graduates for becoming ethical professionals?* The main research question was divided into sub-questions, to explore generic as well as country-specific issues with regard to legal ethics education.

In order to better understand legal ethics education, professional ethics education, in general, was explored first, to answer the first research question: *How can an education system prepare professionals to become ethical?* Chapter 3 is devoted to this sub-question: it explores the field of pedagogy with regard to ethics education and the ethics of the societies in Central and Eastern Europe, the region Hungary belongs to, it introduces to Rest's "Four Component Model", and ends with the evaluating framework developed according to this model and related recommendations of various researchers, as a benchmark of the practices in the selected countries. Chapter 3 is mainly based on documentary research and partly the "elite" interviews. (For details of research methods, see Chapter 2.)

With regard to the USA and to England and Wales, to understand the perspectives of all the three major stakeholders, the research questions were the following: *What are the current accreditation standards in the USA and in England and Wales in connection with legal ethics (perspective of policymaker)? What are the existing practices at the law schools in the USA and in England and Wales in connection with legal ethics (its place in the curriculum and its delivery) (perspective of academia)? What are the current professional standards and practices in the USA and in England and Wales in connection with legal ethics education (Perspective of the legal profession, at the 'post-academic' stage)?* The answers to these questions, the main characteristics of legal ethics education practices identified as per the documentary research, are summarized in separate chapters, along with their evaluations: the USA practices are reviewed and evaluated in Chapter 4, and the findings related to England and Wales are in Chapter 5.

With regard to Hungary, information was collected from documentary sources and the “elite” interviews to answer the following questions: *What are the current accreditation standards in Hungary in connection with legal ethics (Perspective of policymaker)? What are the existing practices of Hungarian law schools in connection with legal ethics (its place in the curriculum and its delivery), and what is the opinion of scholars about the potential ways of further developing legal ethics education in Hungary (Perspectives of academia)? What are the current professional standards and practices in Hungary in connection with legal ethics education (Perspective of the legal profession, at the ‘post-academic’ stage)?* The Hungarian solutions and their preliminary evaluations are available in Chapter 6.

#### *About professional ethics education in general*

With regard to the first sub-question, the key finding here relates to a lack of consensus around how ethics may be taught. For example, the reviewing of the academic literature demonstrated that there is no consensus on how ethics can be learned at the tertiary level, albeit there was some evidence of learning taking place. Likewise, academic sources referred to many factors that impact upon the learning process, although the cultural context did emerge as being of paramount importance with regard to Hungary. There was no consensus on how professional ethics should be defined either, resulting in multiple definitions being used. Similarly, there are different approaches being taken to the teaching of professional ethics.

As reviewed in Chapter 3, two main approaches towards professional ethics were found in the academic literature: the narrow approach, which focuses only on the knowledge and application of the rules of the profession (the “code-centred” approach), and the broad one, which goes beyond the rules and considers the context and character of the professional. Researchers identified several issues that arise where ethics education focuses only on the narrow interpretation: whilst there is evidence of learning the content and application of these rules related to a profession, such focus excludes many important factors and thus leads to insufficient preparation for becoming an ethical professional. Out of the various factors impacting upon learning, the cultural context was identified as very important for Hungary, since the academic literature showed low morale of the CEE societies, including the Hungarian society. The broader approach towards professional ethics would better suit such social context within which professionals, including lawyers, have to

operate, and only the broad interpretation calls for a professional ethics education which considers the context and the character of the professional.

*About the Four Component Model and its use as a tool evaluating professional ethics education*

Rest's Four Component Model of Moral Action (FCM) suggested four inter-related aims for a professional ethics education, which could address the elements of the broad interpretation. The model proposed moral awareness, moral reasoning, moral motivation and moral implementation as possible components to be addressed within ethics education. Rest's colleagues, led by Bebeau, regarded these components as capacities to be developed for full moral functioning of a professional and found some evidence of the development of these inter-related moral capacities during postgraduate professional education in the USA. Their research led to recommendations on how to cover the components of the FCM at this level, including law schools. Other researchers also suggested similar solutions for effective professional ethics education, including academic sources on legal ethics education in specific. These recommendations together refer to a formal learning programme, within which professional ethics is addressed in a separate course (developing moral awareness and reasoning by covering more than just the knowledge and application of the codes, or rather the rules related to the very profession) and also as a topic permeating other courses, especially experiential learning elements such as work-based learning or simulations, in an integrated manner. Researchers also suggest a continuation of professional ethics education after graduation: a lifelong learning approach to professional ethics is recommended. The importance of an integrated approach to assessing professional ethics throughout the academic programme, as well as the role of informal learning, the institutional "milieu" and the instructor were also stressed as important.

It is very important to note that the academic sources related to professional ethics education in general and also to the FCM in specific, usually conclude with a call for further research on the topic. There is no consensus about the FCM, and the development of these inter-related moral capacities is not fully accepted either. The FCM is not a fully accepted curriculum design tool, as it was not tested widely: there are only some institutional attempts to develop curriculum according to the four components (e.g. the J. D. programme of the University of St. Thomas, see Chapter 4). However, the FCM was identified as a useful tool for understanding and analysing legal ethics

education solutions and practices. Furthermore, the interlinked components as possible set of aims of professional ethics education also provided with a suitable basis of the framework for evaluating legal ethics education in the selected countries. The recommendations for effective ethics education were aligned with the FCM, but not all of the recommended elements were selected for the evaluating framework for practical reasons. Assessment related to specific professional ethics courses and integration of assessing ethical issues into other courses, ethical issues taught during other courses and experiential learning opportunities, the ethical institutional “milieu”, the role of the instructor or the informal learning opportunities were important recommendations, but the evaluating framework excluded them. The identified academic literature on legal ethics education in the USA and in England and Wales did not contain sufficient details of these elements, and further data gathering for these countries was not feasible during this research project; and, concerning Hungary practically no data was available.

Concerning the elements selected for the evaluating framework, their alignment with the FCM follows a simplified approach. Bebeau and her colleagues emphasised the interlinkages among the four components, referring to that the development of one of these components as capacities also develops the other ones. However, due to the dearth of evaluating tools in legal ethics education research and to the limitations of this research, the framework developed for the third objective of this thesis needed to remove the complexities of the FCM and the related recommendations. Hence the framework is rather concentrating on the existence of selected elements during the continuum, i.e. the separate course, the pervasive approach, integrated experiential learning and continuation of formal learning of legal ethics after graduation from the law school. These elements are ‘paired’ with a component of the FCM, following the simplified approach and interpreting the recommendations of the academic literature by identifying which component of the FCM has the strongest link with a particular element. The framework also considers the role of the major stakeholders in legal ethics education during the continuum: what are the expectations of the policymakers and how the providers of legal ethics education meet such expectations. Each country’s legal ethics education practices were benchmarked to this framework.

*About legal ethics education practices in the USA, in England and Wales, and in Hungary*

Noting the general need for legal ethics education, which seems to exist internationally (see Chapter 1), and the specific need due to the regional specificities in CEE countries, i.e. that these societies suffer from low morale (see Chapter 3), this thesis focused on ethics education related to law professionals in three countries. The gap in the literature (more precisely, the dearth of related scholarly activities) was the main reason for choosing Hungary, and their significant role in the global markets of legal services and legal education led to the selection of the USA and England and Wales. Due to reasons of practicality, this comparative education research focused on legal ethics education practices during the formal learning route to becoming a qualified lawyer in these countries, and also afterwards, in line with the lifelong learning approach. Following the usual practice of comparative research, the functional equivalents in the practices in the USA, in England and Wales, and in Hungary were investigated to see how professional ethics is addressed during the main stages of the legal education “continuum”.

The salient features of legal ethics education practices in these countries were identified and described, using documentary research and, in the case of Hungary, “elite” interviews. The documentary research covered accreditation standards, government and professional literature, and academic sources focusing on legal ethics education. Since the legal education systems in the USA and in England and Wales are complex and extensive, only a partial review of the available sources was found feasible, and the focus was on the most common formal learning routes to becoming a qualified lawyer, and the most common formal learning practices after becoming a qualified lawyer. Due to the gap in the academic and professional literature in Hungary, information was gathered from sources only available in Hungarian and from interviews with representatives of major stakeholders in Hungarian legal ethics education: policymaker, academia and the legal profession. Since the country is much smaller than the other two and its legal education system is less complex, a fuller review was conducted in the case of Hungary. Finally, the main characteristics of legal education practices of these three countries were contrasted by benchmarking them to recommendations drawn from the academic literature, based on the FCM (see the previous section).

The system in the USA is regarded as a “monocentric” one, as there is a single profession and following a single route to becoming a qualified lawyer is the most common choice of aspiring

lawyers. The professional organization of this single legal profession, the American Bar Association (ABA), is the policymaker issuing requirements for the academic component and the post-qualification stages. As per the ABA standards, the accredited law schools offering the postgraduate J. D. (Juris Doctor) academic programme in the USA are expected to incorporate a compulsory course (mostly called ‘Professional Responsibility’) and to provide opportunities of experiential learning concerning professional ethics. According to the academic literature on legal ethics education practices in the USA, most of the providers only deliver the compulsory course with a focus on knowledge and application of the relevant codes of ethics, preparing for the qualification exam which assesses professional ethics by a multiple-choice test. The academic sources report about some institutional practices concerning the pervasive method, experiential learning opportunities and the integrated approach, most notably the ones at the University of St. Thomas Law School, where the J. D. curriculum is organised as per the FCM. With regard to the post-qualification stage, the ABA expects the qualified lawyers to participate in compulsory professional development training, which contains legal ethics, but practices vary in the different states, and there is a gap in the literature concerning this stage. Overall the policymaker’s expectations in relationship with the academic component and the post-qualification stages cover all the four components of the FCM, but the law schools’ practices rather just cover Component 1 and 2 (moral awareness and moral reasoning), in part.

Concerning the UK, there is a “polycentric” system with various legal professions and multiple routes to becoming a qualified lawyer. For reasons of practicality, the thesis focused on the practices of England and Wales, and the “conventional” formal learning routes to becoming barrister or solicitor were investigated further only, as the majority of aspiring lawyers follow these routes to become members of one of the traditional legal professions. These routes contain two components during the pre-qualification stage: an undergraduate liberal art degree programme followed by a vocational training. The policymaker in charge of the academic component is an academic body, the Quality Assurance Agency for Higher Education (QAA), which issued a set of guidelines and recommendations for the providers, agreed by the professional organisations of these two traditional legal professions. The QAA expects the universities to “instil values” related to the legal profession and provide them with recommended methods, which include the integrated approach and the experiential learning, among others. The academic sources refer to a debate on instilling values and varying practices of the law schools, which mostly cover Component 1, moral

awareness. Very few academic sources focus on legal ethics at the next part of the “conventional” routes, but the professional sources describe a partly integrated vocational component for both the barristers and the solicitors: the content and application of the respective codes are covered by separate courses, ethical issues are included in other courses, and the work-based learning is an important element. This component seems to cover all the four components, and to become a qualified lawyer various, mostly essay-type assessments related to legal ethics must be passed. It is important to note here that major changes are expected in the near future, affecting the two components of the pre-qualification stage. As for the post-qualification stage, the two traditional legal professions have different approaches, and only the barristers’ organization requires a compulsory professional development scheme which contains legal ethics.

The Hungarian system, whilst includes an academic component going beyond the undergraduate level (see the postgraduate J. D. programmes in the USA), is rather closer to the system of England and Wales, as it also has a ‘polycentric’ legal profession and the formal learning route to becoming a qualified lawyer contains a vocational component, too. The policymaker for the academic component is the government, issuing a ministerial decree on expected higher education programme outcomes and requirements. There is a collaboration with academia in developing these, but the collaboration process was found to be non-transparent. The formal learning route to becoming a qualified lawyer in Hungary requires a “doctor juris” degree, which can be earned by the end of a 5-year long integrated Master’s programme. This is a doctrinal, theory-centred academic programme, into which the above mentioned ministerial decree introduced a compulsory legal ethics element in 2016. Prior to 2017 legal ethics was not a required topic of the law curricula, with sporadic coverage of the topic by some elective courses at very few law schools. Starting in the 2017-2018 academic year, the curriculum of all the eight Hungarian law schools contains a mandatory legal ethics course, which is mostly theoretical/jurisprudential in their nature. The policymaker’s related requirement refers to knowledge and application, and the courses seem to address the first two components of the FCM: moral awareness and moral reasoning. In most of the law schools, there are no plans for pervasive solutions or integration of the existing internship element with legal ethics. There are no known scholarly activities focusing on legal ethics, and as per the interviews, there would be a need for cooperation both among the law schools and also with the legal professions. The legal professions are in charge of the 3-year long vocational component, during which they have different practices with regard to delivering training that

prepares graduates for the profession. Graduates choosing a certain legal profession (attorney, prosecutor, judge, or public notary) work under the supervision of a qualified lawyer, and attend the training organized by the professional organization of the chosen legal profession, which usually contain a non-assessed course (rather a lecture session) on the rules related to the very profession. The interview with an executive of Hungarian Bar Association revealed a pervasive approach, in addition to the specific course on their code of ethics; and another interview with an executive of the Chamber of the Public Notaries revealed an optional online test on the rules applicable to the notaries. The information gathered points toward a vocational component in the case of the Hungarian Bar Association where the components 1, 2 and 3 of the FCM are partly addressed: moral awareness, reasoning and motivation. At the end of the vocational component, graduates start the special examination series, which requires memorization of the most important laws and judgments related to various fields, but legal ethics is not part of the special exam. No information is available about any legal ethics-related training at the post-qualification stage.

*Comparing and evaluating legal ethics education practices in the USA, in England and Wales, and in Hungary*

The below table summarizes the above mentioned most important characteristics of the current legal ethics education practices in the USA, in in England and Wales, and in Hungary, and their evaluation. Focusing on the formal learning route to become a qualified lawyer and formal learning after qualification, each of the countries investigated has their own approach to organise their legal education continuum, within which legal ethics is taught and learnt. The table is structured as per the various stages and components, for easier comparison of legal ethics education practices. During the academic component the mandatory legal ethics course is a similarity between the USA and the Hungarian practices, while there is no such requirement in England and Wales. Legal ethics exist during the vocational component in England and Wales and also in Hungary, albeit the latter has a very basic coverage of the topic. The post-qualification stage in the USA and in England and Wales contains certain mandatory legal ethics elements, but not in the case of Hungary.

STAGE	USA	ENGLAND AND WALES	HUNGARY
Pre-qualification stage / Academic component	<ul style="list-style-type: none"> <li>- Postgraduate, professional, practice-oriented legal education</li> <li>- Requirements for law schools are issued by the federal professional organization (ABA)</li> <li>- Compulsory legal ethics (professional responsibility) course and provision of opportunities for experiential learning are required by ABA</li> <li>- Some institutional examples of the pervasive method and going beyond the codes</li> </ul> <p>Evaluation: “yellow” = components 1-4 of FCM are partly covered by the requirements, but institutional practices vary (mostly covering only Component 1 and 2, in part)</p>	<ul style="list-style-type: none"> <li>- Undergraduate, liberal arts legal education</li> <li>- Requirements for law schools are issued by an academic body (QAA), in collaboration with legal practitioners, agreed by the professional body of barristers and solicitors via the Joint Statement</li> <li>- QAA standards only require “instilling values”, and experiential learning or integrated assessment are just ‘recommended’</li> <li>- Some institutional examples of integrated approach, pervasive method and experiential learning</li> </ul> <p>Evaluation: “yellow” = component 1 of FCM is covered by the requirements and Component 2 in part, but institutional practices vary and cover various components</p>	<ul style="list-style-type: none"> <li>- Integrated (i.e. Bachelor and Master’s levels are not separate), doctrinal legal education, focusing rather on theories</li> <li>- Requirements for law schools are issued by the government, in collaboration with academia</li> <li>- Mandatory legal ethics course started in 2017-2018 at all law schools, one of them with plans for some pervasive approach</li> <li>- Some experiential learning, but not linked with legal ethics</li> </ul> <p>Preliminary evaluation: components 1 and 2 of FCM seems to be covered by the requirements and also by the institutions</p>
Pre-qualification stage / Vocational component	(Not applicable: no separate vocational component during the pre-qualification stage)	<ul style="list-style-type: none"> <li>- Polycentric legal profession</li> <li>- The two traditional professional bodies (i.e. of barristers and solicitors) require a vocational component with the separate course, pervasive approach and experiential learning, with integrated assessment</li> <li>- Significant changes are planned for this component starting in 2021, with expected effects on the academic components</li> </ul> <p>Evaluation: “yellow” = components 1-4 of FCM are covered but only in a partly integrated manner</p>	<ul style="list-style-type: none"> <li>- Polycentric legal profession</li> <li>- All main professional bodies require a vocational component, mostly with non-assessed lectures on legal ethics and non-integrated experiential learning</li> <li>- Some examples of pervasive approach and of assessment</li> </ul> <p>Preliminary evaluation: components 1-3 of FCM are partly covered</p>

<p>Post-qualification stage</p>	<ul style="list-style-type: none"> <li>- Single legal profession</li> <li>- Compulsory legal ethics examination (multiple choice) required for qualification (licensing)</li> <li>- Compulsory ethics CLE course after qualification by ABA</li> </ul> <p>Evaluation: “yellow” = differences exist among the states concerning the implementation of the expected CLE</p>	<ul style="list-style-type: none"> <li>- Legal ethics assessed during the vocational component for qualification</li> <li>- Compulsory ethics CPD only for barristers</li> </ul> <p>Evaluation: “yellow” = as for solicitors, there are no specific requirements with regard to ethics</p>	<ul style="list-style-type: none"> <li>- Legal ethics is not assessed in the special exam to be passed for qualification</li> <li>- No post-qualification requirements regarding legal ethics</li> </ul> <p>Preliminary evaluation: very little information available about this stage; where there is continuous professional development, legal ethics is not listed among the topics covered</p>
<p>Overall evaluation of the continuum</p>	<p>The emphasis is rather on enhancing the cognitive skills (learning the rules and their application) than on professional identity formation. There are examples of teaching towards components 3 and 4 of the FCM but the formal learning during the continuum is rather related to components 1 and 2</p>	<p>Legal ethics is just barely addressed during the academic component of the pre-qualification stage, where law schools mostly cover FCM Component 1. The vocational component addresses all the four FCM components but not in an entirely integrated way. The post-qualification practices vary regarding legal ethics.</p>	<p>(Preliminary evaluation) Since 2017 there is a mandatory legal ethics course during the academic component. Mandatory ethics-related units of the various training schemes are delivered by the legal professions during the vocational component. The pre-qualification stage contains a formal learning requirement regarding legal ethics, but it concentrates on knowledge and application of the relevant rules, thus only partly covering FCM components 1 and 2. There are a few examples during this stage to address legal ethics pervasively, which might support FCM component 3. There is no legal ethics-related assessment during the vocational component and legal ethics is not a required element of the special exam to be passed to become qualified lawyer. During the post-qualification stage, not all of the professions require formal learning and there is no information about</p>

			legal ethics during this stage.
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As the above table shows, the current legal ethics education practices were evaluated as ‘yellow’ both in the USA and in England and Wales, indicating that the recommended elements are partly covered. However, looking at the continuum, the USA practices are felt closer to ‘green’ than the ones in England and Wales, which seems to be because of the ‘single’ policymaker during the pre- and post-qualification stages: the current practices of the various providers need to meet the explicit requirements issued by the ABA. The policymaker promotes the importance of legal ethics education by requiring mandatory courses during both stages, and the law accreditation standards also contain clear expectation with regard to experiential learning. Due to the lack of required integrated approach and the variety of solutions at state levels, the USA practices cannot be evaluated yet as ‘green’, but less elements are missing than in the case of England and Wales. The latter practices throughout the curriculum include all the recommended elements, but only because of the partly integrated vocational component and the barristers’ mandatory post-qualification training. The policymakers’ lesser ‘devotion’ to the topic is apparent: the vague reference to “instilling values” in the relevant QAA benchmark statement and the lack of mandatory post-qualification ethics training in the case of solicitors suggest that these policymakers do not consider legal ethics education as paramount. Providers recognized this hiatus in the various requirements by the call for action of the policymakers in this regard via LETR, as mentioned in Chapter 5.

With regard to the future, the revision of legal ethics (in line with the wider approach) is planned in the USA, and significant changes are occurring in England and Wales with regard to the vocational component (which might also affect the academic component) , but the details and their effects are yet to be seen. Law schools in both countries are expected to act upon such changes, but this is a work in progress. As for Hungary, the accreditation standards for the academic component of the pre-qualification stage were amended recently, in 2016, and the implementation of the new standards started only in the academic year of 2017-2018: the impact of the mandatory legal ethics course can only be identified later. Hungarian bodies of the legal professions update their codes according to legislative changes, as appropriate. No information is available about any detailed plans with regard to the post-qualification stage in any of these three countries.

## **Conclusions about legal ethics education practices in the USA, in England and Wales, and in Hungary**

According to the academic literature and the “elite” interviews conducted in Hungary, the two main approaches towards professional ethics in general apparently exist in the field of legal ethics education, too. When it comes to the mandatory courses, the narrow approach, which is focusing on the knowledge and application of the rules of the profession only (the “code-centred” approach) seems to be dominant during the academic component in the USA with a practice-oriented approach, and also, but in a theoretical way, in Hungary. As opposed to the USA and Hungary, due to the lack of accreditation requirements, there is no mandatory course in England and Wales, and thus no dominant approach can be identified. In the case of England and Wales, and of Hungary, there is a vocational component during the pre-qualification stage, during which efforts to go “beyond the code” can be recognized: such efforts are related to the broader interpretation of professional ethics, considering the character and the circumstances of the professional. The practices in England and Wales include a pervasive approach and experiential learning, and there are attempts by the Hungarian Bar Association to address ethical issues during all units of their vocational training. Concerning the post-qualification stage in these countries, unfortunately very little information is available as the area is under-researched and thus with regard to identification of any dominant approach no conclusion can be made. The various jurisdictions with their own culture, terminology, educational system and legal profession resulted in different approaches to legal ethics and different practices in legal ethics education. What is apparent, is that there is no consensus about the definition of legal ethics, and there is no consensus about the ideal way of legal ethics education either in any of these countries. As for the latter, it is important to note here that there is no consensus even about the need for legal ethics education: in spite of accreditation standards and requirements, support by representatives all major stakeholders, and a robust academic and professional literature, many professors and practitioners are still sceptical about the possibility to efficiently teach professional ethics at tertiary level, to assess it, not to mention whether character development is a realistic aim or not.

The author of this thesis agrees with the wider or broader approach towards the definition of professional ethics. As Dagilyte and Coe recently summarized, legal professionalism encompasses

“the discipline-specific knowledge (i.e. knowledge of law), professional skills (lawyering skills, as well as other general employability skills), and a set of professional values that underpin the first two attributes and continue to develop through one’s career and life”, meaning that it includes “different values and personal attributes that are essential for any type of professional career” (Dagilyte and Coe 2019, p. 113). The author of this thesis agrees with this approach towards legal professionalism: the above reference to values linked with the legal profession specifically and also with any profession supports the author’s view about the complex definition of legal ethics as a topic, and also of a legal professional as an expert with four interconnected capacities. Legal ethics is henceforth more than just the rules related to lawyering: it contains the critique of the law, and also the complexities of the social context and the organizational environment within which the lawyers act. These complexities include the influence of cultural specificities and the contemporary issues affecting the lawyer’s behaviour (such as globalization of legal services or disruptive technology), and even the ways of dealing with the challenging environment and its impact on the individual lawyer, like stress management or mindfulness. From the perspective of the FCM, the ethical legal professional is an expert in the law who has all the four important capacities, as described by Rest’s model and his colleagues’ assertions: aware of ethical issues, able to make a reasoned decision, committed and motivated to act ethically, and capable of acting so.

Concerning legal ethics education, the author of this thesis agrees with the recommendations about the incorporation of the broadly interpreted legal ethics into all the stages of the continuum. There are numerous opportunities to address legal ethics during the academic component, both from theoretical and practical aspects. The theoretical approach to the broad interpretation could be based on the multidimensional theory of legal ethics, as suggested by Skuczyński: the deontological, social and moral dimensions of legal ethics, i.e. the various duties, roles and virtues could be explored in law schools by the integrated approach. (Skuczyński, and Popowicz, 2013). The practical aspects can be inspired by the various innovative practices existing in the USA and in England and Wales: from simple role plays to sophisticated simulations and to the integration of ethical issues into work experience during internships and clinical education, there is a variety of tools and methods for efficient applied legal ethics education. Finally, agreeing with Nussbaum, legal education should cultivate humanity, and it is “especially important to design an education that produces a more complex and deliberative type of human being” (Nussbaum 2003, p. 279).

An integrated legal ethics education towards the wider interpretation of professional ethics throughout the continuum, as described in this thesis, is in line with Nussbaum's proposal and supports the development of the four interrelated capacities as per Bebeau's interpretation of the FCM.

The academic literature on the USA and UK legal ethics education practices provides with examples of attempting to cover these various issues and refers to ongoing research and experimentation with novel educational solutions, which might further enrich the picture of the broad interpretation of legal ethics. Further scholarly activities supporting such legal education are definitely justified. Some notable mentions of recent publications are two books and two articles, which are related to the topic of this thesis. Longan, Floyd and Floyd (2019) looked at professional identity formation during the law school and described six important virtues to be developed, with some reference to the FCM. Another book, edited by Strevens and Field (2019), also deals with legal ethics education from the perspective of wellbeing. The focus of these two books are rather on legal education in the common law jurisdictions, but legal educators in other countries may also find it useful. A recent research on professional ethics training of Lithuanian lawyers by Navickiene, Zylis and Danisauskas (2019) proves that there are some ongoing scholarly activities on legal ethics education in the CEE countries. Finally, an interesting contribution to the field with regard to the importance of ethics training during the post-qualification stage: according to Fagan (2019), data showed that the hours spent annually on ethics training during continuing professional development reduced the number of charges of ethical misconduct. This finding supports the core message of this thesis: there is evidence of ethical misconduct among lawyers and legal ethics education throughout the continuum is an effective way of addressing such misconduct.

With regard to certain generic issues mentioned in Chapter 3 this thesis, further research on the integrated approach to develop the four FCM components as moral capacities, with a possibly international outlook on the integrated assessment strategies, instructor development and informal learning during the various stages of the continuum would be welcome. A good example of looking at assessment of legal ethics throughout the continuum is Evans' (2010) book, proposing numerous recommendations. The vocational component and the post-qualification stage of the legal education continuum were found under-researched, these areas are especially needed to be investigated at by researchers. Such scholarly contributions could enrich the evaluating

framework, too. The overall evaluation of legal ethics education practices during the continuum in various countries from the perspective of the FCM or any other angles is another under-researched area. The author of this thesis hopes that these topics will be investigated by researchers, and not just in the common law countries.

### **Self-evaluation: meeting the objectives by contribution to knowledge**

There were four objectives of this thesis, targeting two types of audiences (see details in Chapter 1). Regarding the international audience (which includes the Hungarian one), this research investigated legal ethics education in Hungary for the first time, to fill a gap in the academic literature on Hungarian legal ethics education. The thesis addressed this objective by making information available in English that was currently only available in Hungarian, and also expanded the existing literature via the new data generated from these ‘elite’ interviews (see Chapter 3 and 6). The thesis managed to contribute to original knowledge by being the first scholarly work in English, which provides an overview of legal ethics education practices throughout the Hungarian continuum. The interviewees, who accepted the request of the author of this thesis, welcomed the initiative and expressed their interest in receiving and disseminating the thesis when ready.

Concerning the academic and professional communities in Hungary, the author intended to disseminate legal ethics education practices in the USA and in England and Wales specifically to this audience, as the second objective of the thesis. These two countries were selected for comparison because of their importance in legal education and legal services markets in general, and their importance in legal ethics education in specific. The academic and professional communities, both in the USA and in the England and Wales, are engaged in developing the field of legal ethics education further, and this thesis explored the relevant academic and professional literatures in these countries. This thesis is not aspiring to be the only scholarly work describing legal ethics education practices in the USA and in England and Wales: Hungarian scholars and practitioners interested in this topic may consult many other relevant academic sources. However, the Hungarian audience may find the descriptions in this thesis useful, especially as it contrasted the practices of these countries with the Hungarian solutions: this was the third objective, as detailed below. Furthermore, the thesis also applied the academic discourse related to professional

ethics education in general, and also to legal ethics education in the selected countries, to the Hungarian context for the first time, as another contribution to knowledge.

This comparative education research focused on legal ethics education practices during the most common tertiary, formal learning routes throughout the “continuum” in the USA, in England and Wales, and in Hungary: the expectations (i.e. the relevant academic, professional and government standards) and education practices (the organization and the delivery methods) related to legal ethics were investigated, as comparable “functional equivalences”. See chapters 4, 5 and 6 for detailed description of these expectations and practices related to legal ethics education throughout the continuum in the USA, in England and Wales, and in Hungary, respectively. As Objective no. 3, the thesis has identified similarities and differences among these three countries for the first time, as an original contribution to knowledge.

Finally, this thesis also aimed to evaluate legal ethics education practices in the USA, in England and Wales, and in Hungary, by contrasting them using Rest’s Four Component Model, regarding the possible aims of professional ethics education, and recommendations drawn from the academic literature on how to achieve these aims. The evaluation of legal ethics education practices throughout the continuum in the USA, in England and Wales, and in Hungary can be found at the end of chapters 4, 5 and 6, respectively. Capitalising on the FCM and the related recommendations to develop and to deploy a tool for evaluation of the organisation of formal learning of legal ethics throughout the continuum of the countries concerned was a novel use of the concept authored by Rest and various researchers, and thus another contribution to knowledge. Still, this newly developed evaluation tool was just a simplified one, since many aspects relevant for evaluating the effectiveness and efficiency of legal ethics education needed to be omitted due to reasons of practicality. There is definitely room for improving the tool and its deployment, and the author of this thesis hopes to be able to inform the international audience about successful improvements in the future, as well as to inspire others to contribute to such improvements.

## Recommendations

As mentioned above, there is no consensus with regard to the definition and the ‘ideal’ way of teaching professional (including legal) ethics. A wide range of research activities in these areas, as mentioned earlier, are ongoing, but professional ethics research activities are not at the forefront of the current academic discourse. Nonetheless, professional ethics continues to function “slowly, at the margins but not without subtle impact” (Gross 2001, p. 396), the author of this thesis believes. In addition to the numerous existing scholarly activities the reviewed academic sources report about, there are other important questions raised which can have such an impact. Just to mention two of them, teaching ethics in online education (see Huff and Frey 2005) or the incorporation both single-professional and interprofessional learning (as raised by Caldicott and Braun 2011) are interesting issues which might also affect professional ethics education worldwide.

Within this environment of professional ethics education, the author of this thesis would like to suggest a few areas of legal ethics education specifically in Hungary, which would merit further exploration. Information about legal ethics education in Hungary was collected from various documentary sources, which are rather about Hungarian legal education in general. Current relevant information is available only in Hungarian and only on academic and professional websites, as there is a gap in the academic literature concerning this topic in both languages. Preparation of further academic papers on Hungarian legal ethics and the related educational issues, both in Hungarian or in English, would contribute to filling this gap. The next section identifies possible topics of further research, with regard to this gap in the academic literature. Finally, the last section contains specific recommendations for the three main stakeholders of Hungarian legal ethics education.

### *Possible areas of further research on Hungarian legal ethics education*

As mentioned earlier, the starting point of this thesis in Chapter 1 was that there is evidence of moral problems and ethical misconduct when it comes to lawyers. Moral problems and ethical misconduct by lawyers are, unfortunately, facts based on evidence: data on disciplinary procedures and empirical research. However, when it comes to the evidence in the academic literature, the

sources referred to in Chapter 1 are by USA and UK authors as no comparable research was found concerning the Hungarian situation. Ethics of Hungarian lawyers is an under-researched area, and specific information about the size and main features of misconduct and other ethical issues would contribute to a better understanding of the morale of Hungarian legal practitioners. Concerning further research, this is probably the hardest pill to swallow. Whilst, quite understandably, no professions like to concentrate on its members' unethical conduct, such research could contribute to identifying what exactly Hungarian legal ethics education should prepare the graduates for. The assumption is that the ethical issues the academic literature refer to are international, similar issues exist in every country. A possible direction of future research may focus on this assumption with regard to Hungary. Possible research questions could be the following: *What are the main characteristics of lawyers' misconduct in Hungary? What are the common and different elements of misconduct among the Hungarian legal professions? Are there any country-specific or region-specific reasons of lawyers' misconduct in Hungary?*

The largest part of the academic literature related to the Hungarian situation and available in English is related to the social context within which lawyers operate, more precisely to the low morale of the CEE countries, including Hungary. The author of this thesis felt that the relevant academic literature paints a darker picture than reality, but, sadly, the interviewees confirmed the findings and assertions of the literature (see Chapter 3). Whilst this characteristic of society justifies the need for legal ethics education, the responses of the interviewees also call for further research. Such research is also related to the above mentioned one on the ethical issues Hungarian lawyers might face: a better understanding of the links between the regional specificities and the Hungarian legal professions may provide with further useful inputs to developing legal ethics education in Hungary. One of the interviewees also added that low morale is a characteristics of not just the CEE countries, but rather an international phenomenon (see Chapter 3), which raises the question whether only regional specificities are the reasons of the current state of the Hungarian society, and also might support further research on the morale of countries outside the CEE region. Possible research questions could be the following: *How is the morale of the society viewed by Hungarian / CEE lawyers? Is the morale of CEE countries lower than elsewhere in the world?*

Concerning CEE countries and further comparative education research in the field of legal education, contrasting the Hungarian practices with other countries of the region might also be

helpful. Silova noted that in these countries, there is a “variety of educational transformations, which may take different forms and result in a multiplicity of outcomes” (Silova 2009, p. 316). Understanding how other CEE countries developed their legal ethics education could lead to the identification of good practices to be adapted to the Hungarian context. However, the comparative educational research might go beyond that. Legal ethics and the related educational practices in Hungary were contrasted with the USA solutions and the ones in England and Wales, using the FCM, in this thesis. Comparison with these countries using other conceptual frameworks would also be an invaluable contribution to the area, as well as comparison with countries from other European regions. And such comparative education research could consider not just the academic component, but the vocational one and post-qualification stage, which are also regarded as very important in professional ethics education. With regard to professional development in the post-qualification stage, Genty’s (2011) cross-cultural legal ethics project is a possible research direction, or the comparison of codes of ethics, similar to Bolocan’s (2002) review. Possible research questions could be the following: *What are the main characteristics of legal ethics education throughout the continuum of the CEE countries? What are the similarities and differences between CEE and other European countries in relationship with legal ethics education throughout the continuum?*

As detailed in Chapter 2, this research is based on a Constructivist methodology, but the original idea was closer to the critical theory, focusing on how Hungarian legal ethics education “should” look like. A continuation of this research based on critical theory is a possible long-term effect of this thesis. Should such continuation happen, this thesis can be regarded as one of the first steps towards action research, contributing to the possible development of legal ethics education in the “emancipating – enhancing – critical science mode” (Berg 2004, pp. 197, 204): promoting and supporting any scholarly activities with regard to the design, delivery and assessment of legal ethics courses, and any related curricular projects and integrated programmes in Hungary. Such action research might be conducted by legal academia and legal practice in Hungary separately or in collaboration with each other. (The interviewees confirmed the need for cooperation both among law schools and also between academia and the legal professions – see Chapter 6.) Academia could explore the issues suggested by the academic literature: the content and delivery method of the ‘ideal’ legal ethics course, the possibilities of the pervasive approach within the law curriculum, the introduction of complementary courses (e.g. management and leadership, or mindfulness), and

the integration with experiential learning (the compulsory work placement). The further development of the lectures during the vocational component, the introduction of legal ethics into the special exam and the post-qualification stage are potential topics for the professional bodies. The most ambitious research question for a joint project by academia and the legal professions in Hungary would probably be the following: *How should legal ethics be incorporated into Hungarian legal education?*

Concerning educational research, the correspondence with the policymaker referred to competence-based higher education in Hungary (see Chapter 6). Competence-based higher education is a relatively new development, and there is a variety of approaches to it (Nodine 2016), out of which the simplest one is that competence-based higher education focuses on how to use professional knowledge and skills in the workplace (McNamara 2013, p. 184). Hamilton (2013) asserted that competence-based legal education is what legal employers and clients expect; thus, Hungarian legal ethics education could be further explored from the perspective of competence-based higher education. Such research, answering a research question such as “*What competences are required from ethical Hungarian law professionals?*”, would definitely call for cooperation among all the three major stakeholders in Hungary.

Finally, future research might benefit from using various research methods. This qualitative research used “elite” interviews to gather important information. In order to gather more detailed information about the current practices and any future changes, the widening of the sample would certainly enrich the picture drawn by this thesis. A more representative sample, involving key persons of possibly all law schools and all professional bodies, would provide further details about the Hungarian practices. With regard to the interviewees, further qualitative research could investigate the opinion of a more diverse pool, in terms of age, gender and other characteristics. Informal learning and the role of the instructor at various stages of the Hungarian legal education “continuum” could also be topics of such research.

The findings of this research could also lead to numerous hypotheses about Hungarian legal ethics and legal ethics education, to be researched using quantitative methods. Researching the assessment of legal ethics using quantitative methods, for instance, would be a very important area, as whilst some information is available in the USA (such as the above mentioned research report by the team led by Bebeau – see Bebeau and Monson 2008), very little information is available in

the UK (see Bone and Maharg 2019) and there is no data available concerning Hungary. Surveying the opinion of law students (and later, law graduates) would also be an important input to evaluate what was achieved by the amended law curriculum, for instance. A generic research question for such project could be the following: *What are the main characteristics of assessment in Hungarian legal ethics education?*

#### *Recommendations for the main stakeholders in Hungarian legal ethics education*

According to the interviews, it is apparent that legal ethics education in Hungary, whilst definitely under-researched, is an area where there are existing institutional practices and ongoing initiatives both by academics and by practitioners. The responses of the interviewees suggest that legal ethics education is of importance and under development. The main recommendation for these two stakeholders is based on the literature review and the interviews: commencing nationwide communication about legal ethics. There is a legal ethics community in the USA involving academia and practice, and there is a debate about legal ethics education in the UK. The interviewees confirmed the need for having an inter-institutional discourse and expressed their willingness to share and discuss experiences in the academic and the vocational components. An article on legal ethics education in Hungarian was prepared by the author of this thesis and published recently in the most prestigious academic journal of the country, the one issued by the Hungarian Academy of Sciences (see Andrasi 2020). The article was based on chapters 3, 4 and 5 of this thesis and aimed at informing academia and the legal professions of Hungary about recent developments in professional ethics education and practices in the USA and in England and Wales. As a positive result of the publication, the author of this thesis came into contact with researchers from Hungarian Academy of Sciences and now there are plans for organising a discussion on this topic in 2021, inviting representatives of both academia and the legal professions. This article and the planned discussion would be a great start of initiating nationwide communication about legal ethics, and the necessary first step towards having a legal ethics community on Hungary.

With regard to the third stakeholder in Hungarian legal ethics education, the policymaker, there are two suggestions based on the literature review. Firstly, active participation in the above recommended nationwide communication about legal ethics: supporting official evaluation of the achievement of the respective programme learning outcomes at course, institutional and national

level in a transparent and formative way would be a very useful contribution. The reports in the USA and UK helped the law schools and the legal profession in engaging with legal ethics and developing learning materials for both the pre- and post-qualification stages. Such reports in Hungary would suggest the importance of the topic and encourage scholarly and professional activities in the field.

The second suggestion is about active policymaking: explore the opportunity of further requirements in relationship with legal ethics education at both the pre- and post-qualification stages. Such active policymaking was called upon by the LETR, the last report in England and Wales. The feasibility of requiring a more integrated approach is definitely an important and sensitive factor (as the literature review suggested, such developments came with financial, logistical and staffing challenges), but the expected outcomes may bring benefits which outweigh the costs. Any significant changes in the area would surely involve resistance, as the one Killian (2017) reported concerning the issue of introducing compulsory legal ethics training in Germany. However, issuing a detailed set of requirements in relationship with the integrated approach towards professional ethics is not unprecedented. For instance, the EQUIS accreditation system of the European Foundation for Management Development (EFMD) requires such approach from the top business schools seeking for accreditation: Chapter 2 prescribes that “Ethics, responsibility, and sustainability should be integrated into the design, delivery and assessment of all programmes offered by the School”. The business school “should employ a range of learning and teaching methods to optimize learning and the practical application of learning outcomes” (EQUIS Standards and Criteria 2019, p. 18). Chapter 3 requires the institution to integrate ethical challenges “into the personal development of students” via “curricular and extracurricular engagement” (EQUIS Standards and Criteria 2019, p. 34). According to Chapter 4 “ethics, responsibility and sustainability” should also be integrated into “faculty training and development” (EQUIS Standards and Criteria 2019, p. 40). Albeit moral reasoning is not specified explicitly by the EQUIS standards, it can be regarded as implied in the integrated approach; hence, EQUIS seems to cover all the four components of the FCM. This thesis is not arguing for introducing accreditation standards like EQUIS into Hungarian legal (ethics) education though. This thesis only suggests that it is worth considering many options and alternatives by each stakeholder during their discussions about legal ethics education, which are hoped to take place in the near future.

## **APPENDICES**

1. CONSENT FORM FOR INTERVIEWS
2. INFORMATION SHEET FOR INTERVIEWS
3. INTERVIEW SCHEDULES
4. INTERVIEW PARTICIPANTS QUOTED IN THE THESIS
5. ACTIVITIES ATTENDED FOR THIS THESIS
6. COPY OF POSTER PRESENTATION DISPLAYED AT NTU (2016)

## 1. CONSENT FORM FOR INTERVIEWS

### **PARTICIPANT CONSENT FORM FOR INTERVIEW AS PART OF PHD RESEARCH**

I, the undersigned, was approached by Mr Gabor Andrasi, PhD student at Nottingham Law School, Nottingham Trent University, UK regarding his PhD research on Hungarian legal ethics education. I hereby state the following:

Please tick	Statements
	1/ I have been informed about the research details. I understand the objectives and methods of the research. I also understand that the researcher is seeking for my personal opinion on the topic.
	2/ I understand that my participation is voluntary and I have the right to withdraw (including the right to withdraw any record of my interview) by email until December 31, 2018. I also understand that in case of withdrawal, I will not be asked to give any reasons.
	3/ I understand that I have the right to review the transcript of my interview and the draft of the relevant parts of the dissertation in English when ready, subject to a time limit of 2 weeks from receiving the transcript or draft to ask for any amendments.
	4a/ I would like to remain unnamed in the dissertation or any other related publications. I understand that the researcher will exercise all possible care to ensure that the organisation I work for and I cannot be identified by the way he writes up the research, but due to the relatively small size of the Hungarian legal ethics community, there is a possibility of being identified indirectly.
	4b/ I am happy to be named in the dissertation or any other related publications.
	5/ I agree to take part in this research.
	6/ I consent to this interview being recorded.

\_\_\_\_\_  
Name of respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

#### Contact:

- Please feel very welcome to contact me via email on [gabor.andrasi2016@my.ntu.ac.uk](mailto:gabor.andrasi2016@my.ntu.ac.uk)
- You can also see my details on the website of Nottingham Law School Centre of Legal Education – please click on the following link, scroll down where my photo and name appears and click on my name: <http://www.nlscl.org.uk/who-we-are/>
- My Director of Studies, Mr Graham Ferris, Nottingham Law School, can be contacted on [graham.ferris@ntu.ac.uk](mailto:graham.ferris@ntu.ac.uk) 50 Shakespeare Street, Nottingham, United Kingdom NG1 4FQ  
Phone: +44 (0)115 848 4171

## 2. INFORMATION SHEET FOR INTERVIEWS

### **PARTICIPANT INFORMATION SHEET FOR INTERVIEW AS PART OF PHD RESEARCH**

Dear ..... (*name of interviewee*),  
my name is Gabor Andrasi, and I am conducting my PhD research at Nottingham Law School, Nottingham Trent University, UK. Thank you for agreeing to consider participating in my research. Please read the following information carefully and feel welcome to get back to me if anything is unclear.

#### Research topic:

My research topic is Hungarian legal ethics education: I am exploring contemporary institutional practices and future institutional plans concerning legal ethics education.

The main method of gathering information is interviews with representatives of key stakeholders about their personal opinion on Hungarian legal ethics education. I am asking you to give me an interview because you are one of the senior experts in the field and would like to interview you as a representative of .....

The interview would last approximately an hour. It will take place in your workplace or online, and will be arranged at a time convenient to yourself. Should there be any need for clarifications or further discussion, I might approach you for a follow-up interview.

I hope that you will find the interview interesting, and will take satisfaction from helping to develop knowledge of this important topic. I also hope that you will find the results of the project helpful to your work.

#### Your participation:

Your participation is entirely voluntary. You are free to take part or not, as you choose.

If you do decide to take part in the research, you will be asked to sign an informed consent form. You will still be free to withdraw (including the right to withdraw your interview from the study after it has taken place) by email until December 31, 2018, as afterwards the data analysis will begin and withdrawal at this stage would make the research incomplete.

If you decide not to take part, or to withdraw at any stage, you will not be asked to give me any reasons.

#### Ethical issues:

I will ask for your written permission to tape the interview, to ensure that the information you give me is accurately recorded. The tape of your interview will be transcribed. The tape and transcript will be handled in line with data protection principles and the code of ethics of *The Socio-legal Studies Association* - <http://www.slsa.ac.uk/index.php/ethics-statement>. Hard copies of research notes are kept in locked filing cabinets, and electronic files are kept on password protected computers which are not accessible to any other university student or staff.

Unless you are happy to be identified, I will exercise all possible care to ensure that you and the organisation you work for cannot be identified by the way I write up my findings, but due to the relatively small size of the Hungarian legal ethics community, there is a possibility of being

identified indirectly. Research data will be kept in an anonymised form in the case of possible publication.

No personal or confidential data is planned to be collected during the interviews. Any issues you identify as sensitive either at the time of the interview or afterwards will remain 'off the record' up until the deadline for approval of the final text, two weeks after it is sent to you for review.

The transcript and the draft of the relevant parts of the dissertation will be sent to you in English for review with the time limit of 2 weeks to ask for any amendments.

Contact:

- Please feel very welcome to contact me via email on [gabor.andrasi2016@my.ntu.ac.uk](mailto:gabor.andrasi2016@my.ntu.ac.uk)
- You can also see my details on the website of Nottingham Law School Centre of Legal Education – please click on the following link, scroll down where my photo and name appears and click on my name: <http://www.nlscl.org.uk/who-we-are/>
- My Director of Studies, Mr Graham Ferris, Nottingham Law School, can be contacted on [graham.ferris@ntu.ac.uk](mailto:graham.ferris@ntu.ac.uk) 50 Shakespeare Street, Nottingham, United Kingdom NG1 4FQ  
Phone: +44 (0)115 848 4171

### 3. INTERVIEW SCHEDULES

#### INTERVIEW SCHEDULE

**Prepared by Gabor Andrasi, PhD student on April 26, 2017**

The working title of dissertation: An investigation of how lawyers in Hungary learn legal ethics contrasted with the USA and UK legal education practice

Structure of an interview:

1/ Beginning (approx. the first 5 minutes):

- Greetings & self-introduction
- Going through the Information Sheet
- Going through and signing the Consent Form
- Checking basic demographic data (age, gender, years of experience)
- Starting recorder with basic data (participants, time and venue, objectives of research, consent)

2/ Main general questions (approx. 5-10 minutes):

- Please introduce yourself (clarification of position and role, i.e. representative of which stakeholder)
- What is your definition of / What do you mean by “legal ethics”?
- What would be the “ideal way” of legal ethics education?

3a/ Questions asked from representatives of academia (approx. 35-40 minutes):

- What are the current practices of legal ethics education at your institution? (related courses, pre-requisites / co-requisites, syllabus, teaching & learning materials, methods & techniques, assessment policies)
- Are there any departmental plans for changing these practices in the future?
- Do you have any personal ideas about the development of legal ethics education?

3b/ Questions asked from representatives of policymakers (approx. 35-40 minutes):

- What do you think about the current expectations / accreditation standards in Hungary in relationship with legal ethics? (expectations from law graduates, programme learning outcomes, professional vs academic expectations)
- What are the plans of ... (name of policymaker organization) for modifications of these expectations / standards?
- Do you have any personal ideas about the development of expectations / accreditation standards regarding legal ethics education?

3c/ Questions asked from representatives of professional bodies (approx. 35-40 minutes):

- What are the existing practices of teaching professional legal ethics after graduation from law school? (training details, materials, assessment)
- Are there any plans at ... (name of the professional body) for modifications of these practices?
- Do you have any personal ideas about the development of professional ethics training?

4/ Closure (approx. the last 5 minutes):

- “Do you think that there is a special need for legal ethics due to regional specificities, such as the transition from Communism to democracy?” (only if not mentioned during the main part of the interview)
- “Is there anything else you would like to add, modify or withdraw?”
- Thanking interview, confirming next steps as per the Information Sheet and asking the interviewee to confirm that s/he is still happy for using his/her data
- Stopping recorder with statement “end of the interview.”

**INTERVIEW SCHEDULE**  
**by Gabor Andrasi, PhD student**  
**May 25, 2018**

The working title of dissertation: An investigation of how lawyers in Hungary learn legal ethics contrasted with the USA and UK legal education practice

Structure of an interview:

1/ Beginning (approx. the first 5 minutes):

- Greetings & self-introduction
- Going through the Information Sheet, emphasizing that the interview is seeking for the personal opinion of the interviewee on the topic
- Going through and signing the Consent Form
- Starting recorder with basic data (participants, time and venue, objectives of research, consent)

2/ Main general questions (approx. 5-10 minutes):

- What is your definition of / What do you mean by “legal ethics”?
- What would be the “ideal way” of legal ethics education?

2/ Follow-up questions asked from representatives of academia (approx. 45-50 minutes):

- Is there a definition of “legal ethics” prepared for the new course? If yes, what is it? If no, how would you like the student to define “legal ethics”?
- Was the description of the new course developed and approved by the management? If yes, what are the main elements of the course description? If not, what are the plans for the course descriptions?
- What are the course learning outcomes? Do you think that these outcomes meet the expectations prescribed by the latest accreditation standards? Why do you think that?
- What is the content of the course?
- What are the teaching and learning materials used for the course?
- What is the assessment strategy of the course?
- Was there an official evaluation of the course? If yes, who conducted the evaluation and what was its result? If not, how would you evaluate the course development process and the delivery of the course in the current academic year?
- Are there any departmental plans for changing these new practices in the future?
- Do you have any personal ideas about the further development of legal ethics education?

3/ Closure (approx. the last 5 minutes):

- “Is there anything else you would like to add, modify or withdraw?”
- Thanking interview and confirming next steps as per the Information Sheet
- Stopping recorder with statement “end of the interview.”

#### 4. INTERVIEW PARTICIPANTS QUOTED IN THE THESIS

INTERVIEWEE	DESCRIPTION
“Professor A” and “Professor B”	Two law professors of Legal Theory / Jurisprudence from different law schools, and also heads of the respective department at the law school, in charge of developing and delivering the new compulsory Legal Ethics course
“HAS expert”	A senior executive at the Hungarian Academy of Science, an expert in legal science
“Examiner”	A senior law practitioner with experience in assessing the special examination
“Bar executive”	A senior executive of the Hungarian Bar Association, knowledgeable about legal ethics training at the vocational stage
“Notariat executive”	A senior executive of the Hungarian Chamber of Public Notaries, knowledgeable about legal ethics training at the vocational stage

## 5. ACTIVITIES ATTENDED FOR THIS THESIS

December 2<sup>nd</sup>, 2016: Poster presentation on “What Do We Know About Hungarian Legal Ethics Education?” during the Doctoral Student Research Conference, organised by the Doctoral School of Nottingham Trent University, UK

June 16<sup>th</sup>, 2017: Presentation on “Should Hungarian Legal Ethics Education Invest in Technology?” during the bi-annual conference organised by the Center for Legal Education of Nottingham Trent University, UK (see <http://www.nlscl.org.uk/conference/legal-education-legal-practice-technology-june-2017/>)

August 15<sup>th</sup>, 2017: Delivering Professional Development (PD) session on “ICT in Teaching Law”, based on the experiences gained during the above conference, at Dubai Men’s College, Dubai, UAE, during Higher Colleges of technology (HCT) Faculty of Business PD week

September 2017: Completing seven online pieces of training available on NTU NOW portal: Conference and seminars, Literature review, Plagiarism, Project management, Research ethics, Social science research methods, and Managing relations with a supervisor.

November 22<sup>nd</sup>, 2018: Delivering a guest lecture on Hungarian legal ethics education to students studying the undergraduate Legal Profession course at New York University, Abu Dhabi (instructor: Dr Swethaa Ballakrishnen)

January 9<sup>th</sup>, 2019: Delivering Professional Development (PD) session on “Rest’s Four Component Model: possible aims of professional ethics education” at Dubai Men’s College, Dubai, UAE, during HCT Faculty of Business PD week

February 12<sup>th</sup>, 2019: Receiving details of the first citation of my article published in 2018 in Law Teacher. A Hungarian law professor has read my article in Law Teacher and cited it in his paper about his experiences in teaching a law and literature elective course. This paper of his is now available in a book published online via the website of the Academy of Sciences (see references and links below). The last page of his paper (p. 232) is about the importance of "non-legal" subjects in the law school curriculum, developing competencies of students. Listing, among others, legal ethics, my article is added as the only source, and the footnote also mentions that Hungarian legal education would need such overviews of other areas, like my article on legal ethics.

Fekete, B., 2018. Két szemeszter „jog és irodalom” szeminárium tapasztalatairól. [About experiences in teaching Law and Literature for two semesters.] In: Bodnar, K. and Fekete, B. (eds.), 2018. *Iustitia meghallgat. Tanulmányok a „jog és irodalom” köréből*. Budapest: Hungarian Academy of Sciences. pp. 221-232

His paper: [https://jog.tk.mta.hu/uploads/files/17\\_Justitia\\_Fekete\\_Balazs.pdf](https://jog.tk.mta.hu/uploads/files/17_Justitia_Fekete_Balazs.pdf)

The book: <https://jog.tk.mta.hu/iustitia-meghallgat-tanulmanyok-a-jog-es-irodalom-korebol>

March 12<sup>th</sup>, 2019: Joining the Legal Profession Mailing List, set up recently by Prof S Vaughn, UCL, to facilitate networking among PhD students and early career researchers interested in the field

May 2<sup>nd</sup>, 2019: Presentation on “Developing ethical managers: contrasting possible aims of ethics education with accreditation standards related to undergraduate business programmes” during the International Conference on Technology, Innovation and Sustainability in Business Management (ICTIS 2019) organised by Middlesex University, Dubai, UAE (<https://www.mdx.ac.ae/ictis2019>). The presentation was based on Rest’s Four Component Model and the academic literature reviewed in Chapter 3.

February 4<sup>th</sup>, 2020: Receiving certificate on achieving Fellowship status at Advance HE (formerly Higher Education Academy, UK). This achievement is related to Vitae Researcher Development Framework’s domains D3 Engagement and impact (sub-domain ‘1. Teaching’) and B3

Professional and career development (sub-domains ‘1. Career management’, ‘2. Continuing professional development’ and ‘3. Responsiveness to opportunities’)

April 8th or 9th, 2020: Presentation to be held on “What are “good” business schools expected to cover in an integrated way?” during the International Conference on The Fourth Industrial Revolution: Transforming Businesses (FIR 2020), organised by Higher Colleges of Technology, Sharjah, UAE. The organisers informed the author of this thesis about the acceptance of the abstract on February 13th, 2020. The presentation is prepared using Rest’s Four Component Model and the academic literature reviewed in Chapter 3. Due to the COVID-19 global pandemic the conference was unfortunately postponed

June 25<sup>th</sup>, 2020: Presentation on “Expected but not taught? Teaching management at law schools in Hungary and the U.S.” during the online conference on Impact and Wellbeing organised by the Center for Legal Education of Nottingham Trent University, UK (see <http://www.nlscl.org.uk/conference/impact-and-wellbeing-june-2020/>)

October 2020: Publication of my Hungarian paper in the issue no. 2020/3. of the prestigious journal of the Hungarian Academy of Sciences “Állam- és Jogtudomány” [State and Legal Sciences] titled as “Szakmai etika oktatása jogászoknak: lehetséges célok, módszerek, amerikai és angol példák és értékelésük” [Teaching professional ethics to lawyers: possible aims, methods, American and English examples and their evaluation] (see <https://jog.tk.mta.hu/allam-es-jogtudomany-2020-3-szam>)

6. COPY OF POSTER PRESENTATION DISPLAYED AT NTU (2016)



## What Do We Know About Hungarian Legal Ethics Education?

Poster by Gabor Andrasi  
 Year 1 PhD student  
 NTU Law School  
 Supervisory Team:  
 G Ferris, P Henderson, A Savage

**The Issue**  
 In an *era of the political, economic, or social scandals in all countries*, it is a justified requirement that *legal education should pay particular attention to ethical issues*.  
 As for Hungary, legal education was *never in the focus of academic research*, let alone legal ethics education.

↓

**The Search**

- Search for & review of academic literature *available in English*
- Search in NTU Online Library & Google Scholar for *academic sources* (both books and articles)
- Period of time covered by search: since *1990, i.e. the year of change of political system in Hungary*) to date
- Total number of *partly* relevant sources identified: **18**

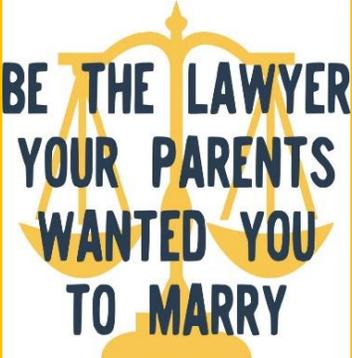
**Findings →**

neutral/secular-vs-religious  
 material-is-the-code  
 German-pedagogic-tradition  
 lecturing embedded-in-non-legal-courses  
 non-compulsory  
 memorization  
 oral-assessments  
 focus-on-theory  
 lack-of-practical-elements  
 embedded-in-Jurisprudence/LegalTheory

WordItOut

**The Results**

- *Need for further research*
- Area for improvement of legal ethics education in Hungary: *introducing an applied (practice-oriented) approach with learning-centred delivery* (updated materials, teaching & learning methods and assessment strategies)
- In order to ...



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