

UNLOCKING GLOBAL OPORTUNITIES: EXPLORING BILINGUAL TEACHING IN SPANISH BUSINESS LAW¹

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ABSTRACT:

This paper explores the complexities of bilingual teaching in Spanish business law, highlighting both opportunities and challenges. Teaching in English offers global recognition and collaboration, especially in areas like international trade. However, nuances in Spanish commercial law and subjects rooted in national legal traditions, like insolvency law, pose hurdles. Anisomorphism between legal systems complicates direct translations, emphasizing the need for a strategic approach. Despite harmonization through directives, elements shaped by national legislation persist. Scarcity of English teaching materials necessitates *ad hoc* preparation, impacting educators and student independence. A judicious approach to bilingual teaching is crucial, balancing global benefits with linguistic intricacies and resource challenges.

KEYWORDS: bilingual teaching, business law, legal education, legal studies, educational advancements

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EN BUSCA DE OPORTUNIDADES GLOBALES: MEDITACIONES SOBRE LA ENSEÑANZA BILINGÜE DEL DERECHO MERCANTIL ESPAÑOL

RESUMEN:

Este artículo explora las complejidades de la enseñanza bilingüe en el derecho mercantil español, destacando tanto las oportunidades como los retos. La enseñanza en inglés ofrece reconocimiento y colaboración globales, especialmente en áreas como el comercio internacional. Sin embargo, los matices del Derecho mercantil español y las materias arraigadas en las tradiciones jurídicas nacionales, como el Derecho concursal, plantean obstáculos. El anisomorfismo entre sistemas jurídicos complica las traducciones directas, lo que subraya la necesidad de un enfoque estratégico. A pesar de la armonización a través de directivas, persisten elementos moldeados por la legislación nacional. La escasez de material didáctico en inglés hace necesaria una preparación *ad hoc*, lo que repercute en la independencia de educadores y alumnos. Por ello, es crucial adoptar un enfoque juicioso de la enseñanza bilingüe, que equilibre los beneficios globales con las complejidades lingüísticas y los problemas de recursos.

PALABRAS CLAVE: enseñanza bilingüe, derecho mercantil, estudios de Derecho, avances educativos

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1. INTRODUCTION

Teaching commercial law at the university level offers a rich opportunity for the exploration of innovative and demanding pedagogical methodologies². This is attributed to the ever-evolving nature of legal systems, the globalized markets, and the rapid integration of new information technologies. These factors have heightened the demand for legal practitioners to be well-prepared for an international, fiercely competitive legal landscape³.

Within this context, the utilization of a foreign language, particularly English, as a medium of instruction in the field of business law has emerged as a topic of escalating interest in law schools worldwide. The adoption of this approach not only serves as a pedagogical development but also mirrors the global economic imperatives. The integration of the workforce into the global arena hinges upon an individual's capacity to function effectively in such environments. This requirement extends beyond specific and specialized professional expertise and encompasses linguistic adaptability in the international context.

² As an example, see CASADO NAVARRO, A & GONZÁLEZ JIMÉNEZ, P.M., “Simulación de pleitos mercatorios y competiciones de derecho mercantil durante el estado de alarma derivado del covid-19: una herramienta innovadora para la adquisición de competencias”, *Cuadernos jurídicos del Instituto de Derecho Iberoamericano*, N.º. 1 (extraordinary numer about Covid-19), 2021, pp. 204-217 and MARTÍNEZ CAÑELLAS, A., “Enseñanza de materias jurídicas en inglés siguiendo el método del caso: una experiencia”, *Revista Electrónica d’innovació Educativa i Socieducativa*, N.º. 1, 2009, pp. 27-36.

³ On this transformative phenomenon, among others, GARTH, B & SHAFFER, G., “The globalization of legal education: a crytical perspective”, *UC Irvine School of Law Research Paper*, N.º. 24, 2022, pp. 3-75; MULLERAT BALMAÑA, R.M., “El futuro de la abogacía y la formación del abogado”, *Anuario de la Facultad de Derecho de la Universidad Autónoma de Madrid*, N.º. 6, 2022, pp. 283-306; GONZALES MANTILLA, G., “Enseñanza del derecho y cultura legal en tiempos de globalización”, *Derecho PUCP: Revista de la Facultad de Derecho*, N.º. 60, 2007, pp. 51-96 and FERREIRA MADRIGAL, A.S., “La figura del abogado en la globalización”, *Commercium Plus*, Vol. 4, N.º. 2, 2020, pp. 1-17.

Furthermore, while it may appear self-evident that proficiency in foreign languages, notably English, enhances the employability of university graduates, in certain professional spheres, fluency in foreign languages is not merely a supplementary asset but a fundamental prerequisite. Thus, the absence of linguistic competencies to communicate and operate in foreign languages could lead to the exclusion from the labor market⁴.

Commercial law, with its focus on commercial transactions, contracts, competition regulations, intellectual property, and other business-related issues, is at the heart of the global economy. There is no doubt that lawyers specializing in commercial law must be equipped to advise clients operating in an international market, navigate the complexities of international contracts and understand commercial regulations in different jurisdictions⁵. This is precisely where the use of foreign languages assumes significance, with English taking the forefront as the most prevalent language in international business transactions.

Indeed, beyond the fundamental legal knowledge encompassing areas such as legal theory and history, English serves as a natural and rational language for the study of comparative law, international law, European Union law, and other fields where international regulations hold paramount importance, as is the case precisely with commercial law⁶. However, while the undeniable value of mastering a second (or third, or fourth...) language is clear, it is equally true that integrating bilingual commercial law instruction into legal studies is not a task to be taken lightly. From our perspective, all initiatives which, instead of providing genuinely enhancing the educational experience for the student body, merely serve as promotional or superficial measures designed to create a facade of prestige or quality for the university's stakeholders, should be avoided. Hence, the purpose of this paper is to delve into the examination of the potential advantages and pitfalls associated with the utilization of a foreign language, especially English, as the medium of instruction in the field of commercial law within the university environment.

2. POTENTIAL BENEFITS OF TEACHING SPANISH BUSINESS LAW IN ENGLISH

Teaching business law in English, or in other pertinent foreign languages, offers several advantages and opportunities for both students and educational institutions. Allow us to provide a brief overview of these benefits:

1°.- *Access to International Resources*: English unquestionably stands as the predominant language in global legal communication and documentation. Students

⁴ DE LUCCHI LÓPEZ-TAPIA, Y & CABRA APALATEGUI, J.M., “Internacionalización de la Universidad (2.0): La enseñanza del Derecho a través del inglés”, *Revista Jurídica de Investigación e Innovación educativa (REJIE)*, Nº. 22, 2020, p. 186 and MARTÍNEZ CAÑELLAS, A., “Enseñanza de materias...”, *cit*, p. 28.

⁵ RATHOD, J.M., “The transformative potential of attorney bilingualism”, *University of Michigan Journal of Law Reform*, Vol. 46, Nº. 3, 2013, *passim*.

⁶ In this regard, see DE LUCCHI LÓPEZ-TAPIA, Y & CABRA APALATEGUI, J.M., “Internacionalización de la Universidad...”, *cit*, p. 186 and GUTIÉRREZ BENGOCHEA, M., “La introducción del inglés en la explicación de las asignaturas del Grado en Derecho en España: especial referencia a la asignatura de Derecho Financiero y Tributario impartida en la Facultad de Derecho de Málaga”, *Revista Jurídica de Investigación e Innovación Educativa (REJIE)*, Nº. 14, 2016, pp. 75-83.

who acquire proficiency in business law terminology in English gain direct access to a wealth of legal resources, including international treaties, case law, legal documents, and academic literature from around the world. This equips them to explore a wide array of legal perspectives and approaches. It's noteworthy that mastery of English holds exceptional importance when studying the case law of the Court of Justice of the European Union or legislation issued by this institution, such as directives⁷. These legal instruments are scrutinized in all Member States, and English is occasionally employed as the language for exchanging opinions and interpretations.

2.- *Enhanced Career Prospects*: Building upon the initial discussion in this paper, possessing proficiency in a bilingual or multilingual environment stands as a noteworthy asset in the contemporary legal employment landscape⁸. Lawyers who demonstrate fluency in the English language unlock an array of career prospects within international law firms, multinational corporations, and governmental entities. Moreover, professionals who exhibit a strong command of the specialized language of English law in the realm of business can anticipate more extensive networking opportunities with legal practitioners of diverse backgrounds, differentiating them from their counterparts who adopt a narrower, localized perspective⁹. This holds relevance for students contemplating their employability prospects and even for confidence and self-esteem¹⁰.

3.- *Promoting diversity and inclusion*: Teaching business law in English has the capacity to attract a broad spectrum of students hailing from diverse linguistic and cultural backgrounds. This fosters an environment that prioritizes diversity and inclusivity within the classroom, a particularly crucial aspect within the context of university mobility programs, including the prestigious Erasmus+ initiative, which plays a pivotal role in promoting comprehension of European Union (EU) legal understanding¹¹. As we said, English is frequently employed in the interpretation of EU laws, rendering it indispensable for grasping EU directives and judgments. With

⁷ In this regard, among other, HERBERT, M., "On the role of English in the post-Brexit European Union", *International Journal of Language & Law*, Vol. 12, N°. 1, 2023, pp. 31-47; FENYÖ, S.S., "The function of the English language in the European Union", *European Integration Studies*, Vol. 2, N°. 2, 2003, pp. 53-64; BAJČIĆ, M., "The role of EU Legal English in shaping EU Legal culture", *International Journal of Language & Law*, Vol. 8, N°. 4, 2018, consulted the online version available at <https://ssrn.com/abstract=3649530/> (consultation date, November 2th, 2023) and KREPELKA, F., "Dominance of English in the European Union and in European Law", *Studies in Logic, Grammar and Rhetoric*, Vol. 38, N°. 51, 2014, pp. 137-150.

⁸ See RATHOD, J.M., "The transformative..., *cit, passim* and TERRY, L.S., "The Legal world is flat: Globalization and its effect on lawyers practicing in non-global law firms", *Northwestern Journal of International Law & Business*, Vol. 28, N°. 3, 2008, consulted the online version available at <https://scholarlycommons.law.northwestern.edu/njilb/vol28/iss3/22/> (consultation date, November 10th, 2023).

⁹ CHESTERMAN, S., "The Globalization of Legal Education", *Singapore Journal of Legal Studies*, Vol. 58, N°. 1, 2008, pp. 66-67.

¹⁰ MARTÍNEZ CAÑELLAS, A., "Enseñanza de materias..., *cit*, p. 33.

¹¹ It is true that, in this matter, it cannot be overlooked that what have been called "Erasmus burbles" are often created, whereby Erasmus students tended not to integrate into the host culture, but into the Erasmus culture, one of travel, parties and meetings with multinational colleagues. In this regard, related to two small Croatian cities, see SENCI, V; HENDRICKSON, B & DEBEVC, M., "Examining Erasmus student social integration at two Croatian universities", *International Journal of Intercultural Relations*, N°. 90, 2022, pp. 57-72.

the overarching concept of the single market in mind, it is prudent to recognize that legal education should be oriented towards capitalizing on opportunities emerging within the European Economic Area while embracing a significantly more inclusive perspective.

4.- *Advantages for engaged professors*: It is essential to acknowledge that students are not the sole beneficiaries of incorporating English into the teaching of Spanish business law. For professors, this practice yields a multitude of benefits. Firstly, it presents new academic prospects, primarily stemming from the potential for collaboration with scholars on an international scale, thereby expanding opportunities for research and publication¹². Additionally, instructing in multiple languages provides access to global recognition, as educators proficient in English may attain greater prominence within the worldwide academic community. This enhanced visibility can pave the way for career progression¹³. Last but not least, legal subjects in English contributes to personal growth, primarily through the enhancement of language proficiency and the acquisition of cross-cultural competencies.

5.- *Rewards for educational institutions, mainly universities*: There is a causal relationship between the introduction of teaching in English and certain positive effects, including the fact that offering courses in English can attract students from diverse backgrounds, increasing the university's international appeal and competitiveness¹⁴. Thus, they can access a broader student base, including international students and students from different cultures, which improves enrolment figures and, consequently, revenues (public or private)¹⁵. It is also obvious that a successful implementation of bilingual education translates into improved reputation. Universities that embrace English teaching can gain recognition for their global outlook and commitment to quality education. Finally, teaching in foreign languages, such as English, fosters international partnerships, due to teaching in English can facilitate collaborations and partnerships with universities and institutions around the world, fostering academic exchange and research opportunities. It is also true that bilingual teaching can translate into an improvement in global rankings, although this should not be the priority of the educational institution¹⁶.

¹² MARTÍN DEL POZO, M.A., “Formación del profesorado universitario para la docencia en inglés”, *Revista de Docencia Universitaria*, Vol. 11, Nº. 3, 2013, p. 204.

¹³ AIREY, J., “I don’t teach language. The linguistic attitudes of physics lecturers in Sweden”, *AILA Review*, Nº. 25, 2012, pp. 64–79

¹⁴ MARTÍN DEL POZO, M.A., “Formación del profesorado...”, *cit*, p. 205.

¹⁵ ESCUÍN IBÁÑEZ, I., “Propuesta de impartición de la asignatura Derecho mercantil en inglés”, Intervention submitted to the *Congreso Internacional de Innovación Docente Universidad Politécnica de Cartagena*, held on July 6, 7 and 8th of 2011, p. 4/9, text available at <https://repositorio.upct.es/bitstream/handle/10317/2171/c114.pdf;jsessionid=0E8595319816224D14529107C00D1FCE?sequence=1> (consultation date, November 8th, 2023) and MARTÍNEZ CAÑELLAS, A., “Enseñanza de materias...”, *cit*, p. 30.

¹⁶ A very critical view of the global rankings can be seen in MARTÍNEZ RIZO, F., “Los rankings de universidades: una visión crítica”, *Revista de la Educación Superior*, Vol. XL, Nº. 157, 2011, pp. 77-97.

3. POTENTIAL RISKS OR DRAWBACKS OF TEACHING BUSINESS LAW IN ENGLISH

3.1. Potential risks and disadvantages that are not exclusive to commercial law subjects

Undoubtedly, the provision of bilingual education hinges on the presence of proficient professors. A notable challenge arises from the absence of standardized qualifications for bilingual teaching at the university education level, in contrast to primary and secondary education where clear criteria have been established for bilingual teachers. At the tertiary level, there exists no uniform framework to determine the requisite accreditation for professors desiring to teach in English¹⁷. Consequently, it falls upon individual universities to establish their own criteria, often mandating a minimum level of language proficiency for faculty members seeking to deliver teaching in English. For example, the University of Cordoba requires a minimum level of B2 of the Common European Framework of Reference for Languages (CEFR) to be able to teach in any of the bilingual degrees or modules, with a commitment to reach C1 level within three years of its inclusion in the Plurilingualism Plan¹⁸. In instances where official accreditation is lacking, the program has devised its own accreditation mechanism. This system involves the submission of a comprehensive self-report that outlines and validates one's teaching experience using a foreign language for pedagogical or academic purposes. Such experience may encompass activities like overseas stays, participation in language courses, attendance at seminars, or involvement in international conferences. In cases where the experiential evidence cannot be documented, an interview may be conducted with a technical committee to evaluate and ascertain the candidate's language proficiency and teaching capabilities¹⁹.

While the standardization of criteria for English teaching across Spanish universities may appear reasonable, particularly if it leads to a more rigorous requirement of essential competencies, it is imperative to maintain certain perspective. The imposition of additional barriers and prerequisites for accrediting teaching competence can potentially dissuade professors from engaging in English

¹⁷ Para un estudio sistemático y comparado de (i) las políticas desarrolladas por las diferentes universidades españolas en los nuevos títulos de grado y máster en relación con el nivel de inglés exigido; (ii) de los recursos que ofrecen para hacer frente a la necesidad de los estudiantes de alcanzar los niveles de inglés exigidos; y (iii) de los criterios para acreditar dicho nivel, *vid.* HALBACH, A; LÁZARO LAFUENTE, A & PÉREZ GUERRA, J., “La lengua inglesa en la nueva universidad española del EEES”, *Revista de educación*, Nº. 362, 2013, pp. 105-132.

¹⁸ Plan para el Fomento del Plurilingüismo en la Universidad de Córdoba, (BOUCO of February 1st of 2023), available at www.uco.es/poling/wp-content/uploads/2023/03/PlanPlurilinguismo_2023-2026.pdf (consultation date, November 8th, 2023).

¹⁹ This vision is exemplified by initiatives such as the one at the University of Vigo, where they have implemented the Higher Education Lecturing Accreditation (HELA). This program entails a specialized accreditation examination for faculty members who teach in English. The examination evaluates whether educators without official language credentials possess the requisite linguistic competencies to effectively impart knowledge in a foreign language. It encompasses an assessment of language proficiency, fluency, communication capabilities, oral presentation skills, and the aptitude for engaging with students. Further information on this topic can be found at <https://cdl.uvigo.es/certificacions-exames/exame-hela-para-profesorado/> (consultation date, November 8th, 2023).

language teaching, particularly when the associated benefits for teaching staff are relatively modest²⁰. In our view, the solution, while conceptually sound, is by no means straightforward. If we aim to motivate professors to engage in English teaching and enhance their proficiency in this regard, it is imperative to substantially elevate their tangible recognition. Mere incentives related to teaching workload adjustments, which frequently fall short of adequately compensating professors for their efforts, are insufficient²¹. This situation is particularly relevant given that, in many instances, it will be the younger faculty members who are potentially more adept with foreign languages than their predecessors. However, they are also at a more nascent stage in their academic careers and, therefore, face greater risk when allocating their efforts towards teaching in English, as this might ultimately put them at a disadvantage in comparison to their colleagues who have focused exclusively on research.

As crucial as it is for educators to acquire the language proficiency required for English teaching, an equally vital aspect is the language competence of the students themselves. Authors addressing this matter generally express optimism, foreseeing a future where students will increasingly exhibit bilingual competence²². Presently, the prioritization of English language learning at lower educational levels, coupled with cultural and social considerations, suggests a trajectory toward enhanced bilingual proficiency among students in the years to come.

The existing scenario, unfortunately, falls short of an ideal state. Firstly, the entry requirements for university courses taught in English often set a relatively low threshold, at times demanding only a B1 level. This standard appears markedly inadequate, particularly in the context of legal subjects where intricate terminology and linguistic precision are paramount for evaluation. Secondly, stemming from the issue, bilingual classes exhibit significant heterogeneity, encompassing students with varied idiosyncrasies and divergent language proficiency levels²³. Consequently, groups may comprise individuals ranging from B2 to C2 proficiency

²⁰ DE LUCCHI LÓPEZ-TAPIA, Y & CABRA APALATEGUI, J.M., “Internacionalización de la Universidad...”, *cit*, p. 190 and TORRA BITLLOCH, I; MÁRQUEZ CEBRIÁN, M.D.; PAGÉS COSTAS, T; SOLÁ I YSUAR, P; GARCÍA CAMPOS, R; MOLINA LUQUE, F; GONZÁLEZ SOTO, A & SANGRÁ MORER, A., “Retos institucionales de la formación del profesorado universitario”, *Revista de Docencia Universitaria*, Vol. 11, Nº. 1, 2013, p. 299

²¹ At the University of Cordoba, for example, the “Plan para el Fomento del Plurilingüismo en la Universidad de Córdoba”, (BOUCO of February 1st of 2023), available at www.uco.es/poling/wp-content/uploads/2023/03/PlanPlurilinguismo_2023-2026.pdf (consultation date, November 8th, 2023) provides that in cases where the teaching capacity of the Department allows, teaching staff who teach non-linguistic subjects in a foreign language within the Plurilingualism Plan (excluding teaching in a foreign language that is inherent to the degree) will be charged a teaching load of 1.5 credits per credit taught.

²² DE LUCCHI LÓPEZ-TAPIA, Y & CABRA APALATEGUI, J.M., “Internacionalización de la Universidad...”, *cit*, p. 190. But there are also more critical views. In this respect, see ARNAIZ CASTRO, P., “El inglés como Lengua Extranjera en España: ¿en qué convocatoria aprobaremos esta asignatura”, in AMOR ALMEDINA, M.I; SERRANO RODRÍGUEZ, R & PÉREZ GRACIA, E (coords.), *La educación bilingüe desde una visión integrada e integradora*, Síntesis, Madrid, 2018, pp. 51-63 and MARTÍNEZ CAÑELLAS, A., “Enseñanza de materias...”, *cit*, p. 28.

²³ On deficiencies in reading comprehension and the development of skills that enable students to control their own learning and overcome language barriers, *vid.* GÓMEZ LÓPEZ, A; SOLAZ PORTOLÉS, J. J. & SANJOSÉ LÓPEZ, V., “Competencia de lengua inglesa de estudiantes universitarios españoles en el contexto del EEES: nivel de dominio lingüístico, estrategias metacognitivas y hábitos lectores”, *Revista de educación*, Nº. 363, 2014, pp. 154-183 and ARNAIZ CASTRO, P., “El inglés como Lengua Extranjera ...”, *cit*, pp. 51-63.

levels. Complicating matters further is the inclusion of native speakers or students from countries with more advanced language education systems, such as Sweden²⁴. This scenario presents a complex challenge for instructors who must navigate the task of adapting their teaching to achieve a linguistic consensus within an intermediate level²⁵. And the segregation into groups according to the different language levels does not seem to be operative, or even convenient from a didactic or quality point of view.

3.2. Potential risks and disadvantages that are unique to commercial law subjects

Undoubtedly, the field of legal sciences poses unique challenges when it comes to English teaching, distinct from those encountered in other subjects specific to medicine or engineering, for example. The intricate nature of legal terminology, coupled with the necessity for precise linguistic expression, adds a layer of complexity that sets legal teaching in English especially difficult. In Spain we essentially teach and study Spanish commercial law, which is characterized by concepts and institutions forged within the framework of the Spanish legal tradition. While certain areas exhibit an indisputable international dimension, most of the discipline is governed by regulations from the national legislature and interpreted through the lens of our jurisprudence and legal doctrine. This foundational context has a profound implication—the instruction of this subject in English cannot be a mere verbatim translation of the educational material presented to Spanish-speaking students²⁶. Moreover, carrying out literal translations when it comes to legal matters is somewhat dangerous because there may be concepts and institutions specific to Spanish law that have no equivalent in other legal systems²⁷. This creates at least two types of specific difficulties when teaching business law in English²⁸.

The primary challenge in teaching Spanish commercial law in English stems from the scarcity of instructional materials and policy documents available in the English language. This deficiency is particularly pronounced in subjects that lack a robust international element, with notable exceptions being areas like international trade, comparative law, or antitrust law. In such cases, professors are compelled to generate tailored teaching materials. Consequently, professors face an augmented

²⁴ On the success of the Swedish model, among others, KIM-RIVERA, E.G., “English language education in the Swedish compulsory school”, *Foreign Languages Annals*, Vol. 32, N°. 2, 1999, pp. 155-268 and GRANFELDT, J; SAYEHLI, S & ÅGREN, M., “The context of second foreign languages in Swedish secondary schools: Results of a questionnaire to school leaders”, *Journal of Applied Language Studies*, Vol. 13, N°. 1, 2019, pp. 27-48.

²⁵ DE LUCCHI LÓPEZ-TAPIA, Y & CABRA APALATEGUI, J.M., “Internacionalización de la Universidad...”, *cit*, p. 191.

²⁶ BELANDO GARÍN, B., “La enseñanza del Derecho en inglés: Lost in translation”, *Actualidad Jurídica Iberoamericana*, núm. 4.bis (extraordinario), 2016, p. 410.

²⁷ ESCUIN IBÁÑEZ, I., “Propuesta de impartición...”, *cit*, p. 5/9, text available at <https://repositorio.upct.es/bitstream/handle/10317/2171/c114.pdf;jsessionid=0E8595319816224D14529107C00D1FCE?sequence=1> (consultation date, November 8th, 2023). At this respect, it is important to point out that the Ministry of Justice has a section on its website with translations of some of the most relevant legal texts, including the Commercial Code, the Civil Procedure Act or the Corporate Enterprises Act, among others, which could be very useful in this task.

²⁸ DE LUCCHI LÓPEZ-TAPIA, Y & CABRA APALATEGUI, J.M., “Internacionalización de la Universidad...”, *cit*, p. 191.

workload as they often need to create teaching materials from scratch, customizing them to align with the specific methodologies and subject matter of each university.

This scarcity not only places an additional burden on professors but also necessitates careful consideration in evaluating students. Students engaging with these subjects in English may experience reduced independence in their studies compared to their counterparts studying in Spanish, given the limited availability of standardized English-language materials.

The second and more intricate challenge confronting those endeavoring to teach law in English pertains to what is termed as anisomorphism in the realm of translation and interpreting²⁹. This phenomenon introduces a layer of complexity that goes beyond mere translation, requiring a nuanced understanding and adaptation of legal concepts, structures, and terminology to align with the specific nuances and intricacies of the English legal framework. Indeed, some authors aptly highlight the observation that numerous legal concepts lack direct equivalents in other languages because legal terminology often diverges, assigning distinct names in each language to phenomena that, at times, exhibit inherent differences, so this linguistic divergence further underscores the intricacies involved in conveying legal nuances accurately when transcending language boundaries³⁰. For example, it is not exactly the same to speak of a “regla de la discrección empresarial” as a “business judgement rule”. Although the former is inspired by the latter, the terms do not fully coincide. The same applies to many other terms such as “pacto parasocial”, “concurso de acreedores”, “sociedad en formación”, “sociedad irregular”, “doctrina del levantamiento del velo”, etc. Sometimes, there are legal terms that have words which, although they may be a more or less adequate translation, overlook an infinite number of nuances and divergences that can give rise to confusion among students who have not correctly assimilated the terminology in Spanish.

4. IS THE TEACHING OF BUSINESS LAW SUBJECTS IN ENGLISH A GAME CHANGER OR THE ELEPHANT IN THE ROOM FOR OUR STUDENTS?

The response to the question posed at the outset of this section, like many others, falls within the realm of “maybe”. It is crucial to underscore that subjects of business law taught in English are not designed to be language courses, at least not as a primary objective. English serves as the medium through which legal knowledge is conveyed. Consequently, the consideration for teaching in English should be confined to those subjects bearing an international or European dimension, either inherent in the nature of the subject matter or dictated by the competent regulatory body³¹.

²⁹ *Ibidem*, p. 192.

³⁰ IBÁÑEZ MARSILLA, S., “La evaluación de los estudiantes en el PIE Enseñanza del Derecho en inglés de la Facultad de Derecho”, *@tic. Revista d’innovació educativa*, N.º. 9, 2012, pp. 152-156, consultada la versión online disponible en <https://ojs.uv.es/index.php/attic/article/view/2325/1900> (fecha de consulta, 7 de noviembre de 2023).

³¹ MARTÍNEZ CAÑELLAS, A., “Enseñanza de materias...”, *cit*, p. 28 and ESCUIN IBÁÑEZ, I., “Propuesta de impartición...”, *cit*, p. 4/9, text available at <https://repositorio.upct.es/bitstream/handle/10317/2171/c114.pdf;jsessionid=0E8595319816224D14529107C00D1FCE?sequence=1> (consultation date, November 8th, 2023).

Subjects entailing international trade, encompassing facets such as exports, imports, transportation, and contracts, inherently lend themselves as optimal candidates for English teaching³². Likewise, disciplines substantially influenced by the Treaties, Regulations, or Directives of the European Union—such as antitrust law, industrial property, or unfair competition—present viable options for English-language teaching³³. In these domains, the use of English is not only feasible but, in many cases, preferable, considering it aligns with the natural language of the subject matter. While implementation may pose challenges, the potential benefits outlined earlier can be realized with a concerted effort in these areas.

However, in all subjects that do not fit into the above categories, the use of English can be counterproductive and lead to a deterioration in the quality of teaching in order to achieve a merely aesthetic or propagandistic result without any real impact on the skills acquired by the students. This would be the case, for example, of any basic training in commercial matters for non-legal degrees, such as those taught in the degrees of Tourism, Business Administration and Management or Labor Relations and Human Resources. The above statement is not since these students always present greater difficulty in understanding legal terms, since in our opinion, which is shared by other authors, in certain cases students of these degrees may show a greater predisposition to legal-mercantile subjects than those graduating from the bachelor's degree in law³⁴. The reason for our rejection of the incorporation of bilingual teaching in this type of subjects is mainly because, as their name suggests, they are basic, so that students' understanding of them must be guaranteed. They usually cover a very broad, but certainly superficial, content. In this context, we believe that English is not advisable.

We do not advocate for the teaching of specific subjects like insolvency law in English either. In practice, attempting to teach this subject in English may result in a forced delivery lacking in nuanced understanding. Teaching comparative insolvency law differs significantly from instructing the intricacies of insolvency law in Spain at the undergraduate level, adhering to Spanish legislation and employing the native legal terminology. While acknowledging the potential benefits for professionals (such as lawyers, judges, advisors, and insolvency administrators) well-versed in Spanish insolvency law, who seek to expand their expertise to operate in diverse jurisdictions, the same approach may not be suitable for undergraduate law students. For students at the bachelor's degree level who are yet to establish a solid foundation in Spanish insolvency law, bilingual teaching may not be considered an optimal approach.

In the field of commercial companies, teaching in English is more complex³⁵. Indeed, in the realm of insolvency law, a path of regulatory harmonization has been pursued through the implementation of Directives. However, it is essential to recognize that these Directives provide fundamental regulatory principles, and each member state subsequently tailors these guidelines to align with its domestic legislation, considering the unique characteristics of its

³² ESCUIN IBÁÑEZ, I., “Propuesta de impartición..., *cit*, p. 4/9, text available at <https://repositorio.upct.es/bitstream/handle/10317/2171/c114.pdf;jsessionid=0E8595319816224D14529107C00D1FCE?sequence=1> (consultation date, November 8th, 2023).

³³ See the last reference.

³⁴ MARTÍNEZ CAÑELLAS, A., “Enseñanza de materias..., *cit*, p. 31.

³⁵ See the last reference.

legal framework³⁶. The harmonization efforts have undeniably fostered consensus on the fundamental framework for companies in the European context, encompassing basic concepts within their legal systems. However, certain elements, deeply rooted in the corporate traditions of individual countries, continue to reflect the unmistakable influence of national legislation. This implies that, while the subject may be articulated in English, some terms resist direct translation due to their uniqueness within our legal system. It is imperative to highlight these intricacies in the classroom, as attempting to translate such terms verbatim may result in confusion or gaps in the learning process. Recognizing and addressing these nuances becomes crucial in ensuring a comprehensive understanding of the subject matter.

The intricacies and specificities tied to legal-mercantile subjects, particularly in the context of national legal traditions, may indeed constrain the widespread adoption of English-language instruction. This reality necessitates a strategic reorientation of efforts toward areas where international unification has been more pronounced. In these domains, not only has normative unification occurred, but there is also a notable uniformity in the interpretation of concepts and institutions³⁷. Focusing on these kinds of subjects is a good thing, because when it comes to bilingual teaching, we strongly believe that the qualitative element is more important than the quantitative one. Or, to put it another way, contrary to Michiavelli, we strongly believe that the end does not justify the mean.

5. CONCLUSIONS

In the dynamic landscape of legal education, the adoption of bilingual teaching in Spanish business law presents both promising opportunities and nuanced challenges. This paper has delved into the multifaceted considerations surrounding the implementation of bilingual teaching, shedding light on the distinct characteristics of business law subjects and their compatibility with English-language teaching.

The prospect of teaching business law in English serves as a gateway to global recognition and enhanced collaboration with international scholars. However, as we navigate this path, it is crucial to acknowledge the intricacies inherent in the discipline. Spanish commercial law, deeply rooted in the nation's legal tradition, demands careful consideration when contemplating bilingual teaching. While certain areas, such as international trade or antitrust law, seamlessly lend themselves to English-language teaching due to their inherently international nature, others, like insolvency law, may present challenges due to the intricacies of the subject matter and the necessity for a deep understanding of national legal frameworks.

One of the primary challenges emerges from the anisomorphism between legal systems, creating difficulties in finding direct linguistic equivalents for certain

³⁶ ESCUIN IBÁÑEZ, I. "Law applicable to de European Cooperative Society: special reference to the European cooperative society established in Spain", *European Company and Financial Law Review*, N°. 1, 2011, p. 3.

³⁷ ESCUIN IBÁÑEZ, I., "Propuesta de impartición...", *cit*, p. 5/9, text available at <https://repositorio.upct.es/bitstream/handle/10317/2171/c114.pdf;jsessionid=0E8595319816224D14529107C00D1FCE?sequence=1> (consultation date, November 8th, 2023).

legal concepts. This issue is particularly pronounced in subjects where a high degree of national influence is still retained, hindering a seamless transition to English-language teaching. It is imperative to recognize that despite the harmonization achieved through directives, certain elements rooted in the corporate traditions of each country are unmistakably shaped by national legislation, posing potential obstacles to a comprehensive understanding when taught in a foreign language.

Moreover, the scarcity of teaching materials and policy documents in English compounds the challenge, necessitating *ad hoc* preparation by professors. This not only places an added burden on educators but also prompts a reevaluation of student evaluations, considering the reduced independence of those engaging with subjects in English due to the limited availability of standardized materials.

In conclusion, the decision to implement bilingual teaching in Spanish business law should be approached judiciously, recognizing the subject-specific nuances and potential risks. While the benefits of global recognition, collaboration, and enhanced language proficiency are substantial, they must be balanced against the challenges posed by linguistic intricacies, the need for tailored teaching materials, and the potential impact on student independence in the learning process.

Ultimately, unlocking global opportunities in the realm of Spanish business law through bilingual teaching requires a nuanced and strategic approach, focusing on areas where international unification has been more intense. As legal education continues to evolve in the global arena, a thoughtful integration of bilingual teaching can contribute to a more comprehensive and interconnected understanding of business law on the international stage.

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