

Educación Jurídica Clínica en la República Checa (Palacky University Olomouc).

Clinical Legal Education in the Czech Republic (Palacky University Olomouc).

Veronika Tomoszková, JUDr., PhD.
Assistant professor. Olomouc Law Faculty.
Palacky University. Czech Republic.
E-mail: veronika.tomoszkova@upol.cz

Magdaléna Vopařilová, Mgr.
Assistant professor. Olomouc Law Faculty.
Palacky University. Czech Republic.
E-mail: magdalena.voparilova@upol.cz

Zuzana Adameová, Mgr., PhD.
Student. Olomouc Law Faculty.
Palacky University. Czech Republic.
E-mail: zuzana.adameova@upol.cz

Resumen

Este artículo es una breve introducción a la Educación Checa de Clínica Legal ("CLE"), especialmente a la CLE en la Facultad de Derecho de la Universidad Palacký de Olomouc. La educación legal clínica es un acceso relativamente nuevo a la educación legal y todas las facultades checas de Derecho son, en principio, en comparación con estados como EE.UU., Gran Bretaña, India y otros más.

La Facultad de Derecho de la Universidad Palacky tiene la más larga tradición de la CLE en la República Checa. Al igual que otras Facultades de Derecho en la República Checa y en todo el mundo, la Facultad de Derecho de la Universidad Palacký de Olomouc hace hincapié en su objetivo fundamental: ofrecer a sus graduados con alta calidad los conocimientos profesionales. Sin embargo, la Facultad de Derecho de la Universidad Palacký de Olomouc también se esfuerza por preparar a sus graduados para utilizar los

conocimientos adquiridos en la práctica para el momento de graduarse y salir de la Facultad de Derecho listos para la práctica. Vamos a describir las formas en que los maestros tratan de alcanzar el objetivo mencionado, cómo funciona el CLE, que las metas de aprendizaje que tenemos.

La CLE de Olomouc se realiza gracias al proyecto "Desarrollo de las formas de práctica de la educación en la Facultad de Derecho de la Universidad Palacký, Olomouc", que brindó un importante apoyo para lograr este objetivo particular. El efecto más importante de este proyecto fue, sin duda, los avances en el enriquecimiento de Máster Estudios de Derecho y Jurisprudencia de los aspectos prácticos. Gracias a este proyecto la facultad ha logrado continuar con la tradición fundada y desarrollar aún más este método de enseñanza único. Por último pero no de menos valioso impacto este proyecto es la introducción de la nueva asignatura obligatoria de conocimientos jurídicos que no tiene equivalente en el sistema de la educación jurídica Checa. En la actualidad, el proyecto de "Ley para la Vida" tiene como objetivo mejorar los programas existentes de estudio a través de la integración de los nuevos métodos educativos para la educación jurídica al día.

Palabras clave

Educación clínica legal, cursos de habilidades legales, clínica de clientes no vivos, la oficina de la asistencia letrada de los alumnos.

Abstract

This article is a brief introduction to the Czech Clinical Legal Education ("CLE"), especially to the CLE at the Faculty of Law of the Palacky University in Olomouc. Clinical Legal Education is a relatively new access to legal education and all the Czech faculties of law are on the beginning in comparison with states like USA, Great Britain, India and other more.

The Faculty of Law of the Palacky University has the longest tradition of the CLE in the Czech Republic. Just like other Law Faculties in the Czech Republic and all over the world, the Faculty of Law of the Palacky University in Olomouc puts emphasis on its fundamental aim: to provide its graduates with high-quality professional knowledge. However, the Faculty of Law of the Palacky University in Olomouc also endeavours to prepare its graduates to use acquired knowledge in practise by the time they graduate and leave the law faculty ready for practice. We'll describe the ways how the teachers try to achieve the mentioned aim, how the CLE works, which learning goals we have.

The CLE in Olomouc is realized thanks to the project “Development of Practical forms of Education at the Faculty of Law of the Palacky University, Olomouc” which provided significant support in reaching this particular aim. The most important effect of this project was the doubtless progress in enriching Master Study Programme in Law and Jurisprudence with practical aspects. Thanks to this project the faculty has managed to continue the founded tradition and to further develop this unique educational method. Last but not least valuable impact of this project is the introduction of the new compulsory Legal Skills Course which has no equivalent within the system of the Czech legal education. At present, the project “Law for Life” aims to improve existing study programs via integration of new educational methods to daily legal education.

Key words

Clinical legal education, legal skills course, non-life client clinics, students’ legal aid office.

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Learning to be a Lawyer

Legal clinics are a bridge between theory and practice. In their basic form, legal clinics are founded in the possibility for students of a law faculty to provide legal counsel free of charge to clients who would otherwise not be able to afford an attorney, all that under supervision of their teachers. However, since the beginning of the 20th century when this teaching method was developed the clinical legal education has been developing intensively and it absorbed even other forms based on simulation which allows the students to get to know areas in which the clinical clients do not come seeking advice. Students are concerned with resolving model cases, analysis of case-law and legislature, simulated proceedings before a court or they expand legal conscience of a broad public. Legal clinics are a very important part of legal education because they allow for compensation of the most often mentioned deficiency – disconnection from practice.

It is characteristic for all types of clinical legal education that they develop not only knowledge, but also skills and values, which are a permanent qualification useful in future practice. They permit the students to interconnect knowledge of various areas

of law which are taught separately in compulsory subjects. Especially in the time of never-ending amendments of legal regulations and changes in the case-law, orientation in the legal order, research of legal information, interpretation of law and other skills are essential.

Legal clinics based on the work with clients also allow the students to gain practical experience during the course of their studies. Furthermore, they offer a bonus in intensive supervision of their teacher who regularly provides the students with a feedback and leads them to personal development. In the clinic, emphasis is put strongly on individual work of the students which fosters their professionalism and professional responsibility. Pro bono legal counsel to indigent clients teaches the students on societal responsibility which the legal profession bears for the protection of rights and enforcing the interests of every member of the society.

A short history of CLE in Olomouc

The first legal clinic at the Faculty of Law of the Palacky University in Olomouc was founded in 1996; it was the one of the first legal clinics in the Central Europe. During a short period of time the clinic at Palacky University was closed and re-opened in year 2002 under the project "Development of Practical forms of Education at the Faculty of Law of the Palacky University, Olomouc". Thanks to the support by the European Social Fund and the Czech Republic, we have been successfully innovating the clinical centre to correspond as much as possible with the idea of legal clinics.

Since 2002 when the clinics were re-opened the CLE at the Faculty of Law of the Palacky University in Olomouc is still developed; teachers initiate new clinics according to the students' interest so the scope of CLE is still broader and we are able to offer CLE to significant number of students. Today there are sixteen clinics opened for the students including the Legal Skills Course which is compulsory course for all the students. Other courses are optional. Nowadays they work thanks to the project "Law4Life."

Project "Development of practical forms of education at Law Faculty of Palacky University"

From 23rd June 2006 to 22nd June 2008, the project called "Development of practical forms of education at Law Faculty of Palacky University" was implemented here. The goal of the project was to improve education in the master's study program Law and legal science, field Law, at the Law Faculty of Palacky University in Olomouc by enriching it with practical forms of education. Primarily, the project enhanced current compulsory subjects with practical aspect and it introduced new subject "Legal skills course" and new legal clinics.

Due to the project, approximately 1300 students of the master's study program Law and legal science at Law Faculty of Palacky University have been better prepared for their entry into practice. Seminary education is aimed more at practical law, nowadays. In the beginning of the Legal Skills Course, a conference on legal professions took place. Handbook on Legal Skills Course is also available to the students both in paper and multimedia form. In addition, new subjects were introduced within the framework

of the project, e.g. Human Rights Clinic, Asylum and Refugees Law Legal Clinic or Legal Clinic of IT Law, all of which allow the students to undergo education focused on practice under supervision of experienced lawyers. “Administrative Law Clinic” course was innovated and new optional course “International Arbitration” was introduced consisting of simulated arbitrations with a possibility to take part in an international commercial arbitration competition.

Every newly introduced or innovated course has its faculty guarantor who is responsible for effective implementation of practical methods into teaching. In order for the guarantors to improve their knowledge of new methods of teaching, they are sent on trips abroad and expert conferences.

Project Law4Life

In 2010, Faculty of Law, Palacky University gained a project financially supported from the sources of European Social Fund and state budget of the Czech Republic which follows previous experience with practical education and it aims to further develop and increase the quality of education at the Law Faculty of Palacky University by enriching it with growth of skills and values in legal education. “Lifelong Learning in Law” project, abbreviated as Law4Life, is focused on implementation of systematic development of key competencies which allow the Law Faculty of Palacky University students to effectively use their knowledge, general and professional skills, values and practical experience gained during their studies for their own development. Due to this approach, Law Faculty of Palacky University graduates will be better prepared for transition to practice.

Law4Life project follows the Recommendation of European Parliament and Council no. 2006/962/ES on key competencies for life-long learning and in the education of “Legal skills course” and legal clinics, it aims to develop these competencies:

- effective learning including learning from experience,
- time-management
- problem-solving and conflict-management,
- communication in the Czech language (both written and oral form),
- persuasive presentation and argumentation,
- work with information (research, collection and elaboration),
- team work,
- flexibility and creativity,
- activity and being initiative,
- self-reflection, ability to provide and receive feedback.

In aggregate, the project has 4 partners: ELSA Olomouc, Pro Bono Alliance, League of Human Rights and Environmental Law Service.

Clinical Legal Education at the Faculty of Law of Palacky University Olomouc: courses

Legal Skills Course

Legal Skills Course was introduced as a new compulsory two-semester course starting in the winter semester 2007. The course is designed for the second grade master's study programme Law and Jurisprudence.

The main objective of the course is to strengthen the aspect of practical legal skills in graduates profile and thus prepare them for the application of law more complexly. In this manner the course is an invaluable addition to the scale of courses focused on substantive and procedural law. Students practice the communication, presentation and analytical skills and all that in relation with the practical application of law. The subject is focused on skills necessary for an attorney or any other legal profession as well. Within the scope of this course the emphasis is placed on the effectiveness of education, interactivity and opportunity to practise acquired knowledge.

The course also includes a one-day student conference on "The Role of Legal Profession on Today's World". Each part of the course is guaranteed by external experts, project partners or teachers of the Faculty.

Students' Legal Aid Office

Legal clinic called Students' Legal Aid Office represents so-called live-client clinic. This means that during participation in the clinic students will provide legal aid to low-income clients who would otherwise not be able to afford an attorney. Students have the unique opportunity to develop their lawyering skills by interviewing and counseling clients, drafting various legal documents on their behalf.

Students are divided into sections of maximum 10 students and work on the individual cases under supervision of a faculty teacher or a practicing attorney. The groups meet on regular basis and individually consult the case with the supervisor if necessary. Even though students work on a particular case in pair with another student, group meetings are designed as a forum for case discussions and feedback. An important part of the clinical education is personal development and self-awareness in the context of practising law.

Students work especially on the civil law cases, mostly they work on executions and debts exacting.

Anti-discrimination Clinic

The primary aim of the course Anti-discrimination Legal Clinic is to help students gain familiarity with the topic that overlaps more legal disciplines and provide them with a complex insight into discrimination as a selected field of human right protection.

Students work in small groups and together with the supervisor of the course they solve particular cases of discrimination behaviour with a direct influence on threat to individual rights and freedoms.

They thereby deepen their skills to research, analysis and usage of legal means of protection for victims of discrimination behaviour.

Due to the content of the course interactive approach will be used. In the first phase students are introduced to basic discrimination issues in the Czech Republic. Together with a teacher the most common problems that occur in legal practice are identified and discussed. Simulations of real cases are used to demonstrate particular procedures that were successfully applied.

As far as selection of cases is concerned we cooperate with NGO "Human Rights League." The key task for the students is to solve individual discrimination cases. They are given all details of the case, they analyze individual elements of the given problem and apply knowledge gained during their studies of various legal disciplines that deal with discrimination behaviour.

Students consult all steps taken with the teacher, who provides them with all necessary assistance. Every solved case is concluded with an evaluation of the facts and legislation status and suggested procedures. After completing the course students shall be able to understand matter of discrimination and application of anti-discriminatory measures.

Legal Clinic: The Right of Electronic Communication

This legal clinic is a continuance of a theoretical course The Right of Information Technology. Students in this clinic explore the application of legal rules of information technology in praxis by the work with the bibliography and foreign cases. Students research actual themes such as E-business, domain name or E-government. The legislation in this sphere is relatively new and currently the legal rules are applied for the first time. Before the legal rule is used it's necessary to subject the text of legal rules to research. The goal of this clinic is the analysis of legislature in the sphere of electronic communication and the solution of practical cases connecting with this topic. Students attend the practical seminars where they solve cases, study legal documents and bibliography and prepare analysis for the future legislature.

Legal Clinic of Small Business and of Non-profit Sector

This legal clinic is thematically focused on the area of a small business and non-profit sector. The term "non-profit sector" is not defined in any Czech legal rule but it's usually used for the complex of all the institutions which exist out of the state structures and they serve to public interests.

These are formally constituted private organizations which are not based to make profit, they have their own self-government, facultative membership and their goal is to provide with publicly orientated activity.

The sphere of small business is on the other hand devoted to getting the profit. Small firms are considered to be a spine of European economic and the moving power of innovations and social integration but they are very sensitive for a quality of business and legal environment. The main problems of Czech business environment are for ex-

ample administratively difficult way of new firms' founding, difficult tax system or the low affectivity of law enforcement.

Within this legal clinic students shall meet the legal problems connected with these both spheres. Students learn to distinguish between various forms of legal persons and also give advice which legal form is the most suitable in concrete case. They learn how to work with the basic legal documents needed for founding and existence of concrete legal person; they learn how to orientate in tax and financial matters of legal persons. The parts of the clinical legal education are the meetings with the representatives of chosen legal persons.

The education is realized by practical seminars focused on the individual activity of students and also on praxis which is presented by resolving model cases, contact with client, work in non-governmental organization, analysis of legislature, preparations for court procedures, analysis of legal documents and literature.

Consumer Law Clinic

Consumer law clinic is also a live-client clinic. It began as an optional, however strictly academic course. Unlike the Students' Legal Aid Office it is focused on a more specific area of law. In this clinic students deal with practical issues and suggest possible solutions of legal problems related to consumer transactions and consumer protection under the Czech law. In addition to the work with real clients, students engage in moot court activities throughout the academic year. Finally, they also cooperate with practitioners from partner NGO, which offers legal aid in consumer matters.

Topic that are discussed in the clinic cover consumer protection related to sales of goods and contracts for work, product liability, e-commerce, harmonisation of the Czech consumer law with the EU law and economic aspects of consumer protection. At the same time, students have the opportunity to develop their practical skills such as case analysis, interviewing, counselling, drafting legal documents etc.

Human Rights Clinic

Human rights clinic is one of the oldest clinical courses offered at Palacky Law Faculty. It introduces students to practical aspects of human rights protection, mostly at national level. Topics of individual sessions correspond with current human rights issues in the Czech Republic. For instance in the past students were dealing with hate crimes, children' rights, patients rights, right to information or any form of discrimination.

Although students do not meet real clients, practical element is included by other methods – simulations and case studies, introduction to practice of human rights oriented NGOs, commenting on draft laws, work with the human rights case-law in general.

Structure of the clinic reflects complexity of human rights and offers students an inter-professional insight.

Professional ethics

Professional ethics teaches students about principles of professional ethics and professional responsibility in the Czech Republic. The main goal is to fill the gap in legal curriculum towards values - oriented education of future lawyers. Practicing lawyers often consider their occupation to be solely a source of profit and tend to forget that they also are part of justice. Without any doubts, general decline of non-legal normative systems has a negative impact on how society perceives law, lawyers or justice as a whole. Non-ethically or immorally acting lawyer is by definition a bad lawyer.

Besides attorneys the course focuses on other legal professions where ethics plays an important role. During several meetings per semester students have the opportunity to discuss ethical topics with practicing lawyers and experts on professional ethics.

Administrative Law Clinic

This clinic focuses on Administrative Law. It is divided into several practical blocks, taught by qualified professionals, focusing on particular problems of administrative law.

The course includes solving theoretical and practical problems, working on projects aiming to inform public about certain administrative problems.

Students get the opportunity to deepen their knowledge of administrative law and developing skills such as counselling, presentation, legal analysis and so on. This clinic works as non-life client but the teachers look for the inspiration in praxis.

Environmental Law Clinic

The aim of this course is to enable those students who are interested in specialization in environmental law with to deepen their knowledge and skills necessary to solve the case studies and test out the application of relevant statutes from environmental law on real cases and case studies. Course consists of six intensive blocks of four hours.

Topics that are discussed are following: Communities and environmental protection, Spatial planning, Access to environmental information, Environmental Impact Assessment, Protection of nature and countryside, Public participation in the decision-making process, Planning permission proceedings, Water protection, Access to court protection, Air protection, Local referendum, Protection of forests and agricultural land, Building permit proceedings, Waste management.

Within this clinic we cooperate with various NGOs connected with the environmental protection which provides the cases for solving and also are able to consult the problems with students especially matters connected with public participation.

Clinic of Building Administration Law

Building administration covers the area of territorial planning with decision-making and control activity of building bodies. The goal of this course is to provide students

with preconditions for orientation in this area of law and to teach them to apply the law in particular situations.

During the course of study, students become familiar with sources of the legal regulation, basic terms and institutes, organization of Public Administration in this area. From the functioning of Public Administration point of view, the area of building supervision shall be presented along with the question of “authorizations” in construction and the legal regime and position of affected bodies of state administration in defending public interests in a given territory. In the course of Building law clinic, we co-operate with a civic association Environmental Law Service.

During the semester, students go through all the steps an investor must conduct in order to realize their plan successfully. For instance, they face many practical questions in this course dealt with by parties to the administrative proceedings in real life, as well. Students don't view the given topic only from the investor's perspective but also from perspectives of property owners concerned with investor's plans and the public, too.

Refugee Law Clinic

The Refugee Law Clinic is taught by seminars connected with practice. Students visit a refugee camp, interview and counsel refugees. Within the procedure of granting international protection, they solve practical problems, search for information about country of origin, prepare procedural papers, visit hearings. In the course a participation in refugee moot court is included.

Topics that are discussed: Asylum law, Procedure of granting international protection and follow-up procedures, Psychological aspects of asylum procedure, European protection of refugees, Integration of foreigners and refugees.

Law for Every Day (Street Law Clinic)

Objectives of this subject may be divided in knowledge objectives and skills objectives. The knowledge objective is revision and application of knowledge already acquired in other courses taught in academic courses at the Faculty of Law. The skills objective is to teach students teaching law to the students of high schools, including the preparation of syllabuses and handouts, various activities. We have built this course on a proved fact that a man learns the most when he teaches someone. By teaching basics of law in secondary schools, students will also learn how to communicate the usually incomprehensible legal text to a layman in a way he understands.

Social dimension which will be fulfilled by students' participation is education of a group of secondary school students so they would be able to solve basic day-to-day legal issues by themselves. Eventually they would be capable of meeting the principle stating that ignorance of the law does not excuse anyone

Social Security Legal Clinic

Social security legal clinic is focused on practical legal help to clients in the area of social security law. This area of law is very diverse, variable and legal regulation is subject to frequent amendments. Common citizen usually faces troubles linked to orientation in his rights and duties in connection with hard social events occurring to them or their family. Students have the possibility to get to know this area of law from the practical point of view, to prepare for providing legal help, to inform broad public and mainly the socially weak on the options of social protection in specific hard situations. Within the framework of the legal clinic, collaboration shall be instituted with the Regional Court of Ostrava's branch in Olomouc where the administrative court operates. During their practice here, the students may study court files regarding the review of administrative bodies' decisions in the matters of social security and they may also work on brief opinions.

Student Laboratory of Human Rights

Elective course called Student laboratory of Human Rights follows compulsory subjects Fundamental Rights 1 and Fundamental Rights 2 and Public International Law and it is supposed to provide students with opportunity for checking and practicing acquired knowledge and skills.

The work within the subject is divided into two parallel activities. The first one consists of simulated resolution of current human rights cases, detailed monitoring of decision making of international human rights protection bodies (ECHR, ACHR, IACHR, UNHRC, HRC, DESCE, CERD) and practical training of procedural rules of operation of human rights oriented international bodies. The second one consists of resolving current human right issues arising in the Czech Republic.

Partners of Centre for clinical legal education, non-profit organizations (e.g. Human Rights League), participate on this activity.

Moot Court Activities

Moot court is the English term for simulation of court proceedings. In our country, this activity is most commonly known as a students' competition in proceedings before a court. However, Moot court does not mean only the competition. In the English speaking countries, it primarily represents activity which is a years-long regular part of legal education. It covers various stages of court proceedings from the parties' legal representatives point of view, namely from preparation of the written submissions to presentation of their client's arguments before a court.

Law Faculty of Palacky University in Olomouc allows the students to join both of these forms. Firstly, they encounter drafting a legal document for a hypothetical client during Legal Skills Course in the end of which, they have an opportunity to defend their client's interests before a court. Legal Skills Course moot is usually held in civil law and constitutional law sections.

Furthermore, Law faculty supports its students in various domestic and prestigious international competitions in court proceedings and for many years, even in simulation of arbitration. Olomouc law students have been participating at Philip C. Jessup International Law Moot Court Competition or Willem C. Vis International Commercial Arbitration Moot for several years. They are international competitions with a long-lasting tradition and participation of teams from all around the world. Our experience proves that even though they are held in English, hard work and tough preparation of our students makes them quality opponents for other schools. Apart from that, there are many moot courts held at the faculty, organized by the student association ELSA, partner of the project.

Conclusion

Clinical Legal Education at the Faculty of Law of Palacky University Olomouc has many forms that allow students to choose the way of education and the sphere of law that they are interested in. The main goal of CLE in Olomouc is to continue in the way that was established in 2002. Students shall get knowledge and skills that enable graduates to be good practitioners. Clinic legal education at the Faculty of Law of Palacky University Olomouc include both compulsory and optional courses, teachers try to found new clinics according to the interest of students and to the current matters. We hope the way we started is a good beginning for the following work.