

**Abstract**

*Some of the most successful examples of current clinical legal education involves countries from Central and Eastern Europe. This chapter contains contributions from Croatia; the Czech Republic and Slovakia; Poland and Ukraine. Clinics in these countries have developed their own individual approaches while also benefiting from local examples of how to shape and structure clinical experiences for students and services for clients.*

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# Clinical legal education in Central and Eastern Europe

Alan Uzelac, Maxim Tomoszek, Veronika Tomoszkova, Filip Czernicki and Mariia Tsypiashchuk

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## Introduction

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Some of the most successful examples of current clinical legal education (CLE) involves countries from Central and Eastern Europe. This chapter contains contributions from Croatia; the Czech Republic and Slovakia; Poland and Ukraine. Clinics in these countries have developed their own individual approaches while also benefiting from local examples of how to shape and structure clinical experiences for students and services for clients. Clinics in the Czech Republic drew lessons from Polish clinics, which in turn had benefited from the experience of South African clinicians and clinical models. The Zagreb legal clinic was inspired by the student-led Juss-Buss model from Norway.

Maksym Lodzhuk's 2016 book on CLE provides a valuable introduction to clinics in this region. His historical account draws on experiences from a broad range of countries.<sup>1</sup> After the fall of the Berlin Wall (between the mid-1990s and the early 2000s), a veritable CLE boom

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<sup>1</sup> Maksym Lodzhuk, *Legal Clinics in Ukraine: From Legal Education to Legal Practice* (Odesa Feniks, 2016). Available at [https://legalclinics.in.ua/wp-content/uploads/2016/05/Lodzhuk\\_Legal\\_Clinics\\_monograph.pdf](https://legalclinics.in.ua/wp-content/uploads/2016/05/Lodzhuk_Legal_Clinics_monograph.pdf)

followed in Central and Eastern Europe. This boom was largely triggered by substantial funding from U.S. donors (e.g. the Ford Foundation, the American Bar Association's Central and East European Law Initiative and the Open Society Foundations) and international organizations (e.g. UNHCR). However, many of the early clinics proved unsustainable when external funding ended in the early 2000s. During this time, however, a foundation was laid for the future development of CLE in Europe.<sup>2</sup>

Rick Wilson identifies three key factors leading to the widespread adoption of clinical and other experiential methodologies in European law schools: first, the establishment of national clinical networks in a striking number of countries; second, the Bologna reform process creating new space for curricular reforms such as clinics and third, new clinics in the East pushing 'the staid and traditional methodologies of Western Europe' towards reform.<sup>3</sup>

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<sup>2</sup> Philip Genty, 'Reflections on US Involvement in the Promotion of Clinical Legal Education in Europe' in Alberto Alemanno and Lamin Khadar (eds), *Reinventing Legal Education. How Clinical Education Is Reforming the Teaching and Practice of Law in Europe* (Cambridge University Press, 2018) 29.

<sup>3</sup> Richard Wilson, *The Global Evolution of Clinical Legal Education* (Cambridge University Press, 2018) 191–192.

## Croatia – a peculiar case of Zagreb law clinic

Alan Uzelac

### The context

Arising from the socialist legal tradition, legal education in Croatia and other successor countries of former Yugoslavia used to be chronically theoretical, based on ex cathedra lecturing and learn-by-heart exams, with little, if any, resort to concrete cases and practical examples. The oldest and the biggest of four Croatian law schools is the Faculty of Law of the University of Zagreb. Its sheer size (an institution of mass study with over 4,000 undergraduate and graduate law students) and its long tradition (established in 1776) proved to be more of a burden than encouragement for curricular reforms.<sup>4</sup>

### Linking legal aid and student work as essential ingredients of a law clinic

The concept of the Zagreb Law Clinic, as an integral, client-oriented, autonomous student organization participating in providing legal aid, emerged gradually and partly accidentally as a product of several coincidences. Some of these transcended issues related to legal education, tackling general problems with securing adequate access to justice.<sup>5</sup>

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<sup>4</sup> On history and tradition of the institution see [www.pravo.unizg.hr/en/faculty-of-law-zagreb/tradition/](http://www.pravo.unizg.hr/en/faculty-of-law-zagreb/tradition/).

<sup>5</sup> See more in Alan Uzelac and Barbara Preložnjak, 'The Development of Legal Aid Systems in the Western Balkans. A Study of Controversial Reforms in Croatia and Serbia' (2012)

In the early 2000s, access to justice was high on the agenda, partly due to a series of progressive decisions of the European Court of Human Rights that triggered reforms in countries like Ireland and Great Britain. Additionally, the transition to capitalism in almost all transition countries caused social issues that affected the ability of a sizable part of society to grapple with numerous legal challenges. Consequently, the issues related to legal aid became a noted part of the rule of law benchmarks. As Croatia opened EU accession negotiations in 2003, it instantly faced another hurdle in the context of the most difficult negotiations chapter, Ch. 23 on judiciary and human rights. It needed to create a practical and functional legal aid system, replacing ad hoc international assistance.<sup>6</sup>

When Croatia, pushed by EU negotiators, started to draft its first Legal Aid Act, student law clinics were included as organizations that would join the efforts of other legal aid providers from the civil sector. As the latter were overwhelmed with work and law schools were (at least in theory) craving for practical elements in education, linking law clinics and legal aid was a win-

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38(3–4) *Kritisk Iuss. Utgitt av Rettspolitisk Forening (Liber amicorum – Jon T. Johnsen)* 261–287.

<sup>6</sup> See *EU Commission Screening Report Croatia. Chapter 23- Judiciary and fundamental rights*, at 25: ‘an integrated legal aid system for both criminal and civil proceedings still needs to be put in place and training and funds provided for its implementation’.  
[https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/screening\\_report\\_23\\_hr\\_internet\\_en.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/screening_report_23_hr_internet_en.pdf).

win, a natural and logical move that contributed to the strategy of creating an integrated, cooperative legal aid system.<sup>7</sup>

After a few years of intense discussions, the Legal Aid Act of 2008 (LAA)<sup>8</sup> recognized law clinics as part of the national legal aid system, albeit reduced to the provision of ‘primary’ legal aid (i.e., legal advice and information, excluding in-court representation of clients). In Art. 14 LAA, law clinics were defined as ‘units of high educational institutions offering university study of law that provide primary legal aid according to their rules and regulations’. Thereby, law clinics were legitimized in providing legal assistance to live clients, becoming also eligible to get registered for that purpose by the Ministry of Justice. Potentially, they also became eligible for state funding of a part of their work.

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## Comparative influences: a Norwegian example as an inspiration for the European South

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The enactment of the statutory basis for legal aid clinics only resolved a minority of challenges.<sup>9</sup> In 2008, no live-client clinics existed in the region. The environment was also not optimal for

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<sup>7</sup> On theoretical legitimation of combining clinical education and legal aid work see inter alia Omah Madhloom and Barbara Preložnjak, ‘Applying Rawls’ Theory of Justice to Clinical Legal Education in the Republic of Croatia’ in Omar Madhloom and Hugh McFaul (eds), *Thinking About Clinical Legal Education* (Routledge, 2022) 104.

<sup>8</sup> *Zakon o besplatnoj pravnoj pomoći*, Off Gaz 62/2008.

<sup>9</sup> On various unresolved problems see Juraj Brozović, ‘Transformation of the Croatian Legal Aid System: From Normative to Functional Insufficiency’ in Alan Uzelac and C. H. van Rhee (eds), *Transformation of Civil Justice, Unity and Diversity* (Springer, 2018) 267;

innovation, due to the hostile stance of the national bar, which vehemently opposed and even constitutionally challenged any idea that legal aid and assistance may be provided by anyone except registered advocates. Most importantly, there was little knowledge and experience in the organization and functioning of a live-client law clinic – and that was quite a challenge in the context of the sensitive and inert framework of university institutions.

Fortunately, Professor Jon T. Johnsen was able to introduce us to Juss-Buss, an independent live-client law clinic operated by Oslo University students. The Juss-Buss example served as an inspiration for development of the Zagreb law clinic.<sup>10</sup> The influence of the Norwegian model is to be found in the idea that students need to enjoy broad autonomy, participate in all strategic and organizational decisions and be independent in their work as much as possible. In practice, the solutions adopted in the Zagreb law clinic were in many details different from the Oslo role model, but there was the same wish to create a clinic where students would feel at home, develop a sense of ownership in respect to their Clinic, feel empowered and be ready to take responsibility for their actions and the results of their work.

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## The organization

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see also Jon Johnsen, Georg Stawa and Alan Uzelac, *Evaluation of the Croatian Legal Aid Act and Its Implementation* (Human Rights Centre – Centar za ljudska prava, Zagreb 2011).

<sup>10</sup> My first visit to Juss-Buss took place in August 2010, on the margins of a conference at Oslo University dedicated to human rights, access to justice and judicial development in Europe and developing countries.

## **Hybrid nature of the clinic as a semi-curricular and semi-voluntary activity**

Finding an adequate place within the curriculum was a great practical challenge. There was already a reserved spot for practice-based learning in the winter semester of the final year of study with one-third of credits for that semester available for some form of practical work.

However, for a few important reasons, it was also impossible to establish the clinic as a fully curricular activity. First, as the curriculum provided credits only for the winter semester, opening the clinic in winter and shutting it down in summer seemed incompatible with the need for continuity in serving the clients. For a serious institution, it was clear that the doors of the clinic needed to be open for the users and for the processing of their cases throughout the whole year.

Second, a period of one semester – based on Oslo’s experience – was regarded as too short for the students to fully adopt methods of clinical work and acquire skills necessary for independent work. Thus, the clinic needed the further participation of at least a sizable proportion of those who had already mastered the basics and finished the mandatory part of the curriculum, this time in the role of mentors and group leaders. This structure enabled the passing of knowledge from one generation of clinic students to another on a peer-to-peer basis, without the need for engaging teachers or special outside instructors (which would also have an adverse effect on the autonomy and the sense of ownership by student clinicians).

Third, the pool of students eligible to enrol in the clinic and acquire clinical experience would be too narrow and limited, since many students who reach the final year (and their number is much smaller than in previous years) have other obligations or wish to experience a different form of CLE (e.g., participate in a moot court competition). Instead, it was also a practical necessity to allow and encourage students from their second year onwards to join the clinic on a voluntary basis significantly before enrolling in the fifth year of their study. Naturally, those who enrolled earlier would be eligible to stay longer in the clinic on a voluntary basis.



Volunteering in the clinic created much higher motivation for students and enabled the senior clinicians to assume administrative roles in the institution. Clinicians also selected the students who joined the clinic, taking into account their wish to contribute and volunteer and distributing them among the groups according to their needs.

Volunteering also made the participation of the clinic in project bids and funding calls more legitimate, avoiding the objection that its work, as it belongs to the curriculum, needs to be funded exclusively by the law school. Volunteering also pays off in the sense that former students, after leaving the law school, show a significant tendency to remain in touch with the clinic. Many of them continue to volunteer as external mentors who are essential for the quality control of the advice provided by the clinic. **11**

In result, in relation to the legal curriculum, the clinic is a hybrid form, which recognizes clinical work as an integral part of formal studies in law but at the same time preserves the key advantages of voluntary and activist pro bono work. While there are no formal means to force the students to stay in the clinic for more than one semester, less than one-third of them leave after completing the 'curricular' part, a relative majority (about 40%) stay for two semesters and more than a few remain active in the clinic for two or more years. Indeed, the active voluntary contribution is being rewarded by individualized certificates that certify a contribution to the work of the clinic, and every year the ten students who most excelled (according to the judgment of their fellow students) acquire special awards.

In the legal community, those who decide to expand their experience and practical skills by remaining active in the clinic for more semesters have been recognized on the labour market. Our research on the employability of former student clinicians confirmed the hypothesis that

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**11** On importance of volunteering and its compatibility with best practices in clinical legal education see Barbara Bilić, Tena Čupić and Janko Havaš, 'Hrvatska pravnoklinička iskustva u svjetlu dobrih europskih praksi' (2019) 53(1) *Pravnik* 101.

clinical experience has a direct impact on employment and the acquisition of necessary communication and social skills.<sup>12</sup>

## Internal organization and (soft) specialization

As the formal leader, I have been striving to leave as much autonomy to students as possible, restricting my role and the role of my closest associates to support, representation in outside projects, funding, logistical tasks and occasional strategic advice.

In total, at any given point in time, about 100 students participate in the work of the clinic. Internally, clinical work is divided among several clinical groups which are composed of about eight to 12 students per group. The groups have the focus on specific vulnerable groups and their most frequent cases: asylum seekers, victims and witnesses of crime, workers, children, medical patients, minorities and citizens in debt-collection proceedings. However, as the caseload of different categories differs, in principle all groups also receive cases that do not fit their ‘specialization’, but the group focus remains important for strategic and policy work and

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<sup>12</sup> Alan Uzelac and Juraj Brozović, ‘Increasing employability of law graduates by introducing live-client clinics: The experience of Law Clinic Zagreb’, in *Enemlos, A Guidebook on Best Practices in Running Live Client Clinics for the Academic and Non-Academic Community* (2023) 11–24; see also Alan Uzelac, Juraj Brozović and Ema Basioli ‘Utjecaj prakse u Pravnoj klinici Pravnoga fakulteta u Zagrebu na zaposlenje nakon završetka studija’ in Loris Belanić and Dana Dobrić Jambrović (eds), *Unaprjeđenje kvalitete studiranja na pravnim fakultetima u Hrvatskoj* (Pravni fakultet, 2019) 69.

Street Law projects. There are also a few cross-cutting groups, such as a PR group and the editorial board of the clinical bulletin.<sup>13</sup>

The flexible organization of the clinic enabled a quick adjustment to changed circumstances. During the outbursts of the migrant crisis, the clinic managed to conclude agreements with authorities that enabled active assistance to migrants and asylum seekers. Another example of quick reaction was the instant formation of a special group for assistance to citizens affected by natural catastrophes. It was formed after two massive earthquakes that hit Croatia in 2020 (one damaging the premises of the clinic as well). In a short time, handling many citizens' queries, the group acquired significant expertise, which often exceeded the expertise of competent state bodies.

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## The achievements

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### Legal aid work

Between 2010 and 2023, the Zagreb law clinic received and resolved over 20,000 cases (i.e., between 500–100 cases per semester, on average between 100–200 per month). As about one-third of its clients return for more advice, it is estimated that the clinic served about 15,000 citizens. They are not limited to the population of Central Croatia. Using the Juss-Buss model, straight from the beginning, the clinic developed mobile clinical rounds. In up to ten rounds per year, a small group of students visit 15 to 20 cities and villages, many in underdeveloped parts of the country. In 2023, almost one-half of clinical cases originated from the mobile clinics (412 in

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<sup>13</sup> More on this development in Juraj Brozović, 'Zagreb Law Clinic, 10 Years of

Transformations' (2021) *Pro Bono International*, 6.

total).<sup>14</sup> According to the annual reports of the Ministry of Justice and Administration, the Zagreb law clinic is among the five most active providers of primary legal aid in the Republic of Croatia.<sup>15</sup>

About half of clinical cases result in an elaborate written legal opinion that analyses the client's legal problems, offering advice and solutions. The opinions are the product of group work and are verified at several levels, in which the assigned reporter, senior clinicians, student mentors, student administrators, members of the respective group and an external mentor participate. Every legal opinion issued by the clinic is reconfirmed by a qualified person (a member of the teaching staff or an external lawyer) before it is delivered to the client. The quality check by external lawyers is also provided on a pro bono basis, often by younger lawyers who are clinical alumnus. Simpler and routine cases end in the provision of relevant legal information, which is also recorded in writing but delivered more quickly as it is not subject to external scrutiny. Internally adopted standards define the desired timeframes for the delivery of specific forms of advice, which are regularly monitored. The clinic is insured against

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<sup>14</sup> Excerpts from the 2022/23 Report submitted to the Faculty Council; see also Marta Ćurić and Domagoj Zidarević, 'Statistical Review of the Work of the Law Clinic Zagreb from 2010 to 2021' (2021) *Pro Bono International* 12; Matea Katinić, 'Ten years of Outreach Projects' (2021) *Pro Bono International* 15.

<sup>15</sup> See MoJ Report for 2022 [www.sabor.hr/sites/default/files/uploads/sabor/2023-10-12/164601/IZVJ\\_PRAVNA\\_POMOC\\_2022.pdf](http://www.sabor.hr/sites/default/files/uploads/sabor/2023-10-12/164601/IZVJ_PRAVNA_POMOC_2022.pdf) 34–36.

professional negligence, but in the whole period of its existence none of the issued advice ever got challenged for the lack of its quality.<sup>16</sup>

## Collaborations and awards

During its short history, the Zagreb law clinic has concluded about 50 agreements on cooperation with various organizations, including governmental bodies (e.g., ministries and ombudsman offices), units of local self-government and, most notably, numerous civil society organizations. Some of the most important agreements include the agreement with the City of Zagreb (which sponsors some clinical activities) as well as regular agreements on the delivery of legal aid concluded on the basis of the tenders called by the Ministry of Justice and Administration (the latter is used mainly for financing mobile clinics).<sup>17</sup>

The clinic and its leadership participated in numerous national, international and European projects. In the early stages, the clinic was supported by the rule of law programs of British, Dutch and Norwegian embassies. This support enabled the exchange of visits and broadening of comparative knowledge by exploring clinical landscapes in these countries.

The achievements of the Zagreb law clinic over time attracted nationwide and international attention. In 2016, the clinic received the annual award of the most important

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<sup>16</sup> On practice and methods in the clinic see also in Juraj Brozović, ‘Combining Simulations and Live-Client Clinics in Addressing Cross-Cutting Topics: The Best of Both Worlds’, in Oskar J. Gstrein et al (eds), *Modernising European Legal Education* (Springer, 2023) 125.

<sup>17</sup> See more in Slađana Aras Kramar and Barbara Preložnjak, ‘Clinical Legal Education and Importance of Cooperation with Non-governmental Sector, State Bodies and Entities’ in

Croatian think-tank, the Centre for Democracy and Law Miko Tripalo,<sup>18</sup> for its achievements in the promotion of legal, political and social equality of citizens, as well as for raising human rights consciousness and assisting vulnerable social groups. Two recent EU-funded projects used the know-how of the clinic as a role model and example of best practices in the development of modern legal education.<sup>19</sup>

In the past ten years, all Croatian law schools have adopted models of live-client clinics that follow mutatis mutandis the Zagreb model.<sup>20</sup> The first to follow was the Osijek Pro Bono, a general live-client drop-in legal advice clinic established at the Faculty of Law of the Osijek University in 2013.<sup>21</sup> Osijek law school also has the Legal-Economic Clinic, which is providing free advice to SMEs in collaboration with the Osijek Faculty of Economics.<sup>22</sup> In 2014, the Legal Clinic of the Faculty in Split was established.<sup>23</sup> The last clinic that adopted live-client

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<sup>18</sup> See at <https://tripalo.hr/en/2016-miko-tripalo-award-given-to-the-legal-clinic/>.

<sup>19</sup> Modernising European Legal Education. Available at <https://mele-erasmus.eu/> and Enhancing the Employability Of Law Students Through Practical Education. Available at [www.enemlos.ucg.ac.me/](http://www.enemlos.ucg.ac.me/).

<sup>20</sup> Barbara Bilić, Tena Čupić and Janko Havaš, 'Hrvatska pravnoklinička iskustva u svjetlu dobrih europskih praksi', cit., 101.

<sup>21</sup> See <https://klinika.pravos.unios.hr/>. Since inception the leader of Osijek clinic is Zvonimir Jelinić.

<sup>22</sup> See [www.pravos.unios.hr/pravno-ekonomska-klinika/](http://www.pravos.unios.hr/pravno-ekonomska-klinika/). The clinic is led by Dubravka Akšamović and Lidija Šimunović.

<sup>23</sup> See [www.pravst.unist.hr/o-fakultetu/pravna-klinika/](http://www.pravst.unist.hr/o-fakultetu/pravna-klinika/).

work was the Legal Clinic – Centre for Primary Legal Aid of the Faculty of Law in Rijeka, established as the result of an EU project in 2021.<sup>24</sup>

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## The challenges

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### Past challenge(s)

As always, the key challenge to a successful clinical initiative is its sustainability. To achieve sustainability, it is essential to secure five essential conditions: steady interest and a high level of motivation of students; continuous influx of cases; adequate space and logistical environment (including usual office utensils and an appropriate filing and case management system); smooth case processing with sufficient quality control; adequate financing of clinical work and steady institutional support of the home university institutions.

The Zagreb law clinic faced quite a few crises in respect to some of these essential conditions. I would single out the issues related to space and logistics and financing. From the beginning of its work, the clinic moved its headquarters three times. Every time it was a demanding operation, coping with a lot of uncertainties that included earthquakes, pandemics and lawsuits. Current offices, found in the last moment before eviction, are in temporary lease and are a bit cramped but, by and large, still adequate.

Securing appropriate financing has also been a continuous challenge that demanded a lot of attention.<sup>25</sup> While the home institution (the law school) did provide basic support, without

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<sup>24</sup> See <https://praxisiusuris.eu> and < <https://pravri.uniri.hr/hr/o-fakultetu/centri/153-hr/o-fakultetu/centri/1968-pravna-klinika.html>

<sup>25</sup> More on finances see in Barbara Preložnjak and Juraj Brozović, ‘The Financial Challenges of Clinical Legal Education: An Example from a Zagreb Law Clinic’ (2016) 23(4) *International Journal of Clinical Legal Education* 136.

external financing it would be extremely hard to sustain and develop many activities (and impossible to maintain students' autonomy and relative independence from local university decision-makers). The spirit of volunteering and the self-policing in case handling helped to keep the financial demands down, as the only members of the clinic who receive a small financial honorarium are four student-administrators (all internal and external mentors, as well as the leadership, work pro bono). However, mobile clinics, publications, travel expenses for Street Law and policy work, as well as the costs of telecoms, office equipment and the case management system, still accumulate and need to be covered.

While successful in many bids, the clinic is sometimes limited in fundraising by its status (as a law school unit, it is not eligible for many projects open to NGOs) and sometimes by its activism (e.g. due to the critical stance towards the policy of the authorities, its application for legal aid financing was on one occasion rejected by the Ministry of Justice). So far, fortunately, ways were found to overcome all these challenges and continue successful work.

## **Current challenge: will 'improvements' suffocate the concept?**

Despite all its achievements, the Zagreb law clinic throughout the period of its existence remains a peculiar institution. It is indisputable that its form of CLE corresponds to the highest standards of clinical legal education, indicated in the 2022 ENCLE Quality Standards for Legal Clinics (experiential learning which promotes social justice, the use of practice-oriented, student-centred, problem-based methods and practical work on real cases). It is an 'educational organizational unit applying clinical legal education methodology providing services to clients', but all of that happened despite, not because of, the environment in which it originated. The tradition in law schools of the region remains cantered on the preservation of the old, deductive, paternalistic and autocratic methods of legal teaching and scholarship. For many colleagues, the Zagreb law clinic has been more of a systemic irritant than a milestone for future transformation.



In the university context, it is perceived as too democratic, too autonomous and too critical – at least as an unwelcome reminder that visits to courts, hypothetical dealing with legal issues that interest only law professors or mingling with legal professionals cannot deserve the label of a ‘law clinic’. The events that took place in the fall of 2023 corroborate this statement.

In 2022 and 2023, the Zagreb Law School was undergoing reaccreditation. Before the publication of the final report of the international team of reviewers, the new dean announced that the reaccreditation results demand significant ‘improvements’ in the organization and operation of the law clinic. While the Faculty Council did not support his proposed candidate, he used his executive prerogatives to evict the longstanding team that was running the clinic, appointing temporary leadership of the clinic.

The final reaccreditation report singled out the clinic as the first on a shortlist of best practices identified at the law school.<sup>26</sup> But, a cursory note that suggested the inclusion of even more students in various clinical legal activities created a pretext for the dean’s conclusions that the clinic needs a ‘fresh start’, mandatory participation of students, closer inclusion in the academic curriculum and integration with the other academic activities (it was suggested that the current clinic is a *corpus separatum*). The old truth that (university) politics is complex and cumbersome has been confirmed, as the really serious criticisms pointing to a rigid and inadequate academic curriculum, excessive dropout rates, inappropriate relationship towards students, teaching and exams etc. are being treated as less significant matters. Without a doubt, the work of the clinic will be ‘improved’: CCTV has already been installed for the supervision of the students, self-governance is reduced to naught and the clinicians are starting to feel the strain of strict hierarchical leadership. Time will tell what will remain of the original clinical model and whether the peculiar case of the Zagreb law clinic will become history or whether it will find

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<sup>26</sup> Accreditation Report. Available at [https://baza.azvo.hr/addons/download/download-open.php?cat1=1&cat2=1128&file=Final\\_Report\\_Form\\_Faculty\\_of\\_Law\\_University\\_of\\_Zagreb.pdf](https://baza.azvo.hr/addons/download/download-open.php?cat1=1&cat2=1128&file=Final_Report_Form_Faculty_of_Law_University_of_Zagreb.pdf), p. 12.

strength to survive and/or resurface in the same place or in some other places in South-Eastern Europe that will embrace it as a role model.

## Clinical legal education from the Czechoslovakian perspective

Maxim Tomoszek and Veronika Tomoszkova

### Introduction – history and development

The focus of legal education in the Czech Republic and Slovak Republic (historically referred to together as ‘Czechoslovakia’) was traditionally on teaching the content of the law, meaning primarily statutes and doctrine based on textbooks or commentaries.<sup>27</sup> The practice-related study including lawyering skills and professional ethics was with a few exceptions not part of the curriculum of any Czech or Slovak law school. We remember our frustration when studying law in Olomouc during the late 1990s and early 2000s – there was not enough law to study at the beginning (we started with history, sociology, psychology etc.), and once we finally got to the law content there was not enough practical teaching through the rest of our studies. At that time there were also very few opportunities for law students to do internships in law firms, at courts or otherwise experience the practice of law. You had to wait till you graduated and then start an

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<sup>27</sup> Alemanno and Khadar conclude the same for most European law schools: ‘Traditionally, European Law schools focus on defining and teaching the content of the law and leave the practice-related study to postgraduate courses or apprenticeships’. Alberto Alemanno and Lamin Khadar (eds), *Reinventing Legal Education: How Clinical Education Is Reforming the Teaching and Practice of Law in Europe* (Cambridge University Press, 2018) 17.

apprenticeship leading to becoming a member of the respective profession (after passing the separate bar exam for the relevant branch of the legal profession – attorney, judge, prosecutor, notary or later bailiff).<sup>28</sup>

In Czech Republic and Slovak Republic, there were several initiatives during the 1990s and early 2000s aimed at implementing practical methods of legal education and introducing public interest law.<sup>29</sup> Most of the early attempts to reform the law curriculum were conducted on a small scale and thus rather experimental, with the majority being discontinued, primarily after the external funding was stopped.<sup>30</sup> At the Czech law schools these early attempts focused on setting up legal clinics as practical seminars taught by practicing lawyers with the possibility of students gaining practical insights through an externship. The Slovak law schools chose the path of establishing Street Law programs aimed at raising legal awareness of various groups of

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<sup>28</sup> We reflected on this context already in Vendula Bryxova, Maxim Tomoszek and Veronika Vlckova, ‘Introducing Legal Clinics in Olomouc, Czech Republic’ (2006) 10

*International Journal of Clinical Legal Education*, 149.

<sup>29</sup> See Edwin Rekosh, ‘Who defines the public interest? Public Interest Strategies in Central and Eastern Europe?’ (2005, July) 1 *PILI Papers*.

<sup>30</sup> Reflection on reasons for failure of these initiatives in Central and Eastern Europe are summarized by Ed Rekosh and Philip Genty and they apply also in case of early Czechoslovakian attempts to establish legal clinics at public law schools. See Edwin Rekosh, ‘Constructing Public Interest Law: Transnational Collaboration and Exchange in Central and Eastern Europe’ (Spring 2008) 13(1) *UCLA Journal of International Law and Foreign Affairs* 88–89. Philip M. Genty, ‘Reflections on US Involvement in the Promotion of Clinical Legal Education in Europe’ in Alemanno and Khadar (n 25) 33–35.

citizens. However, a recent overview of development of clinical programs in Slovakia mentions there was a simulated legal clinic of corporate law at the Faculty of Law of Comenius University in Bratislava from 1996, a live-client clinic from 1998 and an NGO clinic from 2002.<sup>31</sup> These early attempts were closely connected with educational activities of various non-governmental organizations (NGOs) which since the early 1990s have promoted law reform in Czechoslovakia with significant support and funding from abroad.

At that time, many NGOs were established or joined by young university graduates including graduates from law schools who wanted to contribute to building a strong civil society in the post-Communist Czechoslovakia. The new Czechoslovakian democracy needed new elites including lawyers who would strive to protect democratic values and human rights. NGOs set up their own educational programs such as the School of Human Rights (Škola lidských práv) organized by the Ecological Law Service and League of Human Rights in the Czech Republic since 1999 and the similar project organized by the Citizen and Democracy in Slovakia Foundation. The NGOs also supported changes in the curriculum of the Czech and Slovak law schools via partnering with universities in joint projects to set up legal clinics or Street Law programs.

At the Charles University in Prague Faculty of Law, the first legal clinic which was set up with financial support from the Open Society Foundation was the refugee law clinic, and the partner NGO responsible for the practical aspect of the clinic was the Organization for Aid to Refugees (OPU). Later, a strong Street Law program was developed along with other practical courses including a robust externship program and compulsory skills course for the first-year

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<sup>31</sup> Barbora Grambličková, Mária Patakyová, Miroslav Lysý and Ústav klinického právneho vzdelávania in Martin Gregor, Miroslav Lysý and Martincová, Lenka (eds), *Dejiny Právnickej fakulty Univerzity Komenského* (2: Katedry a ústavy). Rozhovory. (190–202). (Právnická fakulta UK, 2022) 193–196.

students. At Masaryk University in Brno, the faculty of law established a children's rights clinic with local NGOs which, however, was not sustained. Several subsequent attempts to set up clinical courses (refugee clinic, human rights clinic etc.) were likewise not sustainable with the exception of a Street Law program.

In Slovakia, all four public law schools started in the early 2000s with setting up Street Law programs. Later on, in 2016 all four public law schools received funding from the Slovak Ministry of Education, Science, Research and Sport for establishment of clinical programs, so the legal clinics quickly proliferated, some of them too quickly and simply to spend the funding. The title 'legal clinic' became very popular, so every department set up their own legal clinic (civil law clinic, tax law clinic etc.). Specialized departments for CLE were established, but with clinical courses scattered over other departments it became very hard to manage and oversee the teaching quality.<sup>32</sup> It caused internal tensions, but in the end, all four public law schools in Slovakia have sustained clinical programs including the original Street Law courses.

Palacký University in Olomouc, Faculty of Law took a different path. It was set up after the change of political regime (1991) during an enthusiastic period in which the university as well as the law faculty management sought consultations on the new law school's curriculum primarily abroad among scholars and practitioners from the U.S. and Western European countries. It was supposed to be an elite law school aligned with the best foreign practices with strong accentuation of teaching foreign languages and teaching in foreign languages with many visiting professors from abroad. Legal clinics were in the picture from the very beginning with

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<sup>32</sup> Consultations with our colleagues Daniela Lamačková from Košice and Mária Havelková from Bratislava.

leading U.S. clinicians visiting Olomouc. Due to several coinciding factors, the original live-client clinic operated only in the academic year 1996/97.<sup>33</sup>

The key issue was that the supervisor of the clinic was a practising attorney, without a formalized position within the faculty of law and without previous practical experience of running and supervising a legal clinic. The study visit to U.S. legal clinics provided her with some insight, but overall the first (pilot) run of the clinic had only limited impact (few clients, lack of court cases), therefore the external funding stopped and, without it, the supervisor stopped her involvement. During winter semester of academic year 1997/98, Dean Liberda, who was a main driving force for the modern vision of the Palacký Law Faculty, fell ill, and in January of 1998, he passed away. The faculty of law suddenly had other more pressing issues to deal with, including accreditation, personnel management and election of a new dean, pushing the efforts to continue with the legal clinic to second or even third order of importance.

The first attempt to restart a live-client clinic in Olomouc came in 2002. An attorney from private practice was hired to prepare and supervise the students in providing advice to clients, continuing in this role until 2006. The Palacký Law Faculty was also approached by Czech NGOs (Environmental Law Service and League of Human Rights) who were in contact with Prof. Edwin Rekosh to set up the first public interest law course in the Czech Republic with support of Public Interest Law Initiative (PILI, later PILnet). This course was taught in 2003/04, and in the following year it was transformed into the Administrative Law Clinic, focusing on environmental and administrative law. In 2006, Palacký Faculty of Law received the first of two grants from the European Social Fund to set up its whole clinical program, including a compulsory legal skills course. The funding enabled clinicians to travel and to actually see for themselves what it is to run a legal clinic. They soon realized the U.S. model of a representation

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<sup>33</sup> See Stefan H. Krieger, 'The stories clinicians tell' (2017) 24(2) *International Journal of Clinical Legal Education* 246.

clinic is not applicable in the full scale and turned for help to Polish colleagues who already had enough experience with adopting a viable and sustainable model of a live-client clinic for a Central European environment.<sup>34</sup>

The key ingredient leading to success of the 2006 initiative to design an effective educational model was the inspiration taken from neighbouring Poland, where the first legal clinic was established soon after Olomouc, in 1997. Because it adapted to reflect the Polish context at that time, the clinic not only continued in Krakow but also spread to every other law school in Poland quickly. The Foundation of Polish Legal Clinics was established, creating and enforcing the standards for university legal clinics, raising funds and organizing conferences. The Polish model of university legal clinics was based on providing written legal advice to clients rather than representing them in court. This model was also adopted in Olomouc and later supplemented by cooperation with the pro bono clearinghouse NGO Pro Bono Alliance, which offered pro bono representation to clients who needed it.

Another important feature of the new initiative, significantly financially supported by the European Social Fund, was the goal to establish a comprehensive system of skills-based and value-oriented education, including not just a live-client clinic but also several simulated clinics, a compulsory legal skills course and optional course on professional ethics. There were many synergies, which helped the newly established clinical program to continue and grow. Involving over ten faculty members ensured continuity even when one or several of them stopped their involvement. A compulsory legal skills course served as a foundation to developing necessary skills and motivation to be involved in clinic. Last but not least, the course on professional ethics enabled the value elements of the clinical program to be developed systematically and continuously supervised as an important part of the whole clinical experience.

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<sup>34</sup> We shared our early thought on redesigning the clinic in 2006. See Vendula Bryxova, Maxim Tomoszek and Veronika Vlckova, 'Introducing Legal Clinics in Olomouc, Czech Republic' (2006) 10 *International Journal of Clinical Legal Education* 149.

Development of the new clinical program coincided with and perhaps contributed to re-establishing the position of Palacký law school among Czech law schools. In 2003, the law school was on the brink of losing accreditation. But with significant efforts to improve the quality of education and going through very innovative re-design of the law school curriculum with emphasis on practical and skills-oriented competences, in 2009 the law school received accreditation for the next eight years.

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## Definition and goal of CLE

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Speaking in broader terms of the Central European region, legal clinics were and probably still are understood in the first place as a very effective educational method, filling gaps present in the traditional curriculum. Universities are still rather struggling with realizing that they should also fulfil their third role, and thus the social justice elements and social impact of legal clinics, although significant, are still not perceived among the leading reasons and benefits of having clinical programme. This is also reflected by the fact that many law schools in Central and Eastern Europe – but also in Western Europe – focus on simulation or, especially in the past five years, policy clinics, rather than live-client clinics.

This approach is quite clearly reflected in the definition of clinical legal education contained in the Quality Standards for Legal Clinics, adopted by the European Network for Clinical Legal Education.<sup>35</sup>

The clinical program at Palacký Law specifically aims to ‘contribute to just society by educating responsible legal professionals, who promote equal access to justice, raise legal awareness and uphold the highest standards of professional values’.<sup>36</sup> The key elements of the mission of the clinical program are twofold: contributing to excellence of law teaching by

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<sup>35</sup> Cross-reference to Chapter 1.

<sup>36</sup> [www.pf.upol.cz/en/cfcle/](http://www.pf.upol.cz/en/cfcle/)



providing students with practical real-life opportunities to apply the knowledge and skills acquired by studying law and at the same time to raise public legal awareness and assist the underserved communities and individuals.

The balance between educational and social justice goals is also reflected in rules of operation of the Student Law Office. The students work under supervision of law teachers or qualified attorneys, which aims to ensure the quality of the legal advice provided, while the educational goals are to be achieved through non-directive supervision aimed at developing professional autonomy of students. Services are provided primarily to individuals who cannot afford paid legal services<sup>37</sup> while excluding criminal cases requiring representation and clients already receiving legal aid from other entities (promoting social justice mission). The educational goals are preserved by the ability to reject any case, for example due to its complex nature, time constraints or capacity of the Student Law Office.

Both the educational and social justice missions are included in more specific goals declared by the mission statement of the clinical program, which provides clear guidance for educational design of all clinical legal education activities: to motivate students to develop a sense of professionalism, ethics and social responsibility and to promote democracy and rule of law; to become good people and outstanding members of their professional and social community and to provide the students with a moral compass for their future careers.

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## **The place of CLE within legal education and the academy**

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In the Czech Republic and Slovakia, clinics are not yet part of mainstream legal education. The establishment of specialized departments responsible for realizing and developing legal clinics and related activities (for example Street Law, professional ethics, skills-oriented courses etc.)

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<sup>37</sup> Based on their solemn declaration.

involves a degree of separation from the traditional curriculum which is organized around related areas of law (civil law, criminal law, administrative law, constitutional law etc.). However, having a department dedicated to CLE and related courses provides stability, institutional framework, funding and human resources, making sure that the clinical program is sustainable and can further develop.

This cross-branch structure, welding together different types of educational goals (or learning outcomes) makes legal clinics attractive even to traditional law teachers and law school management. In Central and Eastern Europe, law is traditionally taught in a very compartmentalized way (criminal law, civil law etc.). Some teachers perceive this traditional approach as insufficient, leading to narrow single-minded thinking by lawyers. Legal clinics provide an opportunity to approach problems in a more comprehensive way, combining different areas of law and thinking outside of the box. Moreover, legal clinics not only combine different branches of law to address certain problems, but students need to apply more than their knowledge and use a range of intellectual and professional skills, starting with communication, research and analysis and finishing with legal writing and, of course, professional values. It is clear from research studies and anecdotal feedback that legal practitioners value general competences (like teamwork, critical thinking) and professional values (empathy, social responsibility) and law schools view legal clinics as one element which helps prepare students for such requirements.

Last but not least, legal clinics also address two recent trends developing in the Czech higher education community, namely promotion of the third role of universities (going, among others, hand-in-hand with the proliferation of service-learning programs) and increased emphasis on the quality of education in terms of innovative teaching methods and development of general academic competences like critical thinking, problem solving or teamwork. Legal clinics can serve as an example of best practices in all these areas. They are probably the best way (in the framework of university-based legal education) of demonstrating what the concept of the helping legal professional means and the basic relevant principles.

Given the relatively small size of the Czech and Slovak clinical community, most of its members are actively involved in international clinical networks or some type of cross-border clinical cooperation. This has helped provide inspiration for innovations and further development of clinical programs. The importance of the Polish model for the Palacký University clinical program was mentioned earlier. Members of the Palacký University clinical team subsequently assisted colleagues from Comenius University in Bratislava in establishing their clinical program.

CLE as a research area is quite underdeveloped in Central and Eastern Europe, perhaps with the exception of Poland, where a dedicated CLE journal exists and some institutions offer CLE as a possible focus of a PhD dissertation. However, speaking about the Czech Republic, academic teachers need to focus on an area of law for further career development, both on the PhD level and associate professor and professor proceedings. CLE-related publications and research either do not count towards achieving these qualifications or at least pose a risk of not being recognized and are not sufficient on their own. This means that clinical faculty still need to dedicate significant research and publication efforts towards doctrinal topics related to one of the recognized branches of law in which they would like to qualify (constitutional law, civil law etc.). Similarly, professional ethics is also still quite a marginal topic. This all means that in Central and Eastern Europe there is only limited writing and research on legal education, clinical methodology and the implementation of professional values in legal education and/or practice.

The absence of local academic discourse means clinicians tend to draw inspiration from international or foreign literature and also publish primarily in international journals or books. While this is not necessarily negative, the absence of well-founded and thoroughly discussed solutions to issues arising at the national level, be it related to interpretation and application of codes of professional ethics or best practices in implementing CLE in the respective national higher education context, presents an obstacle to innovations and evidence-based practice.

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## Legal clinics and technology

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The 2019 introduction of an electronic file management system proved extremely helpful during the pandemic years, where in-person contacts were severely limited or even outright prohibited. The leadership of the clinical program devised a procedure for online communication with clients, using the MS Teams platform.<sup>38</sup> The pandemic experience also transformed the communication between students and supervisors by demonstrating the flexibility of online consultations, which enabled more efficient work on cases.<sup>39</sup>

In terms of confidentiality and personal data protection, the only significant change came from the decision to record the initial online interviews of students with clients, which required client approval. Before the pandemic, clients would most likely not consent to such recording, but during the pandemic all of them agreed. Having the ability to review the recording of the interview allowed some supervisors (not all of them used this opportunity) to provide more detailed and concrete feedback on interviewing and other oral communication skills to students. Under normal conditions, the feedback in clinic mostly focuses on written communication. After the pandemic ended, recording of the initial interviews was discontinued.<sup>40</sup>

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## Future

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Legal clinics in the Czech Republic have a stable position in legal education, mainly ensured by being part of the accredited curricula of law schools. However, application of CLE methodology remains limited to a few select courses and is not a mainstream way of teaching law (like, for example, how the Socratic method would be perceived in the U.S.).

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<sup>38</sup> Grambličková et al (n 31), 158.

<sup>39</sup> Grambličková et al (n 31), 165.

<sup>40</sup> Grambličková et al (n 31), 161.

Future developments are most likely to come in two respects – qualitative and quantitative. The existing courses and initiatives will continue to implement innovative inspirations from abroad to steadily improve the quality of educational process to provide the highest added value to students, faculties and future employers. There is still room for more courses and especially for wider impact on student population. It is becoming a widely respected standard to require completion of at least one practical course during a law degree program.

Legal clinics are a natural way for law schools to fulfil such a requirement.

## **The history and distinctiveness of the Polish Legal Clinics program**

**Filip Czernicki**

### **Introduction**

The legal clinics program grew quickly in Poland with the first clinic established at the Law Faculty of the Jagiellonian University in Kraków in 1997.<sup>41</sup> Twenty-seven clinics were established across the following 8 years. This rapid development was enabled by early recognition of the importance of forward thinking and consolidation of objectives. In late 2001, the existing clinics and their supporters agreed to develop the Polish Legal Clinics Foundation, which took on the duty of strengthening the structure and constructing a platform for cooperating and shaping the future of the clinical movement. The objectives went beyond ensuring financial stability to include bringing together the efforts to enhance the clinics' position in the academic

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<sup>41</sup> Richard Wilson mentions Jagiellonian University Legal Clinic among 'the best in the European and Commonwealth of Independent States regions' – Richard J. Wilson, 'Training for Justice: The Global Reach of Clinical Legal Education' (2003–2004) 22 *Penn State International Law Review* 421, 427.

and legal communities and searching for a formula to inscribe legal clinics into the Polish legal system.

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## History in outline

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Prior to the first Polish legal clinic being established on 1 October 1997, a conference on the clinical teaching of law organized by the American Embassy and the Polish office of the Organization for Security and Cooperation in Europe was held at the Jagiellonian University. In the beginning of 1998, the Faculty of Law and Administration of Warsaw University started a lecture entitled ‘Legal clinic’, thus calling to life a second legal clinic in Poland.

The European Law Students’ Association (ELSA) Poland has had considerable influence on the development of the law education system.<sup>42</sup> In May 1998 in Szczecin, ELSA organized a conference entitled ‘Reform of Legal Education: The Development of the Idea of Legal Clinics’, which saw a serious discussion concerning the development of clinical teaching in Poland. The seminar served well to publicize the idea, as it was organized together with the National Convention of the Polish Lawyers’ Association and the National Convention of Law Faculty Deans. The Szczecin meeting gave impetus to the development of clinics in Poland. Clinics now operate at all of the state-owned law faculties, located in the following cities: Kraków, Warsaw, Białystok, Toruń, Poznań, Lublin, Rzeszów, Katowice, Opole, Słubice, Gdańsk, Wrocław, Łódź, Olsztyn and Szczecin.

On 11 June 2001 during a meeting of the representatives of all Polish legal clinics, it was first proposed to establish a foundation. A foundation statute was drafted by a team of the Jagiellonian legal clinic and submitted to all the legal clinics for consultation. In December 2001,

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<sup>42</sup> Information about the legal education reform in Poland can be found in an article of prof.

Izabela Kraśnicka, ‘Legal Education and Clinical Legal Education in Poland’ (2008) 13

*International Journal of Clinical Legal Education* 47–55.

three Polish legal clinic representatives participated in a study visit to the Republic of South Africa, where the clinical teaching program had been successfully developing since the early 1970s. The visit was designed and organized by the Public Interest Law Initiative (PILI) (now PILnet)<sup>43</sup> affiliated at that time with Columbia University in New York and financed by the Ford Foundation. This study trip provided the opportunity for the Polish legal clinics program to gain important strategic insights from the South African experience. This also assisted the development of the Legal Clinics Foundation.

With the financial, logistical and professional assistance of the Stefan Batory Foundation (in particular the legal program headed by Grzegorz Wiaderek), the plan to establish the Foundation was realized over a period of one year. The Foundation's inaugural Council included members from supporter organizations, the Secretary of the ELSA Lawyers Society and the Office of the Polish Ombudsman. Leading clinicians from various law schools were elected to the Foundation's Board.<sup>44</sup>

On 30 June 2002 the Foundation Council passed Regulations for the Foundation's financial management, standards, a yearly financial plan and the composition of its advisory board. Since its establishment, the board has been responsible for day-to-day management of the foundation, collectively making all operational and strategic decisions.

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## The main activities of the foundation

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<sup>43</sup> [www.pilnet.org/](http://www.pilnet.org/)

<sup>44</sup> For more details, see [www.fupp.org.pl/en/](http://www.fupp.org.pl/en/) and Frank. Czernicki, 'The Polish Legal Clinics Program and the Role of the Polish Legal Clinics Foundation' (2011) 4 *Revista de Education y Derecho*. (Universitat de Barcelona).

Apart from the task of financing legal clinics in Poland, the Legal Clinics Foundation serves to strengthen the potential of CLE for the future. For this purpose, efforts were made to implement and maintain appropriately high standards of clinical education. The foundation has achieved this particular objective through: supporting cooperation between clinics and building a sense of unity, facilitating civil liability insurance agreements, supporting international cooperation in the field of practical legal education, organizing training, conferences, presentations, publishing activity, collecting and processing statistical data about the clinics' activities and propagating the idea of free-of-charge legal assistance. <sup>45</sup>

One of the foundation's first projects was the organization of the Fifth Regional Conference of Clinical Law Teaching held in November, 2002 in Warsaw. The conference was organized by the Open Society Justice Initiative, PILI and the Polish Legal Clinics Foundation in cooperation with the Szpitalna NGO Center, with sponsorship by the Open Society Institute. For the purpose of devising a strategy for the future of legal clinics, participants analysed various legal clinic models, looking at how to best support those and to strengthen existing clinics. Some 70 people from 25 countries participated in the conference with presentations by guests from Hungary, the Czech Republic, Argentina and the USA.

During the first years following incorporation, the foundation focused on fulfilling its duties relating to providing financial and professional support to legal clinics. A wide-scale fund-raising campaign was undertaken. This financed the First Polish Legal Clinics Conference (October 2003) and the publishing of the first Polish textbook on the clinical teaching of law

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<sup>45</sup> Katarzyna Ważyńska-Finck has described the Foundation's work in her chapter, 'Poland as the Success Story of Clinical Legal Education in Central and Eastern Europe: Achievements, Setbacks, and Ongoing Challenges why the Polish clinical movement succeeded' in Alemanno and Khadar (n 27) 44–56.



(translated also into English and later into Mandarin) along with a clinic manual and a series of journal articles and reports.<sup>46</sup>

Furthermore, the foundation obtained valuable in-kind donations which were allocated to those clinics most in need. In 2003, the Foundation introduced a competitive process offering grants to legal clinics which had met the accepted operational standards. These grants were available to finance the employment of secretarial staff, to cover administrative and office overheads and to purchase fixed assets. From 2003 until 2011, the foundation granted legal clinics resources with a total value of around US\$150,000. From 2003 until 2023, the foundation granted in-kind donations of the total value of over US\$900,000.

Beyond grant-related activities, the foundation undertook educational and other activities aimed at strengthening the legal clinics. Early in 2003, a web portal was inaugurated as a channel of communications and of disseminating knowledge on the legal clinics movement. The website contains information not only on the foundation itself but also about related programs and the activities of the legal clinics. Current information is moreover distributed through the [kliniki@googlegroups.com](mailto:kliniki@googlegroups.com) newsgroup. The foundation has also promoted legal clinics in the mass media through interviews and reports from its various projects.

Another important step was a series of visits to all clinics, providing the opportunity to discuss the requirements to meet operational standards, to consult on solving current organizational and formal problems, as well as to build a stable position within faculty structures. These meetings enhanced clinic management skills and strengthened the clinics' position for the future. The foundation also regularly conducts sessions dedicated to legal clinics during the Conventions of Deans of Polish Law Faculties.

A team set up to research ways to embed legal clinics in the Polish law order developed draft laws on legal clinics which are now the subject of consultation with the Foundation Advisory Board and the Ministry of Justice. The foundation participated in a team called by the

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<sup>46</sup> [www.fupp.org.pl/kliniki-prawa/publikacje/ksiazki](http://www.fupp.org.pl/kliniki-prawa/publikacje/ksiazki)

Ministry of Justice to develop the law on legal assistance in a manner that gave due consideration to the nature of the work of legal clinics. It also quickly gained a strong position amongst Polish nongovernmental organizations, becoming a leader of the Nongovernmental Advisory Platform and member of the Board of the Polish NGO Federation.

After consultation, the foundation prepared a program to propagate the idea of pro bono publico work among practising lawyers. Some 20 meetings were held with the largest law firms in Poland, the president and the members of the presidium of the Bar Council and the president and the presidium of the National Council of Legal Advisers. These meetings generated broad interest in the issue of involvement of lawyers in pro bono publico work. With the patronage of the Bar Council and the National Council of Legal Advisers, a Pro Bono Lawyer Competition was conducted for the first time in 2004.<sup>47</sup> Since then, the competition has been organized annually for 20 years already.

The board of the foundation coordinated visits of many guests from abroad. This has included delegations from: Ukraine, Czech Republic, Moldova, Uzbekistan, Kazakhstan, China, Russia, Serbia, Belarus, Georgia, Japan, USA, Slovakia, Albania, Kosovo, Montenegro, Sweden and Thailand. These guests visited Poland to learn not only of the development of the clinical movement but also the activities and the role of nongovernmental organizations as such.

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## Ongoing activities

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The foundation has undertaken educational and other activities aimed at strengthening Polish legal clinics.

*Professionalization and standardization of clinic activities* – this was the key objective for many years. Reaching this objective strengthened the position of the individual clinics and secured them with a stable future and appreciation within the

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<sup>47</sup> For more detail, see [www.fupp.org.pl/en/lawyer-pro-bono/lawyer-pro-bono-contest-s](http://www.fupp.org.pl/en/lawyer-pro-bono/lawyer-pro-bono-contest-s)

legal community. This objective has been accomplished through subsidizing training, conferences, seminars and publications.

*Publishing activity* – following the first manual, entitled ‘*The Legal Clinic – the Idea, Organization, Methodology*’, the foundation published further textbooks focusing exclusively on the methodology of teaching law in legal clinics. The majority of these textbooks are freely available online from the foundation website.<sup>48</sup> Since 1999, the Polish legal clinics movement has published a biannual journal called *KLINIKA*. The concept and even layout was inspired by the *Clinical Law Review*. Publications are being reviewed by the editorial board of clinical professors from all over the country, and authors are receiving credits in the state publishing credit system.<sup>49</sup>

*Coordinating and perfecting cooperation between clinics* – this objective was reached mainly through the participation of clinic representatives in country-level meetings and the personal contacts of the Board of the Legal Clinics Foundation with the staff of the various clinics (for example, all clinics were visited on a regular basis). Moreover, the board of the foundation maintained the tradition of organizing one or two yearly National Legal Clinics Conferences.

*Keeping an archive of publications relating to legal clinics and keeping statistical data* – the board of the foundation collected all materials relating to the activities of legal clinics in Poland and abroad, thus building an archive of publications and articles. Collecting half-yearly and yearly reports and statistical data on the activities of the clinics provided comparative data to identify trends and determine the directions in which legal clinics should evolve. This data presents statistical profiles

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<sup>48</sup> [www.fupp.org.pl/index.php?id=raporty](http://www.fupp.org.pl/index.php?id=raporty)

<sup>49</sup> [www.fupp.org.pl/kliniki-prawa/publikacje/czasopismo-klinika](http://www.fupp.org.pl/kliniki-prawa/publikacje/czasopismo-klinika)

of clients, making it possible to determine whether clinics make correct choices as to the type of advice and legal information they offer.

*Improving the supply of IT and other equipment* – distributing subsidies and in-kind donations from corporations and law firms through competitive grant rounds. This has helped the development of new clinics.

*Promoting legal clinics activities* –this has enhanced the clinics’ ability to reach clients and has forged cooperation with large law firms and legal corporations. The foundation has maintained an information campaign about legal clinics targeted at local governments and state administration so that legal clinics are considered a permanent and serious institution. Administration offices have learned to trust and appreciate legal clinics, encouraging them to lend every assistance when students approach those offices on behalf of their clients.

*Forging and strengthening international cooperation* – with Polish CLE being one of the leading programs of its kind in our region, it should therefore share its experience and initiate the creation of new clinics in the region. Guests from other Central and Eastern European countries are invited to participate in trainings, courses and study visits. Representatives of the foundation take part in international clinic-related conferences. In particular, the strongest partnership program has developed with the network and Association of Ukrainian Legal Clinics.

*Lobbying for reforms of legal corporations* – the foundation continues to carry out a program to encourage practicing lawyers to undertake pro bono publico work. This long-term undertaking began with a pilot program for selected nongovernmental organizations to receive the assistance of practicing lawyers and later developed the ‘Centrum Pro Bono’ Project for pro bono lawyers and bar associations to assist NGOs on their legal issues and problems. Moreover, this objective has been advanced through the yearly ‘Pro Bono Lawyer’ Competition.

*Monitoring of the application of law and the quality of new laws* – this important task requires special attention and thorough preparation. This starts with monitoring the impact of laws. It is significant not only to our foundation but also to cooperating organizations. A similar objective has been assumed by the Nongovernmental Advisory Platform, of which our foundation is one of the leaders. The board has prepared a tool in the form of a reporting questionnaire to be filled out by the clinics.<sup>50</sup>

## The anticipated effects of foundation activities

While legal clinics were not meant to solve the problem of lack of access to free legal assistance, they were nevertheless for many years the only program that supplied such assistance on the basis of reliable and highly professional academic staff. Along with the development of the program in Poland, the academic community and the community of practicing lawyers are becoming increasingly understanding of social problems and more involved in delivering advice free of charge.

The board of the Polish Legal Clinics Foundation has sought to effectively support the organizational potential and independence of the individual clinics.<sup>51</sup> Planning and reporting

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<sup>50</sup> Additional comments and reasons for the successful development of Polish legal clinics

movement were identified by Richard J. Wilson in a book: ‘Legal Aid and Clinical Legal Education in Europe and the USA: Are They Compatible?’ in *Outsourcing Legal Aid in the Nordic Welfare States* 263–285, SpringerLink, First Online: 22 December 2017.

Available at [https://link.springer.com/chapter/10.1007/978-3-319-46684-2\\_11#Sec9](https://link.springer.com/chapter/10.1007/978-3-319-46684-2_11#Sec9)

<sup>51</sup> More reflections on the strengths of the Polish legal clinics model can be found in an interview with Clelia Bartoli (page 64–65) Available at

have resulted in better management and allowed for ongoing monitoring and research into the social needs being met through services rendered by the clinics. Additionally, we obtained information on the efficiency and effectiveness of our actions.

Research by the foundation demonstrates that approximately 2,000 people a year obtain legal assistance as a result of the work of legal clinics. The recipients of these services are members of the weakest social groups, such as the unemployed, the homeless, pensioners, disabled people, crime victims, women in crisis, foreigners and refugees. Nearly 1,100 students and over 250 faculty members have participated in the program in recent years (much more in previous years), a majority of whom are also practicing lawyers.

## Epilogue

In these times of fast and multidirectional economic and social changes, many Polish citizens have found themselves in a dire financial situation. The state, burdened with a multitude of problems, is often unable to meet the needs and expectations of individuals. Free legal assistance to address everyday life problems is one such need.

Polish courts provide free-of-charge legal assistance only within legal proceedings before a court of law. Free-of-charge legal assistance for pre-trial procedures only became available in 2016 with legal clinics and third sector organizations being the only providers of these services until that time. The rising demand for legal clinic services generated strong appreciation from students and law faculties with thousands of people obtaining assistance every year.

The Polish Legal Clinics Foundation has the opportunity to support and foster new perspectives for legal clinics in Poland, training new generations of lawyers using the latest

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[www.dirittoequestionipubbliche.org/page/2016\\_nSE\\_Legal-clinics-in-Europe/DQ\\_2016\\_Legal-Clinics-in-Europe\\_specialissue.pdf](http://www.dirittoequestionipubbliche.org/page/2016_nSE_Legal-clinics-in-Europe/DQ_2016_Legal-Clinics-in-Europe_specialissue.pdf)

educational methods and, at the same time, playing a complementary role in the state administration system, educating citizens about their rights and duties.

## **Clinics in Ukraine**

**Mariia Tsypiashchuk**

### **Introduction**

Clinics in Ukraine are facing profoundly difficult issues due to the war that commenced with Russia's attempted invasion in February 2014, which escalated into full-scale invasion in February 2022. CLE in Ukraine is distinctive in the strength of the National Association of Legal Clinics (ALCU) and the ways in which the association works collaboratively with international clinical colleagues. Collaboration by clinicians through the National Association (and the development and implementation of a set of national standards) has been more effective in building clinics in Ukraine than formal regulation through the Ministry of Education.

In Ukraine, CLE promotes strongly realized ethical attitudes among future lawyers, respect for human dignity and human rights, the rule of law, experience to work with vulnerable people, recognizing and learning how to combat discrimination. Legal clinics offer the only opportunity for students to work with real clients during their law studies. Their work is oriented to clients who cannot pay for legal assistance and belong to particularly vulnerable communities.

Clinics also promote practical education more generally, through interactive methods including Street Law and various extracurricular practical competitions and activities – hackathons, quests, debates etc. Specialization has been uncommon with legal clinics providing legal services in a broad array of areas, most notably civil matters. Only recently have legal clinics started to specialize in areas such as services for veterans and issues related to war. There is clear interest to develop specializations of legal clinics in Ukraine, including mediation services.

Maksym Lodzhuk's 2016 monograph, *Legal Clinics in Ukraine: From Legal Education to Legal Practice* provides a valuable and comprehensive account of the development of Ukrainian clinics.<sup>52</sup>

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## The start of clinics in Ukraine

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Independent Ukraine legal clinics began to appear between 1996–99, a few years after our country gained its independence, with the direct participation of young law teachers, law students and NGOs in Kyiv, Donetsk, Lviv, Odessa and Lutsk.<sup>53</sup> These first clinics were mostly student initiatives, and it was uncommon for university administrations to provide much support or to include legal clinic as part of the curriculum. Gradually, many initiatives developed in response to growing legal and social needs with the assistance of international support. The legal clinic in Ostroh (Rivne region, West of Ukraine) was founded as a project of a local charitable foundation, supported by the American Bar Association ROLI and CEELI Projects and USAID.

There is a broad understanding of CLE that includes simulations. Lodzhuk refers to clinicians developing the annual All-Ukrainian Olympiad of Legal Clinics on interviewing and consulting clients representatives in 2006. This unique tournament is designed to develop the client-related skills of clinic students, increasing their interest in courses on the basics of legal practice. The Olympiad also promotes CLE and improves teaching of substantive law and in courses on the basics of legal practice. It also prepares teams to participate in the Brown-Mosten International Client Consultation Competition.<sup>54</sup>

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<sup>52</sup> Lodzhuk (n 1).

<sup>53</sup> Lodzhuk (n 1), 24

<sup>54</sup> [www.brownmosten.com/](http://www.brownmosten.com/) See also Lodzhuk (n 1) 30–31.



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## The work of Ukrainian legal clinics

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In Ukraine, there are two main forms of providing legal aid – primary legal aid (providing legal information and consultation, drafting non-litigation, non-procedural documents) and secondary legal aid (representation of a person and drafting of litigation, court procedural documents).

Legal clinics are not part of the Ukrainian state's free legal aid system, and how legal clinics provide legal aid is not specifically regulated. They provide primary legal aid first and may also represent clients in some cases. Direct client representation is not significant because there are particular limitations under the Ukrainian legislation. Generally, only attorneys at law (advocates) have the right to represent clients in courts. However, students might represent clients before administrative authorities, meaning they may help draft some documents (claims, requests, applications etc.) and also represent clients in some types or cases, like employment or labour disputes or social care cases. When supervised by their legal clinical curator (usually an attorney), students might represent veterans or military servicemen or their relatives in cases related to payments, posthumous monetary reward and so on.

Most legal clinics cannot provide legal aid in criminal matters as they cannot represent clients due to direct prohibition by the constitution and the Criminal Procedural Code. Further limitations and rules on representation are specified by other procedural codes (Civil Procedural Code, Business (Economics) Procedural Code etc.).

Some universities, such as the University of Ostroh Academy where I teach, admit students to a legal clinic through an audition. We commonly engage 10–14 students from their second (recently also from third) year of study, and they will stay in a clinic until the end of their bachelor's program. Other law schools accept every student who applies to study in a legal clinic for some period of time. There are also a number of universities or law schools where the legal clinical course is mandatory. Some of them have a greater quantity of law students, some of them are smaller – for example Ukrainian Catholic University (UCU). UCU has made a clinic course mandatory for all law students. It started its law program with a master's degree and later

launched a bachelor's program. ALCU data reveals that, in 2022, 16 law schools had legal clinic as a mandatory course, 12 had it as an elective, while 16 conducted some extracurricular activities. Four indicated they do not offer any clinic-based experience for their students.

COVID-19 influenced the activities of legal clinics immensely. Many clinics as well as higher education institutions had to shut down and switch to distance learning processes. This meant that students, especially those who had just joined the legal clinics, did not have an opportunity to work with a live client, as well as to conduct Street Law and other activities in person. On the other hand, the pandemic pushed legal clinical management, students and associated professors to explore various technologies and to review their internal regulations – particularly those relating to provision of legal aid and confidentiality issues.

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## National association of Ukrainian legal clinics

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Since the early 2000s, legal clinics have been united by the ALCU. There are now more than 50 legal clinics involved in this association which conducts activities aimed at both developing legal clinics and enhancing high-quality legal professional education overall. In 2014 the ALCU adopted Standards of Legal Clinical Activity in Ukraine,<sup>55</sup> followed by the Quality Performance Assessment Tool for Legal Clinics in Ukraine in 2017.<sup>56</sup> This framework has allowed ALCU to conduct multi-level monitoring among legal clinics, supporting their staff and university administration in their clinical activities.<sup>57</sup>

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<sup>55</sup> <https://legalclinics.in.ua/en/standards-of-the-legal-clinics-in-ukraine/>

<sup>56</sup> [https://legalclinics.in.ua/wp-content/uploads/Legal-Clinics\\_Monitoring-Instrument-Final\\_Eng.pdf](https://legalclinics.in.ua/wp-content/uploads/Legal-Clinics_Monitoring-Instrument-Final_Eng.pdf)

<sup>57</sup> [https://legalclinics.in.ua/wp-content/uploads/2020/08/Press\\_Broshura\\_AKSU\\_A5\\_2020engl.pdf](https://legalclinics.in.ua/wp-content/uploads/2020/08/Press_Broshura_AKSU_A5_2020engl.pdf)

The standards provide four pillars for fostering the operations of legal clinics:

- (1) proper law clinic organization – paid staff; rooms for teaching legal clinical courses, legal clinic administration, confidential spaces for work with clients; documentation management;
- (2) integration into the law school curriculum – structure of the legal clinical course, credits for practical study in a legal clinic, regulation on payments of legal clinical staff for supervising students;
- (3) providing pro bono legal services under professional supervision of practicing lawyers and professors – particular types and procedures including client representation in courts and administrative bodies;
- (4) applying the Street Law approach to legal awareness activities – aims and forms of such activities; formats and recording; quality criteria.

To assess how legal clinics adhere to the standards, the Quality Performance Assessment Tool was developed in 2017, strongly built on a peer-to-peer approach.<sup>58</sup> It is voluntary for legal clinics and law schools to undergo the assessment. During 2017–20, 21 legal clinics were assessed using this tool, and the 2:0 upgrade (including post-monitoring supervision for the recommendations implementation plan) was introduced.<sup>59</sup> Overall, 24 monitoring assessments were conducted onsite. Currently, the ALCU is working on development of the online assessment monitoring tool.

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## Model regulation on legal clinic – help or hindrance?

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<sup>58</sup> See (n 56).

<sup>59</sup> See (n 57).

In 2006, the Ministry of Education of Ukraine adopted a Model Regulation on Legal Clinic. Every higher educational institution that prepares future lawyers is obliged by the mentioned Model Regulations on Legal Clinic (2006) to establish a legal clinic as a separate structural unit of the university (higher education institution – HEI). This was intended to mean that each HEI would provide separate staff, incorporate legal clinical programs into its curricula and equip its clinic with all necessary procurements. However, it did not always happen like that with some legal clinics existing only on paper.

According to ALCU data, slightly more than half of Ukrainian legal clinics claimed to be a separate structural unit in the university (31 out of 52 legal clinics 2022, 29 out of 50 in 2021 and 24 out of 51 in 2020). Others often operate as an extracurricular public advice centre or in a similar form with students volunteering beyond their studies to work with practicing lawyers on real cases. Where clinics are separate structural units, their staff may get paid for their work, although it is usually at a very low salary rate. Clinic-based activities might or might not be taught as a study course and attract academic credit.

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## The future

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This issue is most related of course to the Russian war in Ukraine. Shortly after Russia's full-scale invasion of Ukraine in February 2022, the official webpage of the Russian Rectors' Union published (on 4 March 2022) an open address in support of Russian military aggression and invasion against and of Ukraine.<sup>60</sup> The list of signatories included 304 rectors of higher educational institutions in Russian Federation, and the first signatory was the president of the Russian Rectors' Union, Rector of the Lomonosov Moscow State University.

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<sup>60</sup> [https://web.archive.org/web/20220320105358/www.rsr-online.ru/news/2022-](https://web.archive.org/web/20220320105358/www.rsr-online.ru/news/2022-god/obrashchenie-rossiyskogo-soyuza-rektorov1/)

[god/obrashchenie-rossiyskogo-soyuza-rektorov1/](https://web.archive.org/web/20220320105358/www.rsr-online.ru/news/2022-god/obrashchenie-rossiyskogo-soyuza-rektorov1/)

Because of mass human rights atrocities and war crimes, a number of clinics and clinicians in the East of Ukraine faced serious dangers ten years ago with Russia's unlawful occupation of the Crimean Peninsula in 2014. They had to move from the areas where hostilities took place. After the February 2022 invasion, this dangerous region unfortunately expanded. Currently, only some Western territories in Ukraine are more-or-less secure for Ukrainians, including legal clinicians.

The majority of Ukrainian legal clinics remain active in the ALCU. There are strong links to the international regional and global legal clinical movement. Ukrainian clinics are trying to maintain ties and cooperation with British, EU and U.S. legal clinics through so-called buddying schemes. This enables clinics in Ukraine and other countries to cooperate in a decentralized way, defining their own trajectory and activities of cooperation for the period they want to.

We need to identify ways of continuing legal clinical operations under the conditions of war and martial law, as the war is not expected to end in the near future. The conflict conditions mean that clinics should look to harness technologies that will allow them to work better remotely with students and with clients. Strengthening cooperation among Ukrainian legal clinics themselves, along with international cooperation, will be important, gaining from foreign experience and support.

In contrast, it is worth noting that Russian legal clinics tend to provide legal aid inside of the Russian Federation that may sustain Russia's policy on forcible assimilation of Ukrainians. In this time of war and active armed conflict, legal clinics in Russia provide consultations on how Ukrainian citizens may gain citizenship of Russian Federation.<sup>61</sup> Yet, one finds no information on the website of the Russian Center of Development of Legal Clinics<sup>62</sup> on how

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<sup>61</sup> [www.codolc.com/faq/?CRFaq\[catID\]=21#faq-qa-1010](http://www.codolc.com/faq/?CRFaq[catID]=21#faq-qa-1010)

<sup>61</sup> [www.codolc.com/faq/](http://www.codolc.com/faq/)

Ukrainians, who have suffered from grave human rights violations and had international crimes committed against them by Russian citizens and the Russian state, may protect themselves.

The current strategy of the ALCU is strongly oriented to supporting the sustainability and empowerment of legal clinics, improving practical legal education in Ukraine considering the challenges of pandemics of emergency and of war. There is great scope for the development of specialized legal clinics, differentiating the clinical programs within each law school in Ukraine.