

Veronika Horielova

University of economy and right “KROK”
Candidate of legal sciences
Associate professor of department of state legal sciences
University of economy and right “KROK”
e-mail: saxara_@bigmir.net

Legal Clinic: A new look at education and upbringing in Ukraine

SUMMARY

The report is devoted to the definition of the essence of legal clinics in Ukraine, which is essential for the latest style of education and upbringing of future law professionals.

Key words: legal clinic, education, future lawyers, educational and practical activities.

Today, all developed European countries recognize that the proper quality of education is a value, the foundation from which depends the welfare of society in the future. Approved and generally accepted views of the European community on the protection of human rights and legitimate interests of human are reflected in updated views on the profession of lawyer and the training of future lawyers. Legal science will be “one-handed” if its knowledge is to be concentrated only on theoretical material without the use of acquired knowledge in practice, because it forms the future skills of lawyers to give a proper legal assessment of complex phenomena and processes of state legal reality, provides an opportunity to determine the future directions and activities in the industry of law, educates the student in a spirit of respect for human rights and freedoms, in general, makes it clear whether it is necessary to associate the student’s own future with the profession of a lawyer. That is why one of the important directions of educational and practical activity is the formation of a law elite, capable of being responsible for the legal provision of a person and based on modern doctrines, new approaches, European principles and taking into account national experience and conforming to international standards of life. Unfortunately, the discrepancy between the theory and practice in legal education continues to exist and students undergo familiarization practice on the basis of state authorities, local self-governance or the private sector are not sufficient to acquire the right skills. The solution to this issue lies on the shoulders of legal clinics, whose revival and actualization are gaining momentum in higher educational institutions in Ukraine.

Despite the fact that considerations regarding the feasibility of establishing legal clinics at law universities have been traced since ancient times in works, for example: D. I. Meyer (1855), K. F. Stuya (1863), O. A. Lublin (1906) and others, which today have not lost their

relevance and are being investigated for a long period of time in those educational institutions, where academic (lecturing and theoretical) preparation of future lawyers is foreseen.

The Legal Clinic is a structural unit of the Faculty of Law, within which students – future lawyers under the leadership of teachers and practicing lawyers acquire practical training by providing free legal assistance and legal education of the population. In accordance with the Order of the Ministry of Education and Science of Ukraine No. 592 of August 3, 2006 “On Approval of the Model Law on the Legal Clinic of a Higher Educational Institution of Ukraine” (hereinafter – the Regulations), law clinics should function in all educational institutions of the III-IV accreditation levels, which train specialists in the «Right» direction, regardless of the form of ownership and subordination¹. The legal clinic is recognized as a special mechanism for promoting the quality of legal education and education, which manifests itself in creating opportunities for students to study at the legal profession during their studies, carrying out analytical and directly right protective work². The legal clinic is also recognized as a unique training and practical center (laboratory) consisting of teachers and students of senior courses, which is created and functions on the basis of a higher educational establishment³.

In accordance with Clause 2.1 of the Regulations, the purpose of the legal clinic is to: increase the level of practical knowledge, skills and abilities of students of legal specialties; providing access to legal assistance to representatives of socially vulnerable groups of society; formation of the legal culture of citizens; preparation and training of students in the spirit of observance and respect for the principles of the rule of law, justice and human dignity; expanding cooperation between higher education institutions training lawyers, with judicial, law enforcement agencies, justice, state authorities and local self-government, with other institutions and organizations; introduction into the educational process of elements of practical training of law students in the field of legal services⁴.

The management of the legal clinic must arrange its activities in such a way that the student, which represents this structural unit of the faculty, clearly adheres to the basic principles of the ethics of a lawyer: the legality and the rule of law, respect for law, justice, human dignity, humanity, objectivity, competence and integrity, and confidentiality. All work of the student – the consultant and the student – the trainee should be aimed at protecting the rights and freedoms of the person who asked for help. Today, the number of legal clinics is constantly increasing, and according to the Association of Legal Clinics, more than 80% of clinics not only provide counseling, but also prepare procedural documents, and about 15% practice the provision and free secondary legal aid⁵.

This state of affairs suggests a high level of training for future lawyers, and, consequently, ensuring their proper place in the labor market in the future. By itself, the legal clinic is already

¹ Наказ Міністерства освіти і науки України № 592 від 3 серпня 2006 року «Про затвердження Типового положення про юридичну клініку вищого навчального закладу України» – Режим доступу: <http://zakon4.rada.gov.ua/laws/show/z0956-06>, дата доступу: 05.07.2018.

² А. О. Галай, *Основні навчальні компоненти юридичної клінічної освіти: шляхи впровадження клінічного спецкурсу та практики студентів у навчальний процес вищих навчальних закладів в Україні. Навчальний посібник*, К.: КНТ, 2009, 96 с.

³ М. Т. Лоджук, *Юридичні клініки в Україні: освіта та правова допомога: монографія*, Одеса: Фенікс, 2015, 328 с.

⁴ Наказ Міністерства освіти і науки України № 592 від 3 серпня 2006 року, *op. cit.*

⁵ *Офіційний сайт Асоціації юридичних клінік України* [Електронний ресурс]. – Режим доступу: <https://legalclinics.in.ua>, дата доступу: 11.07.2018.

an innovative project of educational and educational activity because in its field there is a continuous stimulation of intelligence of innovations connected with numerous changes in the legislation, the emergence of new categories and concepts, the expansion of legal regulation, active codification processes, the ratification by Ukraine of new international legal acts, the global expansion of the information space, etc. The objectives and purpose of the legal clinic's activities are highlighted through the prism of the innovative educational policy of our state and reflected in the normative and legal documents, which regulate innovation activity of higher education: in the Laws of Ukraine "On Higher Education", "On Innovation Activity", "On Priority Areas of Innovation Activity in Ukraine", "On Ratification of the Convention on the Recognition of Qualifications on Higher Education in the European Region", the Resolution of the Supreme Council of Ukraine On Recommendations of the Parliamentary Hearings "On the State and Prospects for the Development of Higher Education in Ukraine", The Decrees of the President of Ukraine "On Urgent Measures to Ensure the Functioning and Development of Education in Ukraine" and "On Measures to Improve the Higher Education System", the Resolution of the Cabinet of Ministers of Ukraine "On the Establishment of the Institute of Innovative Technologies and the Content of Education", etc. Thus, according to Clause 1 of the cl. 3 of the Law of Ukraine "On Higher Education", the policy of our state in the field of higher education is based on the principle of promoting the preparation of a competitive human capital⁶, and bringing the network of higher educational institutions and higher education management systems in line with the needs of the development of the national economy and labor market demands, ensuring the constitutional rights of citizens to high-quality higher education, reorganizing the system of higher education management in order to protect national, regional and local interests, as well as the interests of all subjects of the national system of higher education of Ukraine, are the main objectives of the Strategy for the Reform of Higher Education in Ukraine until 2020⁷. The functioning of the legal clinic in the education system confirms a new stage in the interaction of the scientific and pedagogical composition of the university, the development of student skills and the application of acquired theoretical achievements. Like any innovation, the work of a legal clinic involves the availability of certain projects and plans, as well as an assessment of their results and achievements. So, for the purpose of the quality of the work of the legal clinic, special classes with students are foreseen by those teachers with practical experience, control measures for those students who are willing to work as consultants, organization of round tables and meetings with attorneys. conducting scientific-practical conferences, seminars, olympiads, trainings, cooperation with other national and international legal clinics.

It should be emphasized that the value of legal clinics is acknowledged not only by society (as a social value – free of charge) and by highly qualified lawyers (as an opportunity to select decent young professionals), but also by graduates of higher education institutions that recognize that no other methods of practical training (and not solving problems, even if their plays have been taken out of life, or the holding of training sessions, debates or contests, and even

⁶ Закон України «Про вищу освіту» від 28 грудня 2014 р., «Відомості Верховної Ради України» 2014, № 37–38 Ст.

⁷ *Проект Стратегії реформування вищої освіти в Україні до 2020 року: Офіційний веб-сайт Міністерства освіти і науки України*, <http://old.mon.gov.ua/ua/pr-viddil/1312/1390288033/1415795124/>, дата доступу: 18.07.2018.

practice in state authorities) can not bring students closer to their professional activities, such as work in a legal clinic. At the same time, the work of students in the legal clinic leads to the awareness of the value of the theoretical knowledge gained at lectures, which positively marks the almost 100% attendance of classroom activities by such students. Scientists, teachers and psychologists have proved that the combination of lectures and practicalities positively influences the legal consciousness and education of the future lawyer, develops skills for independent recognition of the ways of solving the problem and self-preventing and (or) overcoming the legal means of a given problematic legal situation⁸.

Thus, it can be argued that today, no one doubts the significance of the existence of legal clinics. For higher educational institutions and law schools, the legal clinic in its structure is a matter of prestige. Lawyers of the new generation combining lecture lessons with “living” law practice have the opportunity to overcome during the educational process the gap between the theoretical legal education and legal practice, acquire skills in the organization and conduct of legal work, the basis of office and communication culture, the basis of legal ethics and professional responsibility. In addition, future lawyers – students of modern times have the opportunity to gain experience from practicing faculty-curators of the legal clinic, penetrating the “air” of the profession and gaining firm ethical convictions and understanding of the humanism of the profession of lawyer.

Bibliography

Наказ Міністерства освіти і науки України № 592 від 3 серпня 2006 року «Про затвердження Типового положення про юридичну клініку вищого навчального закладу України», Режим доступу: <http://zakon4.rada.gov.ua/laws/show/z0956-06>

Галай А. О., *Основні навчальні компоненти юридичної клінічної освіти: шляхи впровадження клінічного спецкурсу та практики студентів у навчальний процес вищих навчальних закладів в Україні*. Навчальний посібник. / А. О. Галай – К.: КНТ, 2009, 96 с.

Лоджук М. Т., *Юридичні клініки в Україні: освіта та правова допомога: монографія*, Одеса: Фенікс 2015, 328 с.

Молдован В. В., Кацавець Р. С. М., *75 Юридична клініка: Навч. пос.* – К.: Центр учбової літератури, 2007–224 с.

Нечипорук С., *Історія юридичної клініки*, “Хрещатик” 2008, № 177.

Про стан роботи із зверненнями громадян у 2004 році: *Доповідна записка, затверджена рішенням Колегії Міністерства освіти і науки України від 27 січня 2005 р.* [Електронний ресурс], Режим доступу: <http://ua-info.biz/legal/baseut/ua-smepgt.htm>.

Сенчак І. І., *Проблеми законодавчого визначення статусу юридичних клінік в Україні*, “Адвокат” 2012, №11, С. 40–44.

⁸ В. О. Сич, *Важливість діяльності юридичних клінік щодо попереджень правопорушень*, “Науковий вісник Національного університету ДПС України (економіка, право)” 2011, № 4 (55), С. 280–286.

Офіційний сайт Асоціації юридичних клінік України [Електронний ресурс], Режим доступу: <https://legalclinics.in.ua>.

Закон України «Про вищу освіту» від 28 грудня 2014 р., “Відомості Верховної Ради України” 2014, № 37–38, С. 2004.

Проект Стратегії реформування вищої освіти в Україні до 2020 року, Офіційний веб-сайт Міністерства освіти і науки України. [Електронний ресурс], Режим доступу: <http://old.mon.gov.ua/ua/pr-viddil/1312/1390288033/1415795124/>.

Сич В. О., *Важливість діяльності юридичних клінік щодо попереджень правопорушень*, “Науковий вісник Національного університету ДПС України (економіка, право)” 2011, № 4 (55), С. 280295–286.

STRESZCZENIE

Veronika Horielova

Poradnia prawna: nowe spojrzenie na edukację i wychowanie na Ukrainie

Raport poświęcony jest definicji klinik prawnych na Ukrainie, które mają zasadnicze znaczenie dla najnowszego stylu edukacji i wychowania przyszłych prawników.

Słowa kluczowe: poradnia prawna, edukacja, przyszli prawnicy, działania edukacyjne i praktyczne.

Data wpływu artykułu: 29.10.2018 r.

Data akceptacji artykułu: 29.04.2019 r.