

LEGAL CLINIC AS AN EXOTIC PHENOMENON IN HUNGARY

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Introduction

In Hungary today, we are experiencing a new phenomenon in the field of higher education. Universities and colleges have begun to emphasize the importance of the introduction and application of new teaching methods. The recent techniques are totally different from the previous, traditional ones. Due to some hindering factors, the transformation from the old to the new methods is difficult. Only a few teachers are willing to adopt new techniques to improve the effectiveness of education. The practical or experiential learning methods were and still are an essential part of some university training, such as medical, pharmaceutical, engineering, etc. In the above-mentioned training, the theoretical and practical parts of the curriculum have equal importance, this sets a good example for other training. Learning by doing is an ancient concept. As the Chinese proverb states, “I hear and I forget, I see and I remember, I do and I understand.”² Nevertheless, some training focuses on the

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² Richard J. Wilson: *The Global Evaluation of Clinical Legal Education, More than a Method*, Cambridge University Press, 2018, p. 7.

fulfillment of this ancient saying, still, there are many areas of higher education, which are far from reaching this goal, for example, legal education.

In Hungary, in the field of legal education, the traditional teaching methods of knowledge transmission are still dominant. The students are passive elements of learning. For example, during lectures they just sit in the classroom and take notes about what they hear from the teacher, without questioning or discussing the material. However, the transformation is underway and new, practice-oriented teaching techniques, such as mediation, classes about legal argumentation techniques, legal clinic, alternative dispute resolution, etc are being introduced.

My article aims to delineate the current situation of clinical legal education in Hungary. Since, clinical legal education is part of the legal education, the article focuses on the challenges that the law faculties and teachers face presently.

Although, legal clinic methodology is not a new phenomenon, for example in the USA, it has been growing since the 1960s, in Hungary, only a few law faculties implement it in their curricula. Unfortunately, only one legal clinic has operated continuously since 2005. There have been a few attempts in other faculties to introduce legal clinic seminars, but almost all of them failed after a couple of years for different reasons; such as lack of financial support from the faculty or lack of qualified teachers. These issues raise the question, whether there are any factors, which make widespread adoption of clinical legal education in Hungary possible? If yes, what are these? There

are some hindering factors, which make this educational method less favorable, but the present article tries to provide answers to the above-mentioned questions.

The paper at hand is divided into three main parts. The first part deals with a new situation in the field of higher education, focusing on the law major in Hungary, because a comprehensive transformation was concluded in 2019. The Minister responsible for higher education issued a Decree at the beginning of 2019, in order to uniformly define the general educational output requirements for students. The latter part of the article will present a deeper insight into this transformation. The second part briefly introduces the types and the operation of those legal clinics, which are currently functional in Hungary. Thirdly, the domestic fulfillment of two main goals of the clinical legal education (social and educational) will be discussed. The author highlights, why the educational goal of the legal clinic is emphasized more in Hungary, than the social one.

The current transformation of the Hungarian higher education system

To begin, it is important to define alternative education, since the clinical legal education belongs within this category. Alternative education is an umbrella term, which includes such non-formal educational forms and methods that are different from the usual, traditional ones. The students are at the centre of this method, where

attention is given to the needs and the different stages of development of the students, making it an excessively flexible, permissive system, which serves equality.³

Alternative educational methods are not really welcomed in Hungary, especially in the field of law. There are many reasons, which contribute to this non-favourable position. First of all, alternative educational methods are more expensive than the traditional ones (more and special equipment is needed, the professor has to participate in special training, which means additional financial burden to the university, etc.). Second of all, the practice-oriented seminars operate with only a few (maximum 15) students - unlike the traditional knowledge transmission focused lectures, where more than 100 students can participate - thus teachers have to deliver more seminars under an alternative education model. Thirdly, the role of the professor becomes more of a consultant, facilitator, than a teacher. They have to adjust to their new role, which could cause a problem, especially for the senior staff, who are used to teaching in the same ways.

Following this brief introduction, this article will focus on the current transformation of Hungarian higher education. As it was mentioned above, at the beginning of 2019, the Minister responsible for higher education issued a Decree,⁴ which amended the legislation made in 18/2016. The EMMI decree uniformly defines the output requirements for students. The general output requirements were divided into four

3 László Kadocsa: Az atipikus oktatási módszerek [Atypical teaching methods] in: *Felnőttképzési Kutatási Füzetek*, Budapest 2006, p. 49.

4 Art. 8. Ministerial Decree No. 3 of 2019, February 11 (EMMI)

major components: professional (cognitive) knowledge, skill/proficiency, professional attitude and autonomy and competence relevant to responsibility. Any student, who achieves a master's degree, must acquire different knowledge and skills in the given components.

Concerning *professional (cognitive) knowledge*, for instance, a student shall know his field and the relation to other similar fields of work; the given major's general concepts, problem-solving techniques, terminology, and ethical norms. In terms of professional knowledge, a law student should learn the theoretical and practical knowledge regarding legal professions, mechanisms of the state and legal system. Moreover, a law student must know the problem-solving methods of scientific work, the terminology of law, the historical development of legal systems, human rights and the essence of many relevant national and international rules and doctrines. Knowledge of legal ethics and new moral dilemmas are also part of the training, because lawyers will face how thin is the line between ethical and non-ethical conduct, e.g. rules of conflict of interest. The experiential or practical learning, such as clinical legal education, provides an opportunity for the students to experience these ethical principles in practice.⁵

5 2. Jurist undivided training educational output requirements, Ministerial Decree No. 18 of 2016, August 5 (EMMI) and No. 8 of 2013, January 30 (EMMI) on training and output requirements for vocational training in higher education, basic and master training, and common requirements for teacher training and training and output requirements for individual teaching periods

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Under *skill/proficiency*, the student will synthesize comprehensive and special problems through an interdisciplinary approach by applying the given field's terminology in an innovative manner. Also, effective research skills both at national and international level must be acquired, and the student shall be taught how to present those results to the scientific community. Law students must be able to analyse different views and theories concerning the law by applying professional legal terminology. In addition to being able to build up logical reasoning, conducting vivid debates about social and legal issues both in academic and non-academic environments, the student will be able to demonstrate this learning in a foreign language. Moreover, the law student is trained to interpret legal norms and think critically concerning those rules. For example, during a live-client clinic seminar, the students have a hearing with the client, in order to find the legal problem that they will work on. After they search for the relevant laws and regulations, which can help them to find a solution(s) for the case, they provide legal advice to the client. This simple example proves that clinical legal education makes possible the acquisition of those skills, which are missing from the traditional knowledge transmission education.⁶

Third of all, *professional attitude* includes a developed professional attitude and work ethics, which transfers knowledge in an authentic way. This also requires endeavours to follow and contribute to the novelties in this field, and, take a leading role in the

⁶ Ibid.

workplace. In the field of legal training, attitude includes openness to continuing education and intellectual self-development. Furthermore, a law student should have a critical and sensitive approach regarding social problems, and be open to involving non-legal or alternative methods to find the best possible solution to an issue. Moreover, they should be dedicated to equality, rule of law, pro bono work, high-quality work.⁷ Most of the live-client clinics provide free legal services to marginalized groups and those who cannot afford the cost of a lawyer.⁸ The pro bono work done by the students has two main winners: the client and the student. From the client's point of view, it is important that the who person deals with his case has specialist legal knowledge, and that they are given access to justice. From the student's perspective, firstly, they gain and improve their above-mentioned knowledge and skills, secondly, they get an insight into how state institutions function. Therefore, the clinical programs, indirectly, shape the social awareness of lawyers, thus humanizing the legal profession.⁹

Last, but not least, *autonomy and competence relevant to responsibility* means that a student learns how to work independently in professional tasks and represent their professional point of view in decision-making processes. Furthermore, the student

7 Ibid.

8 Judit Tóth: Legal Clinic as a Promising Alternative Instrument in Hungary, *Jogelméleti Szemle*, 2017/4. szám p. 151.

9 Dr. hab. Fryderyk Zoll, Dr. Barbara Namysłowska-Gabrysiak: Chapter Five – The Methodology of Clinical Teaching of Law, in: *The Legal Clinic. The Idea, Organization, Methodology*, (Ed: Dariusz Lomowski), Fundacja Uniwersyteckich Poradni Prawnych, Varsó, 2005, p. 186.

might be more eager to contribute to research projects at their workplace and become familiar with the mechanisms of teamwork. The law student should endeavour to develop their own professional identity, performs their job in a quality and precise way and take responsibility for the public.¹⁰

In addition to these, legal education has specialized output criteria too.¹¹ These are the following: a) 300 credits must be obtained, and ca. 70-80% of the credits come from theoretical lectures and only 15 credits from optional/elected courses, like legal clinic, b) 6 weeks professional practice in a law-related position. Consequently, the theoretical element is still highly important in legal education, although, in the last few years, a discussion has begun about increasing the percentage of practical training. Even though, the majority of law students will work in practice, they still gain only a relatively small amount of practical knowledge during their studies. The students can complete their mandatory 6 weeks of professional practice at a court, at a public prosecutor office, at a police department, or an attorney's office, etc.

Although, only a few elements of the output requirements were mentioned, these make it clear that clinical legal education can be an outstanding part of the legal curriculum, which can help to achieve the realization of the educational output

10 2. Jurist undivided training educational output requirements, Ministerial Decree No. 18 of 2016, August 5 (EMMI) and No. 8 of 2013, January 30 (EMMI) on training and output requirements for vocational training in higher education, basic and master training, and common requirements for teacher training and training and output requirements for individual teaching periods

11 Ibid.

requirements. During the legal clinic course, students are able to acquire most of the required knowledge, skills, autonomy, and responsibility.

Despite this new regulation, the theoretical part of legal education remained dominant. Nevertheless, according to a survey of law students,¹² the most important qualities of a law practitioner are the following: sense of justice, good oral communication, logical thinking, and empathy. Therefore, it is clear that the traditional way of teaching cannot fulfil either the students' or the legislation's expectations.

After the transformation of the higher education system in Hungary, it is important to discuss those hindering factors, which impede the spread of alternative educational methods especially the legal clinic. The three factors discussed here are: a) curriculum, b) teaching methods, c) attitude of teachers. One of the biggest questions is what should be taught. In legal education, the effective law always stood in the focal point of teaching. Such approach leads us to the next question, how detailed knowledge should be acquired concerning effective law, since it changes very often?¹³ Is it enough to study the frameworks and the basic legal principles, or should the tiniest details be known as well?

12 Helga FEITH and Attila BADÓ: Magyar joghallgatók motivációs vizsgálata [Survey on motivations of law students in Hungary]. *Jogelméleti Szemle*, 2000/4 pp. 2-18. <http://jesz.ajk.elte.hu/bado4.html>

13 Zsolt Nagy: A jogi oktatás fejlődés és aktuális kérdései, [The improvement and the actual questions of the legal education] PhD értekezés, Szeged, 2006 p. 150. http://doktori.bibl.u-szeged.hu/263/7/Nagy_Zsolt_ertekezes.pdf

There is no unified standpoint, since the legal society is divided regarding this question. Some experts emphasize the priority of the practical part of legal education, while others stand for the importance of the theoretical methods.¹⁴ The best way is if the theoretical and practical methods are equally present in legal education. The Tuning report pointed out that the biggest gap between the employers and the freshly graduated lawyers is that employers have the ability to apply their knowledge in practice.¹⁵ Such gap can be reduced by the implementation of different alternative educational methods, like clinical legal education in the curriculum.

The second problematic factor is the manner of teaching. The author's opinion is that the most urgent change is needed in this area. As it was mentioned above, the students are passive elements of education, they are afraid to answer the lecturer's questions and the teacher is still an authority figure and not a facilitator. The dominance of traditional teaching is challenged by only a few non-traditional teaching methods that are implemented by professors. However, it is proven that those universities and colleges can be successful and fulfil the output requirements, which provide useful, transferable knowledge and skills, and use diverse teaching methods.¹⁶

The third hindering factor is the attitude and the position of the teachers. A related issue is that it seems hard to decide, who should teach at the university. If only

¹⁴ Ibid p. 151.

¹⁵ Julian Lonbay et al.: Tuning Legal Studies in Europe: Initial findings, 2008, pp. 24-25.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1677820

¹⁶ Zoltán Fleck: A jogászképzés szintleíró jellemzői [The level describing characteristics of legal education] ELTE ÁJTK, 2017 p. 11.

practitioners were to teach, they would focus solely on those skills and knowledge, that they found useful in their work. Basically, they would train “practice-ready” students.¹⁷ This attitude could lead to the omission of thinking on abstract level and basic theoretical knowledge from legal education. If only professors were to teach law, they would focus on doctrines, so there would be few courses where students could gain applicable knowledge and skills. In other words, “the law professors largely focus on what they teach, not how or even why.”¹⁸ Furthermore, “in the European system of legal education, contrary to the U.S., clinical faculties are burdened by the pressure to achieve academic advancement in short period of time.”¹⁹ Consequently, teachers have to sacrifice those activities which require longer preparation. Moreover, “the teaching itself has been relatively unimportant aspect of the law teacher’s academic life. Instead, scholarship – the production of articles and books [...] has always been the gold standard of the professoriate.”²⁰ In summary, the position of the law teachers and their attitude towards the alternative educational methods present a hurdle to the improvement of legal education. Another important aspect is the background of the current legal educators in Hungary, because they have no pedagogical education. Therefore, whether it is a law practitioner or a professor, who

17 Renáta Kálmán: A jogklinika, mint alternatív oktatási módszertan?! [Legal Clinic as an alternativ educational method?!], Miskolci Jogi Szemle 2019/1., p. 74.

18 Richard J. Wilson: *The Global Evaluation of Clinical Legal Education, More than a Method*, Cambridge University Press, 2018, p. 7.

19 Dubrava Aksamovic, Philip Genty: An Examination of the Challenges, Successes and Setbacks for Clinical Legal Education in Eastern Europe, *International Journal of Clinical Legal Education*, Vol. 20, 2014, p. 437.

20 Richard J. Wilson: *The Global Evaluation of Clinical Legal Education, More than a Method* p. 7.

teaches the students, neither groups will have any prior knowledge about teaching methods, pedagogy or group dynamics. Currently, anyone with a law degree can teach law at the university, even without practical or teaching experience. As a result, there are, with exceptions, basically two different groups of legal educators in Hungary. The first group involves career Professors, who enter into the academic sphere (usually right after graduation) as a PhD student or Assistant Professor and then climb up the ladder until full professorship. On the other hand, there are the law practitioners, who simultaneously working in practice and academia, thereby providing an insight into their field of expertise. Therefore, as I mentioned above, both group members are experts in their field of law, but none of them has pedagogical or teaching background. However, there is a growing interest in pedagogical education with some legal educators participating voluntarily in continuing education courses (1-2 days). Consequently, they are able to transfer their knowledge, but a facilitator role is a new and strange position for them.

More hindering factors could be mentioned, but these factors are the most relevant ones explaining why the spread of alternative educational methods is happening slowly. Nonetheless, this author believes that “[a] traditional education, based solely on information transfer is the least effective, as passive inclusion often cannot even reach understanding.”²¹ The teachers play a decisive role in preparing students for

21 Zoltán Fleck: A jogászképzés szintleíró jellemzői [The level describing characteristics of legal education] ELTE ÁJTK, 2017 p. 27.

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the legal profession, so it is important to train the student to be a critical thinker, not a memorizer. If students understand the connections of the legal system, they can realize the social conflicts, and can take responsibility for the public interest as the new education output requirements desire. The education of other professions (medical, engineer, pharmacist, etc.) serves as a stimulus to rethink the structure of legal education. With the greatest challenge for legal education being “linking the interests of legal educators with the needs of legal practitioners and with the public the profession is pledged to serve.”²² As long as the supply and demand are imbalanced, higher education cannot fulfil the employers’ expectations. Therefore, it is really important to cooperate with the employers, when the state decides the output requirements of the higher education, since they will work with the new graduates. Also, the students’ ability to adapt to the changing inner and external expectations shall be also taken into account.

Legal Clinics in Hungary

Even though, legal clinics have two main types, NGO-based and university-based, only the second one functions in Hungary. The Hungarian law faculties can be divided into 3 types under this approach: a) legal clinic has never been in place, b) legal clinic exists intermittently, including street law - occasional legal assistance for

22 William M. Sullivan et al.: *Summery, Educating Lawyers Preparation for the Profession of Law*, The Carnegie Foundation, 2007, p. 4.
http://archive.carnegiefoundation.org/pdfs/elibrary/elibrary_pdf_632.pdf

local people, c) legal clinic is, as an elective course, an integral part of curricula.²³ Unfortunately, legal clinic research does not stand in the focal point of research in Hungary, thus we have no further information as to why certain law faculties did not even try to establish a legal clinic program. Those law faculties that temporarily operated legal clinics faced several difficulties, but the reasons for their cessation can be known only from informal discussion with those involved. For instance, lack of financial support. Some of the clinics-maintained funding for a limited period of time and this when this funding ended the clinic was disbanded. Another reason is the lack of human resources, i.e. the skilled leader of a legal clinic leaves the academic sphere and the faculty cannot find a successor. At the time of writing, only three law faculties out of nine, run a clinic as part of their curricula.

The legal clinic at the University of Pécs Faculty of Law has operated since 2013 as an elective course. The legal clinic course takes two semesters. The first semester is an introductory course which includes the methods of legal clinic, the practice of legal writing and working in groups, introduction to presentation techniques and teaching of ethical rules. The second semester is practice oriented. The students have two options, either work at the Campus Legal Aid Clinic or choose one of the faculty's external partners (e.g. Pécs Regional Court, Regional Court of Appeal of Pécs, Public Prosecutor Office of Baranya county, etc.) and work there with a judge or prosecutor,

23 Judit Tóth: Legal Clinic as a Promising Alternative Instrument in Hungary, *Jogelméleti Szemle*, 2017/4. szám p. 153.

etc. Therefore, they get an inside look into how these institutions function. In Campus Legal Aid Clinic, law students provide written legal advice to students of other faculties. Before they send their advice to their clients, a tutor - who can be a judge, an attorney, or a professor - will review whether their legal advice is correct or not.²⁴

Since 2016, Eötvös Loránd University Faculty of Law have run a Street Law clinic. The clinic works together with an NGO, Streetlawyer Association²⁵ to provide free legal advice to homeless people and those who live in housing poverty in the capital, Budapest. The course takes one semester and only 10 students can participate. The course is divided into two main parts: theoretical preparation and practice.²⁶ The theoretical preparation takes one day and includes the sociological characteristics of homelessness, sensitivity towards homeless people, and the most relevant laws, such as rules of infringements or eviction, etc. In the second part, students meet with the clients together with their tutor. Every student has to solve at least one complex legal issue. After the hearing, the students start to find the relevant laws and regulations to provide proper legal advice to the client. During that period, the student maintains contact with the client to collect more information as needed. Finally, after the student has consulted with their tutor, they provide their legal advice to the clients in writing and explain the essence of their advice using everyday language.

24 Legal Clinic at University of Pécs <https://ajk.pte.hu/hallgatoknak/jogklinika>

25 Streetlawyer Association: <http://utcajogasz.hu/en/>

26 Street law https://www.ajk.elte.hu/file/TSZ_JOT_utcajogasz_1617_2.pdf

The third legal clinic, which has operated continuously since 2005, belongs to the University of Szeged Faculty of Law and Political Sciences. This legal clinic has the longest uninterrupted history in Hungary. As an optional course, it is divided into three parts (Legal Clinic I, II and III).²⁷ The Legal Clinic I has two main parts: preparatory and practical. The preparatory part takes 3 days and includes legal, psychological and communication training. The practical part means (same in all Legal Clinic courses) that students have legal counselling with their clients at least 30 hours per semester.²⁸ Those students, who enjoyed the legal clinic work during Legal Clinic I, can choose the Legal Clinic II and later III. Since the legal clinic of Szeged has bilateral partnership agreements with local NGOs representing handicapped, unemployed, sick, Roma, homeless people and families students provide legal advice to those who cannot afford the cost of a lawyer. As in the above-mentioned legal clinics, students have to consult with their tutor in each case, and after every “closed” case they have to write a report.

In summary, all of the legal clinics, which are an integral part of the curricula in Hungary are live-client clinics, so the students are not dealing with simulated cases, but with real ones. The legal clinic at the University of Pécs is, on the one hand, an in-house (Campus Legal Aid Clinic), and on the other hand, an externship type of legal

²⁷ Legal Clinic at University of Szeged: <http://www.juris.u-szeged.hu/english/legal-clinic/legal-clinic>

²⁸ Judit Tóth: Legal Clinic as a Promising Alternative Instrument in Hungary, *Jogelméleti Szemle*, 2017/4. szám p. 153.

clinic (work with a judge at e.g. Pécs Regional Court).²⁹ The other two legal clinics (at Eötvös Loránd University and University of Szeged) are also in-house clinics. The common characteristic of these two clinics is that the students provide free legal counselling to marginalized groups and those who cannot afford the cost of a lawyer.

In the last couple of years, legal clinicians have cooperated to strengthen the position of clinical legal education and to exchange information. They organized meetings, workshops and conferences, and published newsletters. In 2015, the ENCLE and in 2017, the PILnet organized a conference in Budapest. Yet, the number of the clinicians is quite small, and the legal education sector is still sceptical concerning alternative educational methods like the legal clinic, but we still can see some improvements.

Social vs. educational goal

As was mentioned above, the legal clinic (movement) has two main purposes: social and educational. The question is, can we place one purpose before the other or do they have the same value and importance? In the author's opinion, they are equally important and must be balanced, but in Hungary generally the educational goal seems to be prioritized. However, since each functioning legal clinic in Hungary deals with live clients' real cases, we cannot say that the social goal is not present in their operation.

²⁹ For further details regarding in-house and externship legal clinics, see Roy Stuckey and others: Best Practices for Legal Education – A Vision and a Road Map, 2007, pp. 139-152., https://www.cleaweb.org/Resources/Documents/best_practices-full.pdf

The educational goal includes specialist legal (cognitive) knowledge, lawyering skills and professional responsibility. All of these are crucial elements of the output requirements for graduated students, which were defined in the Decree of the Minister responsible for higher education. We should therefore turn our attention to the social goal of the legal clinic. How could we define the social aim of legal clinics? It appears, when students solve social problems and provide free legal advice to marginalized groups and those who cannot afford the cost of a lawyer, they are providing access to justice for these people. Each legal clinic in Hungary requires its students to give legal advice in writing. None of them allows the students to represent a client in court or in front of any other authority. This means that the majority of legal service is related to the explanation of legal conditions, to public administration, municipal procedures, mediation in conflict and drafting of legal proposals. So, the question is, if students cannot represent their clients and they can give legal advice only in writing, is the social goal of the legal clinic fulfilled? In the author's opinion, yes it does, because these legal services are really important, since these clients do not have access to a lawyer and they do not have the legal knowledge to solve their legal issues by themselves.³⁰

“The statement of the 2007 London conference of Union Ministers for Education puts it this way: Higher education should play a decisive role in cultivating social cohesion,

30 Renáta KÁLMÁN: Lengyel-magyar két jó barát, avagy a jogklinika programok összehasonlító elemzése [Pole and Hungarian, Two Good Friends or a Comparative Analysis of the Legal Clinic Programs] In: FEJES Zsuzsanna (szerk.): Jog és Kultúra, Szegedi Tudományegyetem Állam- és Jogtudományi Doktori Iskola, Szeged, 2018, pp. 43-44.

reducing inequalities and raising the level of knowledge, skills and competences in society. The legal clinical education is a perfect example of this social accountability of universities.”³¹

Consequently, the legal service delivered by students, help clients to access justice and provides an opportunity to the students to get an insight into how chaotic the public administration can be and how the institutions interpret the same rules differently. Such legal service improves their emotional skills, critical thinking and also their social responsibility, which are also elements of the output requirements.

The legal clinics have micro and macro goals as well. The micro goal is the development of the student’s professional identity, while the macro refers to institutional critique³² which “may lead to an appreciation for social justice [...] and develop the habit of questioning and critiquing the status quo that they encounter.”³³

Even though, the two main actors are the client and student, the university is a beneficiary of the legal clinic as well. Through the legal clinic, the university builds networks with NGOs, institutes, other universities at national and international levels, and promotes the social responsibility of the university.³⁴ Through the introduction

31 Clelia Bartoli: Legal Clinics in Europe: for a commitment of higher education in social justice, *Diritto&Questioni Pubbliche*, 2016, p. 16.

32 Linda F. Smith et al.: Risks and Rewards of Externships: Exploring Goals and Methods, *International Journal of Clinical Legal Education* Vol. 24. 2017, pp. 60-61.

33 Ibid. p. 61.

34 Clelia Bartoli: Legal Clinics in Europe: for a commitment of higher education in social justice, *Diritto&Questioni Pubbliche*, 2016, p. 25. o.

of a legal clinic course, universities could satisfy their social responsibility to the public.

Why should all faculties, who have legal clinic course, focus on the educational goal in Hungary? The Act on the professional activities of attorneys-at-law enumerates those activities,³⁵ which could be done exclusively by attorneys. This list includes legal representation, legal counselling, document drafting, etc. As a result, the Act creates a monopoly where attorneys are the only professional group who can complete these activities. As mentioned above, the majority of legal services completed by students relate to the explanation of legal conditions, legal counselling and drafting legal documents. Some of these services are also in the list of activities, which can only be done by attorneys. Therefore, legal clinic activities should be part of the curricula of the legal education (legal clinic is an optional course; the students get credits for their work), otherwise, universities and their students would breach the above-mentioned Act, since they act as attorneys. If such clinical activity is part of the students' education, the universities did not violate the law, because its purpose is educational. Although, such Hungarian regulation impedes the work of legal clinics (because it monopolizes legal drafting and legal counselling to attorneys and pro bono work is not widely spread in Hungary, and the underrepresented, marginalized groups cannot afford to hire a lawyer) they still achieve not only their educational, but social purposes as well. However, in Poland, an Act on free legal assistance, which came into

35 Section 2 Act LXXVIII of 2017 on the professional activities of attorneys-at-law

force in 2016, includes students with three years of experience as professionals, who can provide free legal assistance.³⁶ Such action of the Polish legislator recognized the role and importance of students and legal clinics.

Conclusions

In Hungary, the new Decree of the Minister responsible for higher education defined uniformly the educational output requirements for students. These requirements can be divided into four components: professional (cognitive) knowledge, skill/proficiency, professional attitude, autonomy and competence relevant to responsibility. Clinical legal education can greatly contribute to the accomplishment of these requirements. The students acquire many lawyering skills through their clinical work. It is evident that the traditional way of teaching alone is inadequate to transfer professional skills to students. The universities have to introduce new, practice-oriented teaching methods e.g. mediation, legal clinic, legal argumentation techniques, in order to accomplish those requirements, which were defined in the Decree.

A wide variety of legal clinics exists, so law faculties can choose one which fits into their institution and curricula best. However, there are many hindering factors, which are impeding the growth of clinical legal education in Hungary. Approximately, 210-

³⁶ In January 2016, free legal assistance will be launched throughout Poland
<https://www.premier.gov.pl/en/news/news/in-january-2016-free-legal-assistance-will-be-launched-throughout-poland.html>

240 credits out of 300 come from theoretical lectures, so legal education still belongs to that sector of higher education, where the need for theoretical knowledge is high. Most newly graduated students do not have the skills and knowledge required by the labour market. As the Tuning report already pointed out, the biggest gap between the employers and newly graduated lawyers is that the employers have the ability to apply their knowledge in practice. Cooperation between law faculties and practitioners could solve this problem. If demand meets supply, newly graduated students could find a job more easily. In addition to the curricula, the second factor is the teaching methods. Traditional knowledge transmission teaching is still typical in Hungarian legal education. The strong tradition of textualization makes the spread of alternative educational methods difficult. Furthermore, students get used to being passive characters in public/legal education, since they do not question the curriculum and are afraid to form their own opinion about the legal system. The third hindering factor is the attitude and position of the teachers. In the eyes of students, teachers are an authority figure, rather than a mentor or facilitator.

Despite these hindering factors, three law faculties integrated clinical legal education into their curricula. Other law faculties also had legal clinic courses, but after a few years, each of them ceased to exist for different reasons (e.g. for lack of financial support/qualified teachers). Alternative educational methods are more expensive than the traditional ones, since they need more and special equipment and the professor of the clinic has to participate in special training which means additional financial

burden to the university. The European Union and the Visegrad Fund recognises this problem and provide scholarships in order to help maintain the existing legal clinics and establishing new ones.

Unfortunately, the Hungarian regulation impedes the work of legal clinics, since the Act on the professional activities of attorneys-at-law provides monopoly for a couple of legal activities to attorneys. The Act enumerates these activities, and some of them, e.g. legal counseling, legal document drafting, are also part of the legal clinic's work. Therefore, faculties have to focus on the educational goal of the legal clinic respecting this mandatory monopoly. Every Hungarian legal clinic is a live-client type, so the social purposes of legal clinics' are still present, since students are providing legal assistance to those, who cannot afford the cost of a lawyer.

Summing up, the legal clinic in Hungary is still a new phenomenon, only a small percentage of students participate in it. For example, at the University of Szeged every semester an average of 10 students choose the legal clinic course. In comparison with the U.S., where three-quarters of students participated in at least one legal clinic course, there is room to grow. In the 2017-2018 academic year, 83% of the students participated in legal clinic activity at Harvard Law School.³⁷ There is a long way to go for Hungarian legal clinics, but the endeavour of the law faculties and the commitment of certain teachers give us a reason for confidence.

³⁷ In-house Clinics: <https://hls.harvard.edu/dept/clinical/clinics/in-house-clinics/>