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# Clinical legal education in Croatia – from providing legal assistance to the poor to practical education of students

*Barbara Preložnjak*

## 1. Establishing the Legal Clinic in Zagreb – Historical background

Although clinical legal education has a long tradition in common law countries, the countries of the continental European legal system, to which the Republic of Croatia (hereinafter Croatia) belongs, have recognized its importance in the last few years. The first established legal clinic in Croatia was the one of the Faculty of Law at the University of Rijeka. It has been implemented as part of the curriculum for the academic year 1996/1997 and offered to the fourth year students as an elective course entitled “Clinic for Civil Law”.<sup>1</sup> Within the Rijeka Clinic, law students were able to acquire theoretical and practical knowledge, by resolving hypothetical cases, under the supervision and with the support of teachers, lawyers, judges, notaries public and state attorneys.<sup>2</sup> In 2002, with the support of the Institute Open Society from Budapest, the Faculty of Law at the University of Osijek established a legal clinic in the form of practical training for students of the third and fourth year of legal studies.<sup>3</sup> <sup>4</sup> By participating in the clinic’s activity, students of Osijek Law Faculty helped provide legal aid to citizens of lower economic status. This included help in providing general legal information and legal advice, as well as help in covering procedural costs

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1 Barić 2004, p. 950

2 Ibid.

3 Jelinić 2008, p. 183.

4 Informations about the Legal Clinic at the Faculty of Law, University of Zagreb are available on the website: <http://zakon.pravos.hr/klinika/> (05. 05. 2012)

from the funds donated to the Clinic.<sup>5</sup> The lack of financial means that were needed for daily expenditures meant that the Legal Clinic in Osijek was temporarily closed. Nowadays, faculty members of Osijek Law Faculty are trying to solve financial problems and to continue previous good practice in providing legal aid to the poor citizens.

The adoption of the Legal Aid Act<sup>6</sup> in 2008 and legal standardization of legal clinics as one of the authorized providers of legal aid, encouraged the establishment of two more legal clinics.<sup>7</sup> In 2009 and 2010, the Legal Clinic of the Faculty of Law at the University of Split and the Legal Clinic of the Faculty of Law at the University of Zagreb were established, which now actively participate in the system of providing free legal assistance to socially vulnerable Croatian citizens.<sup>8</sup> The Zagreb Law Faculty Legal Clinic is distinguished by the fact that in its work the students are directly and actively involved in providing legal aid to underprivileged citizens, with professional assistance and supervision of academic staff and legal practitioners.<sup>9</sup> In practice, this means that students have a real opportunity to participate in providing legal aid by solving legal cases in their social context. This challenges students to deepen their knowledge on the application of legal regulations in concrete cases and provides them with an opportunity to acquire practical skills in choosing the best strategy to resolve cases in the best interest of their clients.<sup>10</sup>

## 2. Zagreb Legal Clinic – an important contribution to legal education and the preservation of equal access to justice

In accordance with the Ordinance on the study, the Legal Clinic study is defined as a form of teaching in which students, under the supervision of faculty staff, provide free legal assistance in practical legal matters.<sup>11</sup> Legal Clinic represents, along with practical exercises and simulated trials, one of three forms of practical training in the ninth semester of the educational curriculum, at a Jelinić 2008, p. 184. fifth year of legal studies.<sup>12</sup> Student participation in the work of legal clinics is

5 Jelinić 2008, p. 184.

6 Legal Aid Act (*Zakon o besplatnoj pravnoj pomoći*) (Narodne novine RH (Official Gazette) 62/08, 44/11, 81/11; hereinafter: CLAA)

7 “Higher education institutions that conduct university studies in the scientific field of law may, through legal clinics, and in accordance with its regulations, can provide primary legal aid ...” See: čl. 14. ZBPP’08

In 2009 Legal Clinic of the Faculty of Law, University of Split issued two orders (vouchers). See Report Ministry of Justice 2009.

8 In 2009 Legal Clinic of the Faculty of Law, University of Split issued two orders (vouchers). See Report Ministry of Justice 2009.

For the period of 2010 there is no available data regarding applications for legal aid received legal aid beneficiaries. See Report Ministry of Justice 2010.

9 Legal Clinic was founded at the Faculty of Law, University of Zagreb, in October 2010. In the academic years 2010/2011 and 2011/2012 around hundred students joined Legal Clinic in providing legal aid under supervision of thirteen academic mentor. See more on website: <http://klinika.pravo.unizg.hr/>. (5.5.2012)

10 See *ibid.*

11 Art. 14. a., para. 1. Ordinance of study (Pravilnik o studiju) available on website: [http://klinika.pravo.unizg.hr/sites/default/files/pravilnik\\_o\\_studiju.pdf](http://klinika.pravo.unizg.hr/sites/default/files/pravilnik_o_studiju.pdf)

12 See Law study program, curriculum for IX semester available on website: [www.pravo.unizg.hr/diplomski\\_studij/5.godina/nastavni\\_plan?\\_v1=ckIPgg\\_H0qGU0cWjvWoVgaWNrlbP2a\\_roLtuulzyi6gzZcZXQmLjvLhyZB9Q659usnn9jmmFg-Q0G7pMAII\\_gA==&\\_lid=22629#news\\_22629](http://www.pravo.unizg.hr/diplomski_studij/5.godina/nastavni_plan?_v1=ckIPgg_H0qGU0cWjvWoVgaWNrlbP2a_roLtuulzyi6gzZcZXQmLjvLhyZB9Q659usnn9jmmFg-Q0G7pMAII_gA==&_lid=22629#news_22629)

evaluated as equivalent to six hours of work per week during one semester, and equals 10 ECTS credits.<sup>13</sup> Students who participate in the work of the legal clinic are primarily those who meet the conditions prescribed by the study program, i.e., the students who are authorized to enroll at least 10 ECTS credits in the ninth semester.<sup>14</sup>

By working in the clinic, students provide legally allowed forms of legal aid i.e. they provide citizens with general legal information, legal advice and prepare written legal opinions, in accordance with the study program and Legal Aid Act.<sup>15</sup> Students are not allowed to directly represent clients in the court, but they may attend the hearings and, within the work of legal clinics, they may assist persons authorized to represent clients in the court.<sup>16</sup> Students provide legal aid to socially vulnerable citizens but, in accordance with the Ordinance on the study, they are also authorized to provide legal aid in various kinds of legal cases, which are of great importance for gaining practical knowledge.<sup>17</sup>

Students who enroll in the legal clinic go through several stages and forms of clinical work. During their clinical practice students are obliged to attend introductory seminars, where they gain knowledge on the technique of receipt and processing of legal cases. After finishing introductory seminars students take their daily duties in residential clinic where they work in groups in order to provide legal aid to citizens who have applied for clinical legal aid.<sup>18</sup> Although students are obliged to work in the group, they also may take individual research regarding preliminary processing of cases.<sup>19</sup>

In residential clinic students have at least one meeting per week of working groups, where they discuss on results of clinical work and problems with which they are facing during their clinical practice.<sup>20</sup> At least once a month student and clinical leadership hold plenary meetings with the aim of discussing organizational and strategic issues of clinical work such as enrollment of new students, new projects of cooperation with NGOs and other regional legal clinics, planning the schedule for providing legal aid in external (field) legal clinics, etc.<sup>21</sup>

Beside the work in residential clinic, students are obliged to work in an external (field) clinic, where they provide legal aid outside the residential clinic, in areas of Croatia where legal aid is most needed.<sup>22</sup>

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13 Ibid.

14 The Legal Clinic provides legal aid to citizens regarding their various legal problems so there is a need for ensuring the continuity of the clinical work. This is possible only if we ensure the continuity of theoretical and practical training of students involved in providing legal aid throughout all academic year. In accordance with this need it is very important to enrol in clinical trainings a number of students who have already finished the obligatory part of clinical legal education and are willing to stay and help in further development of clinical legal education. See Uzelac 2010., p. 3.

15 Art. 14. a. st. 2. Ordinance of study. See: [http://klinika.pravo.unizg.hr/sites/default/files/pravilnik\\_o\\_studiju.pdf](http://klinika.pravo.unizg.hr/sites/default/files/pravilnik_o_studiju.pdf); See also: art. 14. para 2. CLAA

16 Ibid.

17 Art. 14. a. para. 3. Ordinance of study. See: [http://klinika.pravo.unizg.hr/sites/default/files/pravilnik\\_o\\_studiju.pdf](http://klinika.pravo.unizg.hr/sites/default/files/pravilnik_o_studiju.pdf); See also: art. 14. para 3. CLAA

18 See Uzelac 2010, p. 3.

19 Ibid.

20 Ibid.

21 Ibid.

22 Ibid.

The segment of the clinical work which comprises practical resolution of legal cases, in the form of providing legal aid, represents a significant contribution not only to legal education, but also to the community. By providing general legal information, legal advice and by assisting in the preparation of documents in various types of procedures for individuals with low income, students for the first time during their studies take responsibility for the resolution of actual cases. Besides the opportunity to apply theoretical knowledge in practice, the contribution to legal education of students of the Faculty of Law at the University of Zagreb is achieved through international projects. Particularly noteworthy, in this regard, is the project "Support to setting up of the Legal Clinic for the Zagreb Faculty", achieved in cooperation with the British Embassy.<sup>23</sup> This valuable project enabled the exchange of knowledge and experience between Legal Clinics of the Law Faculties in Newcastle and Manchester, and Legal Clinic of the Law Faculty in Zagreb, with the goal of the improvement of Croatian clinical legal education and the improvement of clinical curriculum.<sup>24</sup>

### 3. Organization of clinical work

#### 3.1. Organizational structure of the Legal Clinic

The Ordinance on the study prescribes the organizational structure of the legal clinic, according to which the clinic is governed and its work coordinated by the Head of the clinic (Clinical Director), who is law professor and member of Faculty.<sup>25</sup> The administrative affairs of the clinic are carried out by two assistant managers with the help of two clinic administrators, who are appointed amongst students.<sup>26</sup> All the important decisions on the provision of legal assistance in specific cases are brought independently by students. Strategic questions about the direction of clinical actions, organization and other decisions that require the engagement of additional resources or work, are decided on joint meetings by students in agreement with the Clinical Director, his deputies and assistants, academic mentors.<sup>27 28</sup>

The clinic has clinical groups that serve as working groups. They are independently formed in accordance with characteristics of specific cases and areas to which they pertain.<sup>29</sup> In the beginning

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23 Legal Clinic in the period 2011 – 2012 recorded several projects that gave her the possibility of cooperation with foreign partners and acquire new knowledge and experience regarding the clinical legal education. Beside the project with British Embassy the most interesting projects are: "Public and Private Justice. Exchange program between students in London and Oslo "with Norwegian Embassy," Assistance mechanism for effective social integration of Roma and People with Disabilities "with Finish Embassy.. See <http://klinika.pravo.unizg.hr/medunarodna-suradnja-i-pomoc> (5.5.2012)

24 See <http://klinika.pravo.unizg.hr/medunarodna-suradnja-i-pomoc> (5.5.2012)

25 Art. 14. b. para. 2. Ordinance of study. See: [http://klinika.pravo.unizg.hr/sites/default/files/pravilnik\\_o\\_studiju.pdf](http://klinika.pravo.unizg.hr/sites/default/files/pravilnik_o_studiju.pdf)

26 Uzelac 2010, p. 3

27 Meetings of clinicians are held monthly in the form of the Small Council. The clinical director, his deputies, assistants, academic mentors, administrators and students which represent clinical groups discuss important questions of clinical organization, collaboration with civil society organizations, government agencies, legal practices, as well as presenting and analyzing the performance achievements of students in providing of legal aid. Also at the meetings current difficulties in the work with which students and their mentors meet are discussed with the aim of proposing concrete suggestions for their successful resolution.

28 Uzelac 2010, p. 3

29 Ibid.

of its work or during the academic year 2010/2011, the clinic was operating through three working groups: civil and family law group - in which the cases concerning the property and status were handled; administrative and labor law group - in which the cases concerning labor and social issues were handled; and criminal law group - in which the cases concerning criminal implications in the broader sense (criminal, misdemeanor, disciplinary and similar cases) were handled.<sup>30</sup> However, since this classification of the working groups was too general and less client oriented, at the end of academic year 2010/2011 a new classification of working groups was made. Thus, the clinic now operates in eight working groups: a group for asylum seekers and foreigners, a group for anti-discrimination and rights of minorities; a group for the rights of children and family support; a group for protection and assistance of crime victims; a group for protection of workers' rights; a group for protection of patients' rights; a group for PR; and a group for special cases and projects.<sup>31</sup>

### **3.2. Mentoring**

The clinic has academic mentors, chosen among the professors and faculty associates, depending on their interest and knowledge in specific matters of significance for the clinic.<sup>32</sup> Academic mentors monitor the work of their clinical groups, they advise students regarding the direction of their research in solving the legal cases and discuss with them various legal issues that are needed for successful provision of legal aid. Although mentors are involved in students work, they are not allowed to solve the cases instead of the students nor are they allowed to impose on students their legal opinions.<sup>33</sup> In addition to academic mentors, the students are also mentored by 'senior' students who, after finishing one semester of active work in the clinic, continue to volunteer in the clinic.<sup>34</sup>

External mentors, selected on a voluntary basis among interested members of the legal profession (lawyers, lawyers in NGOs and other legal professionals) also participate in activities of the clinic.<sup>35</sup> They help students with the practical training, mainly by participating in the reception and analysis of specific cases (receiving instructions from the client, identifying the main issues and advocacy strategies, etc.).<sup>36</sup> So far, the legal clinic has successfully cooperated with several attorneys specializing in providing legal assistance in various aspects of law, lawyers working in NGOs and bodies of state administration.

### **3.3. Residential and external clinic**

Students gain practical experience by working in a residential clinic at the Faculty and external clinics outside the Faculty, on the basis of agreements with organizations, institutions and persons authorized to provide free legal assistance.

In the residential clinic the students receive citizens' requests for legal aid via phone, e-mail and in person by citizen's visits to the premises of the clinic. Regardless of the ways in which citizens

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30 Uzelac 2010, p. 4

31 See <http://klinika.pravo.unizg.hr/organizacijska-struktura> (5.5.2012)

32 Uzelac 2010, p. 4

33 Ibid.

34 Ibid.

35 Ibid.

36 Ibid.

seek legal aid in the clinic, the student on duty takes the case, and, on the basis of standardized questions, enters the basic information on the case and clients (name and surname, contact information, financial status and motivation for addressing the clinic, the nature and basic data of the case, the requirements and interests of the client, etc.) in the database. Based on the information gathered by the student on duty, the case is assigned to one of the working groups, within which one student is appointed as referent in charge of the case. Exceptionally, for complex cases it can be determined that the case is assigned to more students as referents, between which there should be a clear division of tasks. The task of the referent comprises a preliminary review of the case and the presentation of his proposal at the meeting of the working group. His proposal must include an assessment on whether the clinic should get involved and provide some form of legal assistance (self-protective need of the client, evaluation of individual and social need for legal assistance, the suitability of case for the legal clinic and the chances of success). For cases which are assessed as eligible for legal assistance, the student referent prepares a preliminary analysis on the basis of which a form of legal aid will be proposed, the actions which the clinic shall undertake and a draft of the contents of legal advice or other document which would be prepared for the client.

All the proposals made by the student referent must be presented to the working group in charge, which collectively reaches a decision on all important issues (accepting or refusing cases, the form and content of legal aid).<sup>37</sup> Even though the decision of the working groups is autonomous, it is liable to the quality control of the academic mentors.<sup>38</sup> The intervention of the mentors in the merit of the content of provided legal aid is limited to cases in which the working group cannot reach a decision on its own, so they need an expert advice regarding the direction or deepening their research regarding the successful provision of legal aid.<sup>39</sup> In any event, mentors encourage active and independent research and responsible collective effort of working groups, and, in that respect, refrain from providing legal aid instead of the students.<sup>40</sup> Based on the decision of the working group, the referent acts accordingly (i.e. finishes the text of the legal advice) and contacts the citizen who demanded legal aid.<sup>41</sup> The provided legal aid is referred to at the next meeting of the working group, after which a decision on further acts in the case or closing of the records follows.<sup>42</sup>

Apart from the residential Clinic, students can gain practical experience by giving legal aid in external (field) clinics, settled in places with a greater need for free legal aid (poor communities, prisons, detention houses, etc.).<sup>43</sup> Students who take part in the work of the clinic can also organize public debates, contact competent authorities, and inform the public of their work and the problems they face.<sup>44</sup>

As a part of the project led in cooperation with the British Embassy, the clinic took part in the organization of two round tables: "Reform of Legal Aid System – The Future of Legal Advice?",

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37 Ibid.

38 Uzelac 2010, p. 6

39 Ibid.

40 Ibid.

41 Ibid.

42 Ibid.

43 Uzelac 2010, p. 4

44 Ibid.

in 2011, and “Promoting Effective Clinical Legal Education and Discussion and Workshop”, in 2012. In addition, within the framework of the international project “Assistance mechanism for effective social integration of Roma and people with disabilities” launched in 2011 and financed by the Finnish Embassy, the students of the Legal Clinic started the “Bridge the differences” project - a charity program aimed at collecting money and material resources (food, clothes, shoes) for underprivileged groups of the Roma ethnic minority in Croatia.

### 3.3. Malpractice insurance

The Legal Clinic of the Law Faculty, University of Zagreb aims to provide legal aid based on the highest professional standards. Thus, a contract has been signed with an insurance company with the aim of insurance against malpractice damage. Apart from what has been mentioned about providing legal aid, all users are warned that “the education and training of students is an integral part of the purpose of the Clinic, and that the legal aid offered, although composed in good faith, is the result of their work and not the work of the institution or its academic staff and associates.”<sup>45</sup> Also, for certain forms of legal aid the users of the aid must provide a written statement about being informed of the previously mentioned circumstances and give a written consent regarding the limiting of the responsibility of the Clinic only for the damage done by willful miscounseling.<sup>46</sup>

### 3. 4. Funding

The Legal Clinic of the Law Faculty, University of Zagreb provides the end user with legal aid free of charge.<sup>47</sup> However, the user may, in specific cases and depending on their financial resources, be asked to bear certain expenses in the process of exercising his/her rights, such as evidence gathering costs, costs of external legal representation, costs adjudged to the opposing party in the case, etc.<sup>48</sup>

The Clinic is financed from the budget of the Law Faculty, University of Zagreb, but the funds are gathered from other sources as well, such as the projects within the University of Zagreb, contracts with the Ministry of Justice<sup>49</sup> based on the Free Legal Aid Act and the projects with international institutions, as well as foreign and international organizations.<sup>50</sup>

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45 Ibid.

46 Ibid.

47 Ibid.

48 Ibid.

49 In 2010 the Legal Clinic received 15,000.00 HRK out of 100,000.00 HRK it asked from the project financing of free legal aid provider from the Ministry of Justice, that is, the state budget. But at the end of the project period (the end of 2010), the Clinic was obligated to give back all the allocated funds despite the fact that the so called “order” was used to provide legal aid in two cases outside the system, and that a major part of the funds that exceed 15,000.00 HRK was spent on the equipment of the Legal Clinic and work training. For the project period of 2011, the Legal Clinic was not awarded funds from the state budget, which the Ministry of Justice gathers yearly based on an invitation for tender. Therefore, the Legal Clinic is fully financed from the Faculty budget and the projects in cooperation with foreign institutions.

50 Until now, the Legal Clinic of the Law Faculty, University of Zagreb has succeeded in winning projects with the British Embassy and the Norwegian Embassy, through which it will establish valuable contacts with renowned legal clinics in Great Britain and Norway. See <http://klinika.pravo.unizg.hr/medunarodna-suradnja-i-pomoc> (20.7. 2012)

#### **4. The impact of clinical legal education on the more efficient exercising of Croatian citizens' right to judicature**

The fact that student work in the Legal Clinic of Zagreb Law Faculty is not just "a figure of speech", but that clinical legal education benefits the broadening of the practical knowledge of students, is supported by statistical data on actual clinical accomplishment in providing legal aid. In the academic year of 2010/2011, 137 cases were registered, out of which 58 were civil cases, 24 criminal cases, 27 administrative cases and 28 medical cases. In the winter term of 2011/2012, there were a total of 232 cases, out of which 172 were civil cases, 10 criminal cases, 36 administrative cases and 14 medical cases.<sup>51</sup> In March 2012, the first month of the summer term of 2011/2012, there were a total of 64 cases, out of which 40 were civil cases, 14 administrative cases and 7 criminal cases.<sup>52</sup> In May 2012, the first month of the summer term of 2011/2012, there were a total of 44 cases, out of which 30 were civil cases, 11 administrative cases and 3 medical and in June there were 28 cases out of which 23 were civil cases, 5 administrative cases and 0 criminal cases.<sup>53</sup>

#### **5. Conclusion**

Clinical legal education is a novelty in Croatian law schools curriculums and poses new challenges to Law Faculties regarding the improvement of student education. Apart from its significant role in legal education, existence of legal clinics is also very important in terms of enhancing the legal aid system by broadening the cycle of legal aid providers to which underprivileged citizens can turn when they are in need of legal aid. Moreover, clinical legal education has a positive impact on the strengthening of public policies of exercising constitutional principles of equality before the law, the right of access to justice and a fair trial within a reasonable period.<sup>54</sup> These important goals, which clinical legal education aims to achieve, are closely linked and should be constantly improved by powering the law schools curriculums through the process of learning from best clinical legal practices. Therefore, to maintain the positive development of the Croatian clinical legal education, Law Faculties have to continue to enhance the awareness of students and faculty members on the need of continuous empowerments of clinical curriculums. That is the only way to keep the track with development of modern clinical legal education which aims to support students interested in gaining theoretical and practical experience through provision of legal aid in the interest of the public benefit.<sup>55</sup>

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51 See <http://klinika.pravo.unizg.hr/broj-i-vrsta-predmeta>

52 Ibid.

53 Ibid.

54 Uzelac 2010, p. 2

55 Ibid.

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