
Legal Education and Clinical Legal Education in Poland

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The aim of this paper is to present the existing legal education system and development of clinical legal education in Poland. The first part briefly introduces the general Polish higher education system including the implications of the Bologna Process and other challenges for the law faculties as higher education institutions. It then focuses on the five different apprenticeships necessary to obtain license to practice law in Poland. The second part deals with the study program and teaching methods used at Polish law faculties. It argues that the present system does not meet the requirements of the contemporary legal job market as students are not, as a rule, exposed to practical aspects of legal problems and leave law school without training in the necessary skills. The third and most extensive part is dedicated to the legal clinics operating in Poland. Some statistical data is presented on legal clinics (i.e. numbers of students, teachers, cases etc.). This part also discusses basic clinical methodology instruments used in Polish clinics. Finally it describes the establishment of the Polish Legal Clinics Foundation (Foundation), its goals, tasks, challenges and achievements.

I. Higher Education System in Poland

Institutions of Higher Education

The first Polish law school dates back to 1364 when the present Jagiellonian University was established as the oldest university in Poland and second oldest in Central and Eastern Europe. As Z. Gostynski and A. Garfield write: “Over the centuries Poland developed a system of legal education which was similar to that offered in other European civil law countries. The period of socialist rule in Poland did not change the general contours of this system. Instead, it modified the system, especially in terms of curriculum and career opportunities. When Poland emerged from Communist rule in 1989, its system of legal education continued largely intact.”¹ Before 1989, under the old rules, the system comprised only state institutions, the sole exception being the non-state Catholic University in Lublin. In 1990, the new Act on Schools of Higher Education laid

1 Z. Gostynski, A. Garfield: Taking the other road:
Polish legal education during the past thirty years, 7

Temp. Int'l & Comp. L.J. 243, 1993, p.253.

down rules for establishing non-state institutions of higher education, whose number has been steadily growing since then.²

According to the current Law on Higher Education, a public higher education institution is an institution established by the State as represented by a competent authority or public administration body. A non-public higher education institution is an institution established by a natural person or a corporate body other than a corporate body administered by national or local authorities.³ There may also be distinguished two types of higher education institutions. The first group includes university-type institutions offering studies in the humanities, sciences, medical sciences, economics, pedagogy, the arts, and military studies. The second group includes professional institutions which educate students in specific professional areas and prepare them for practising a profession.⁴

The Bologna Process and Legal Education

A European Higher Education Area (EHEA) based on international cooperation and academic exchange is the main goal of the Bologna Process and one of the proposed reforms provides for “readable and comparable degrees organized in a three-cycle structure (e.g. bachelor-master-doctorate)”.⁵

There are five levels of higher education established in the Polish system, fulfilling the standards of the Bologna Process: one undergraduate (first-cycle) program, two graduate (second-cycle and long-cycle) programs, one doctoral (third-cycle) program and one postgraduate (non-degree) program.⁶

Legal education is one of a very few fields of studies which departed from a stage-oriented assumptions of the Bologna Process and it constitutes a uniform five-year study program classified as the long-cycle one that is open to applicants holding a secondary school leaving certificate (matura exam), providing specialist knowledge in a specific area of study as well as preparing for creative work in a profession. Graduates are granted master level titles (magister) based on the completion of the curriculum and final diploma examination where students defend their master thesis.⁷

There has recently been discussion over whether to change the final diploma examination. Under present circumstances the fifth year students attend the master seminars conducted by professors and write master papers under their supervision. Two major issues have been heavily criticised – one, that due to the high number of students it often happens that one professor supervises more than 10–15 master papers at the same time (the number varies in different schools and reaches up

2 Taking legal education as an example, there are total of 16 state schools with law faculties, 12 of them existed before 1990. After the reform the number of non-state law schools has grown to reach total of 13 non-state institutions where legal education can be obtained. Data based on the 2008 Law Faculties Ranking of “Gazeta Prawna” (Polish daily legal newspaper).

3 Art. 2 of The Act of July 27, 2005 – Law on Higher Education, Official Journal 2005, nr 164, position 1365.

4 Classification by the Ministry of Science and

Higher Education: <http://www.eng.nauka.gov.pl>

5 See the official website of the Bologna Process: <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/>

6 Art. 2 of The Act of July 27, 2005 – Law on Higher Education, Official Journal 2005, nr 164, position 1365.

7 For more information on professional titles and academic degrees in the Polish educational system see the information of the Bureau for Academic Recognition and International Exchange at <http://www.buwilm.edu.pl/educ/index.htm>

to 30 or even 40). As a consequence, students' research is often incomplete and the papers are not properly prepared and reviewed, which leads to the second critical argument – a masters thesis should engage more methods than the simplest “copy-paste-cite” one.

The Bologna Process encouraged European schools to introduce the European Credit Transfer System (ECTS) which is a student-centered system based on the student workload required to achieve the objectives of a program. In the frame of ECTS, every legal course is assigned a number of credits reflecting the amount of work necessary to meet the course's requirements. There is minimum standard of ECTS points required to pass each semester as well as the ECTS grading system allowing for easy recognition of students' achievements by different European institutions.⁸

How a student becomes a lawyer

The Polish legal education program consists of a five year curriculum discussed below, but law school graduates with a masters degree are not licensed to practice in any legal profession. In order to practice law, following graduation they have five different traineeships to choose from, depending on whom they want to become in the future: a judge, an advocate, a legal advisor, a public notary or a prosecutor. The provision of legal advice and representation of parties before the court can be performed by advocates or legal advisors.⁹ It takes a state entrance exam to be admitted to the advocate's or legal advisor's traineeship (aplikacja) which lasts three years and ends with a final, usually two- or three-day, exam. Positive results in the exam opens the door to practice and the professional associations.¹⁰

II. What and how a law student studies at school

Study program example

Every Polish law faculty has the right to arrange its own study program. The Ministry of Science and Higher Education issues “educational standards” for every major (law, administration, biology, architecture etc.) taught at higher education institutions. The standards will provide the number of ECTS points required, the number of semesters and hours within the semester to be taught and basic requirements of the content of education (i.e. what kind of courses should be offered in a law school). Law faculties follow those standards while scheduling their own curricula.

It is commonly accepted that the five – year legal program is theory-oriented. Taking a program of one of the law faculties as an example,¹¹ the lack of any practical courses is easily noticed. The first

8 More on European Credit Transfer System: EU Education and Training at http://ec.europa.eu/education/programmes/socrates/ects/index_en.html

9 Functions of both professions are very similar today. Advocates provide full scope of legal service, while legal advisors can not take criminal law cases.

10 In 2005, following the judgment of the Constitutional Tribunal of Poland on the Admission to the Advocates' and Legal Advisors' Traineeships, a new law on admission to legal profession was introduced which abolished the exclusive control of access to legal professions for law graduates by professional associations (similar to bar associations). As a consequence, the entrance and final exams are now state exams (these used to

be organized by local associations and the number of admitted candidates was often lower than 10 per year). It also opened up the possibility of obtaining a license to practice (based only on the final state exam) for persons holding a PhD in law or for persons who performed legal services for five years in an unqualified status.

11 This is an example of a study program offered since 2007 at the Faculty of Law, University of Bialystok – the home school of the author of this article. It may be found at: www.prawo.uwb.edu.pl. Other Polish faculties follow the same standards. Although the rules and particular components vary, the lack of practice-oriented courses is a national problem.

year law students have their schedule already planned and they take the following courses: Jurisprudence, History of Polish Law, Common History of Law, Legal Logics, Roman Law, Denomination Law, Economics, Sociology (or Legal Ethics), Computer Science, Foreign Language, Latin Legal Terminology and Physical Education. Obligatory courses during the second year include: Constitutional Law, Administrative Law, Civil Law (part 1), Criminal Law, and Intellectual Property Law. Third and fourth year comprises: Civil Law (part 2), Criminal Proceedings, Administrative Proceedings, Civil Proceedings, Theory and Philosophy of Law. The fifth year is dedicated to the master seminar, however between year II and V, each student completes other courses, so the number of ECTS points equals 60 per year and has to include an additional 11 courses in the program such as: Political and Legal Doctrines, Labor Law, Law of the EU, Public International Law, Tax Law etc. In addition there are 10 specialized courses (15 hours each) required during the fourth and fifth year in accordance with the student's master seminar. There are only two two-week internships included in the study program which each student has to take during the fourth and fifth year.

Teaching forms and methods

Every major course in Polish law schools has two forms of teaching. Once a week all students in a particular year meet to listen to 90 minutes of a regular *lecture* conducted by the professor in a given field of law. Once a week groups of students (the number of students is different in every law school but on average there are 20–30 students in one group) meet to work in a 90 minute class conducted by teaching assistants or lecturers. The idea behind such a division was to enable students to listen to a full time lecture and then work on some practical aspects of the same legal problems in class.¹² Unfortunately, quite often those forms are not very productive. Lectures can consist of nothing but reading chapters from books and classes of going over those chapters and discussing them. During the fourth and fifth year students attend master *seminars*. They are usually smaller groups of 10–15 students working under supervision of the professor on the preparation of the final master thesis.

Most popular teaching methods at Polish law schools include: lectures (nowadays, also with power point presentations), class discussions, working with codes and legal acts (not so often with court judgments).

It must be emphasized however, that the situation, at least in some law schools, has been improved as more new teaching techniques are introduced and students have a chance to participate in moot court simulations, workshops on legal analysis and legal writing etc. A lot of credit in this respect goes to the legal clinics where new ideas are widely and successfully implemented to make sure law graduates leave the school with some practical preparation for their future profession.

III. Clinical legal education: a decade of struggle and satisfaction

Development of CLE in Poland

The idea of clinical legal education was brought to Poland from the United States and quickly gained a big group of supporters. In 1997 the first legal clinic was established with the financial

12 In most Polish law schools lectures are not obligatory but classes are. Students have to obtain a passing grade in class to be able to take a final

course exam. This is however, not a rule at all faculties, sometimes both lectures and classes are not mandatory.

support of the Ford Foundation at the Jagiellonian University in Krakow. Soon other clinics opened at Warsaw University (also based on the Ford Foundation's support) and the University of Bialystok (based on the financial support of the ELSA – European Law Students' Association and the law school's funds).¹³ Within ten years the idea of clinical legal education has become popular among students and some faculty members. It was not always easy to establish a new clinic at a law school and convince the authorities it was an excellent opportunity for the students to get a sense of law in practice while still studying the codes.¹⁴ It was even more difficult to convince the national associations of advocates and legal advisers that clinics would not compete with them. It took much effort by many students and supporters of the CLE idea to reach today's numbers – there are presently 25 legal clinics operating at every public school and most private schools.¹⁵ All of them are in some way included in the study programs, as an optional course, internship or student activity. Most of the programs also include the legal clinic in the ECTS system. At some faculties (in Warsaw, Krakow, Bialystok, Opole or Lodz) clinics have already become integral parts of the school's structure in form of an institute, chair or laboratory.¹⁶

Students involved in the clinical program are divided into sections dealing with particular fields of law (civil, criminal, administrative, refugee, etc.). One legal clinic usually comprises several sections (there are for example eight sections at the Warsaw University clinic, seven sections at the University of Bialystok), so students are exposed to different fields of law within one program. Each section is supervised by at least one teacher, a member of the faculty, sometimes together with a practitioner. There are two students assigned to each case. The legal opinion is always given in writing and explained to the client. This assistance is of course free of charge and clinics accept only clients who can not afford professional legal advice.¹⁷

Legal clinics: statistical data

The Legal Clinics Foundation issues an annual statistical summary of Polish legal clinics' work and that data represents the scope of clinical activity throughout the country. During the academic year 2006/2007¹⁸ there were a total of 9399 cases submitted to legal clinics out of which 2327 (25%) were civil law cases. There were 1302 students and 197 teachers working in the clinics. On average then, one teacher supervised the work of six students and one student handled seven cases.

13 More on the history of the Polish legal clinics' development see: Legal Clinics Foundation website at: www.fupp.org.pl

14 Polish law students have very limited options when it comes to providing legal assistance to clients in courts and they may not represent them. For more information concerning legal assistance in Poland see: L. Bojarski: The aim of legal clinics [in:] *The Legal Clinic. The Idea, Organization, Methodology*, C.H. Beck Warsaw 2005, p.19–33. An on-line version of the publication available at the Legal Clinics Foundation's website: http://www.fupp.org.pl/download/legal_clinic.pdf

15 The 2008 Law School Ranking by *Gazeta Prawna* quoted above, for the first time included legal clinic as a ranking criterion. Moreover, the Deans of the winning law faculties emphasized clinical programs as valuable priorities of their law school's policies.

16 More on the organizational forms of legal clinics in Poland in the light of the Bologna Process: R. Golab: *Institute of clinical legal education – answer to the challenges brought to European schools by the Bologna Process*, *KLINIKA* 2008, nr 4 (8), p.18–23.

17 The structure of the clinic and sections as well as the procedure required when providing legal advice by students is extensively explained in: *The Legal Clinic. The Idea, Organization, Methodology*, C.H. Beck Warsaw 2005.

18 This summary is available in the power point presentation at the Legal Clinics Foundation's website: http://www.fupp.org.pl/download/prezentacja_2006-2007_eng.ppt. It is based on data collected from 24 legal clinics, as the other one was just opened recently and the data from last academic year are not published yet.

Naturally, Polish legal clinics vary in size having between 20 to 120 students enrolled into the course and between 3 and 20 teachers working with students. Bigger clinics therefore handle somewhere between 500 and 1000 cases per year and smaller ones between 40 and 300. Civil law cases are most often submitted to legal clinics followed by criminal law cases (2012 in the 2006/7 academic year), family law cases (1180), labor and unemployment law (992), inheritance law (817), housing law (591), administrative law (421), refugee and foreigner law (398), financial law (106), social aid (50), health care (31), violence against women (29), disabled (15), NGO (14) and 416 other legal problems.

In 49% of cases the legal problem required only a short explanation and opinion which took one or two meetings with the client and the case lasted up to two weeks. 41% of the cases required several meetings and the case lasted between two weeks and two months. Only 9% of cases lasted up to one year and 1% – longer than a year. 83% of the clinical clients had not obtained any professional legal advice before coming to the clinic.

Teaching in a legal clinic

As legal clinics became very popular in Polish law schools, it was necessary to extend the understanding of clinical legal education and make sure that the social mission did not set aside the educational goal of the clinical programs. As F. Zoll and B. Namyslowska observe, there are two fundamental aspects to the clinical teaching method: its effectiveness as a method of learning comprehensive legal skills in a relatively short period of time, and the social education aspect which transpires through the fact that the student lends assistance to people of modest means thus realizing how the institutions of the state function wherever professional legal assistance does not reach.¹⁹

Polish law professors who became supervisors in legal clinics had little or no idea of how to effectively use the real client and real legal problem and build the teaching instruments around them. The role of the supervisor was and still is in many cases reduced to the function of watching over the students' activities and ensuring that they do not make any mistakes from the legal point of view, that their opinions include correct provisions and quote appropriate articles.²⁰

Many projects have been carried out to improve the situation and to "teach the teachers" how to use their time with students in the clinic to help develop necessary lawyering skills: legal analysis and reasoning, communication, negotiation, factual investigation, problem solving etc. With the financial support of several institutions some clinical teachers visited legal clinics in the USA²¹; observed teaching methods used there and brought them back to try at their schools. Many conferences and workshops have been organized by the Legal Clinics Foundation but also by the clinics themselves, dedicated to different aspects of clinical teaching. There are also a couple of books published by one of the largest legal publishers in Poland, introducing the clinics and promoting clinical education (some of them are available to download from the Foundation's

19 F. Zoll, B. Namyslowska: *The methodology of clinical teaching of law* [in:] *The Legal Clinic. The Idea, Organization, Methodology*, C.H. Beck Warsaw 2005, p.186.

20 *Id.*, p.187.

21 The Legal Clinics Foundation also worked out a scholarship program for clinical teachers. Each year the Kosciuszko Foundation sponsors one representative from a Polish legal clinic who participates in the fellowship program arranged by PILI at Columbia University in New York.

website).²² Additionally, clinical teachers can publish articles and share their experience in the “Klinika” magazine published by the Foundation and communicate through a group e-mail list created specially for clinical teachers.

The Legal Clinics Foundation

Within just a few years of the first legal clinic being established in 1997, the clinical idea spread throughout the country and in 2001 fourteen new programs were opened at different schools. At that moment it was important to arrange some future planning to consolidate the clinical objectives and also to create a common platform for communication and experience exchange among Polish clinics. At the turn of 2001 and 2002 the decision was made to establish a Legal Clinics Foundation which presently operates under the institutional financial support of the Batory Foundation and Polish-American Freedom Foundation. In December 2001 three representatives from Polish legal clinics were invited to participate in a study visit to the Republic of South Africa, where the clinical teaching program had been successfully developing for the past 30 years.²³ The trip resulted in the devising of a strategy for the development of the Polish legal clinics program based on the experience of the Republic of South Africa, and consequently in the establishment of the Legal Clinics Foundation which would take on the duty of strengthening the present clinical structure and shape the future of the clinical movement in Poland. The idea was not only to ensure the financial stability of the clinics, but also to constitute a forum which would bring together the efforts to enhance the clinics’ position in the academic and legal community, and would search for a formula to inscribe legal clinics into the Polish legal system.²⁴

According to its Statute,²⁵ the Legal Clinics Foundation’s goals include: 1) financial support of the legal clinics’ activity and other programs of practical legal education; 2) elaboration and promotion of the legal clinics’ activity standards; 3) elaboration and propagation, of the legal regulations and drafts of legal regulations covering legal clinics’ activity.

The structure of the Foundation consists of the Council of the Foundation (Council), Board of the Foundation (Board), and Advisory Board.

The Council consists of the academies having legal clinics operating according to the standards and accredited by the Foundation and other subjects supporting the Foundation’s activity. It holds the executive power as it appoints the Board and approves financial plans and activity projects proposed by the Board.

22 The first Polish book dedicated to the clinics which has been quoted many times in this article has been translated into English and is available at the Foundation’s website: The methodology of clinical teaching of law[in:] *The Legal Clinic. The Idea, Organization, Methodology*, C.H. Beck Warsaw 2005. Other guides include: I. Mulak, M. Szeroczynska: *How to teach lawyers a good communication with clients*, CH Beck Warsaw 2006, L. Bojarski, B. Namyslowska – Gabrysiak: *Moot court as a teaching method*, CH Beck Warsaw 2008.

23 The visit was designed and organized by the Public Interest Law Initiative (PILI) affiliated with the Columbia University in New York and financed by the Ford Foundation. The Study Visit Report was published in the conference materials of the Fifth

Annual Colloquium on Clinical Legal Education which was held in Warsaw on November 15–16, 2002. The English version is available at the Founadtion’s website: http://fupp.org.pl/download/legal_clinics_rpa.doc More on the origins of the Legal Clinics Foundation: F. Czernicki: *The Legal Clinics Foundation – the creation, the objectives and an outline of activities* [in:] *The Legal Clinic. The Idea, Organization, Methodology*, C.H. Beck Warsaw 2005, p.209–221.

24 *Id.*, p.209–210.

25 The Statute of the Legal Clinics Foundation along with other documents is available in English at the Foundation’s website: http://www.fupp.org.pl/index_eng.php?id=statute

The Board consists of five members elected for a two year term and it manages the affairs of the Foundation and represents the Foundation. It carries out the everyday work of the Foundation by searching for resources for the planned activities, coming up with new projects, communicating with the clinics etc. The present Board consists of the President and four other members representing different universities.

The Advisory Board is appointed by the Council and sits as a consultative and advisory body. It includes persons whose competence and authority are essential to the Foundation's activity. At the moment the Advisory Board among others includes the Polish Ombudsman, President of the Constitutional Tribunal, President of the National Council of Advocates and some foreign representatives from PILI, the Catholic University of America in the USA or the Association of University Legal Aid Institutions Trust in the Republic of South Africa.

To meet the goals included in its Statute, the Foundation has undertaken a great number of tasks and carried out different projects aiming at the improvement of the clinical environment. There are three main fields of the Foundation's activity: 1. financial support for the clinics based on the standardization of clinical programs, 2. improvement of the clinical programs on administrative and educational level, 3. promotion of *pro bono* work in the Polish legal community.

The first field, dealing with financial support, requires constant search for possible sponsors and organization of grant competitions for the clinics. It has been the rule that only clinics which meet the set of standards set by the Foundation can apply for financial support.²⁶ Those grants allowed the clinics to obtain all the necessary equipment, hire secretaries and cover other needs. The Foundation also obtained a great deal of support from the Beck Publishing House which donated legal information software and basic legal literature to every clinic. There have also been some donations of equipment from several law firms located in Warsaw.

The second field is dedicated to a wide range of tasks and projects including the national and international conferences, workshops, seminars and training for the clinical students and teachers, publishing activity of the Foundation described above, co-operation with the Ombudsman of the Republic of Poland, cooperation with law firms and associations of legal corporations, constant exchange of information and clinical *know-how*, responding to the needs and ideas presented by the clinics, implementation of new programs such as Medical Clinic, Mediation Clinic, NGO Clinic etc. In addition, the Foundation is fully engaged in the work on the new law on access to legal assistance and works towards the legal clinics being incorporated into the new system.

The third field reaches beyond the strict clinical movement. The Foundation's mission is to inculcate the idea of *pro bono* work deeper into the Polish legal community. The annual Pro Bono Lawyer contest aims to promote the issue of involvement of lawyers in *pro publico bono* work and

26 There are 11 standards covering the clinical functions and tasks securing that a legal clinic: provides reliability of its services, assures the supervision of faculty teachers over the students, assures the necessary confidentiality of its services, assures the protection of the documents submitted by the clients; legal clinic does not accept original copies of the documents, establishes secretary office according to the scope and characteristics of its activity, informs the client in written about the rules of the clinical services, carries out a qualifying

procedure regarding their clients which is to assure that the client can not afford payable legal advice, sets, according to the proper rules of law, information system about the clients which is to guarantee minimal risk of the conflict of interests, is obligated to conclude an insurance contract on the liability for damages, the guarantee amount can not be lower than 10,000 EURO, submits to the Foundation information on the activity and that legal advice is free of charge.

the title of the Pro Bono Lawyer is awarded to a person providing free of charge and voluntary legal services to other persons, social organizations or institutions. The newest project – Pro Bono Clearinghouse – started in January 2008 and aims to create a network of collaborators, including law firms and NGOs, with the Centrum Pro Bono as the coordinating centre, to deal with the issues of free of charge legal support.²⁷

Clinical legal education in Poland can serve as an example of a success story. All the initial problems have been overcome and the initial lack of interest or even distrust has turned into a great deal of engagement and extensive use of clinical teaching methodology. Based on the recently published data, there are around 60,550 students at Polish law schools. Every year around 1,300 (2%) of them participate in clinical programs and this number will grow as the program develops.

There are of course more challenges ahead. Clinics should become integral parts of the university structures and thus be incorporated into the schools' budgets. A lot has still to be done to improve the teaching process and convince more law professors that this is actually one of the most effective ways to educate future lawyers, both in the legal and social aspects of each case and each client.

The Bologna Process provides an opportunity for introducing practical approaches into traditional legal education.²⁸ Clinical methodology has a chance to become better recognized and more frequently used in other European law schools. It is possible only if European and international cooperation between clinical associations and institutions continues to grow and deepen.

27 The project is sponsored by the Polish-American Freedom Foundation. More information: <http://www.centrumprobono.pl/en/>

28 L. Hovhannisian: *Clinical Legal Education and the Bologna Process*, PILI Papers, nr 2, December 2006, p.6.