

“LEGAL CLINIC IN HIGHER EDUCATIONAL INSTITUTIONS OF GEORGIA”

LOCAL STUDY



2018



STUDY ON LEGAL CLINICS AT THE HIGHER EDUCATIONAL INSTITUTIONS OF GEORGIA

**Project: Improving The Role of Legal Clinics in
Higher Education**



ევროკავშირი
საქართველოსთვის
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Tbilisi 2018

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INTRODUCTION

The need to connect traditional theoretical legal education received at the university with the real life challenges and to involve future lawyers in legal practice became more important during last several years in the legal education of Georgia. The legal clinical programs were created at the law faculties of public as well as private law schools due to this need. It has been revealed in practice that only few, mainly private law schools managed to develop and strengthen legal clinics, which is the reason of lack of their effective functioning.

The effectiveness of legal clinical programs at the institutions of higher education improves the quality of legal education and creates good grounds for future professional success. In addition, the most vulnerable population is able to receive qualified legal advice free of charge.

PROJECT DESCRIPTION

“Improving the Role of Legal Clinics in Higher Education” is the ongoing project of the Association of Law Firms of Georgian (ALFG), which is implemented through the support of European Union (EU) and United Nations Development Program (UNDP): “Enhancing Access to Justice and Development of a Child-Friendly Justice System in Georgia”. Association of Law Firms of Georgia, based on the best national and international practices, develops the effective model of legal clinics for the institutions of higher education in Georgia, which will be accessible for all interested parties. This will also help legal clinical programs to establish direct and effective cooperation with the State Legal Aid Service.

The main goal of this project is to ensure high quality legal clinical education in the legal education system, which is the guarantee for the strengthening of legal profession. Well-developed legal clinical program makes free legal aid accessible for the socially vulnerable groups and improves social responsibility among the students.

In order to achieve this goal at the initial stage of project the plan was to study methodology and structure of legal clinical programs in public as well as private universities in Tbilisi and region.

The interviews were conducted in 7 (seven) higher educational institutions in Tbilisi and in 1 (one) university located in region. Experts of the Association of Law Firms of Georgia interviewed deans of law faculties, as well as managers of clinical programs, supervisor lawyers and students.

The study of legal clinical programs of the higher education institutions of Georgia was implemented in two main directions. On the one hand the structural and organizational form of the clinics was studied and on another hand the methods and effectiveness of their work.

In particular the interview included the following topics:

- Form of the legal clinics;
- Technical support of the legal clinics;
- Funding resources of the legal clinics;
- The structure of the legal clinics;
- The goal and target groups of the legal clinics;
- The main directions of work of legal clinics;
- Methodology and framework of the legal clinics;



- The regulatory documents of the legal clinics;
- Case selection;
- Client interview;
- Student evaluation;
- Considerations of professional legal ethics for lawyers during the work of legal clinics;
- Procedures of application to the legal clinics;
- Promotion of legal clinics;
- Other issues

The results and comparative analysis:

This report is the summary of information collected through above mentioned meetings. The concrete educational institution is not identified in the report to keep the confidentiality of respondents.

Form of legal clinics

The form of the legal clinics available for students of law faculties has been established at the initial stage of interviews. Legal clinics are the part of the law faculty unless it exists as an independent legal body.

It has been established that all interviewed universities have legal clinics as a structural unit of practical course within the system of university taking into consideration the fact that it is mandatory for the universities with law faculties to have practical course in order to be accredited. Despite above mentioned it has been established that in two universities legal clinics are the integral part of law faculty, although it acts outside of university through the practical work of students performed in different organizations or private companies.

In particular, several universities, where the number of students is high, students have possibility, in order to receive credits for the clinical program, to choose between teaching law at the public school (street law clinical program) or doing internship either at the law firm, city court, legal aid service bureau or other partner organizations. In addition, one of these universities, offers participation in legal clinics under the supervision of practicing lawyer, but unfortunately this opportunity is limited now due to the vacant position of mentor lawyer.

As a result of interview it has been established that in one university out of interviewed legal clinics belongs to the law faculty, but it is independent in its work and is not accountable to the dean of law faculty, unlike the other universities.

The legal clinic is accountable to the dean of law faculty in majority of interviewed universities. Due to this accountability a decision on case intake in one university is made by a dean and in another university the dean is allowed to participate in the decision making process on case intake, but he/she does this only in exceptional circumstances. In such circumstances the involvement of dean in the functioning of law clinics is expressed by determination of strategy of clinics, its work and functions. As for the other interviewed universities only the manager of clinics decides on taking a case.

Technical support of legal clinics

The project experts visited the sites of the clinical programs in order to evaluate the technical support of legal clinics and whether there is separate room for the legal clinics at the institutions of higher education of Georgia, whether there is enough space for meeting with the citizens and individual and group work of students.

It has been revealed that technical support of clinical programs is problem in certain universities. In particular, in one university there is no room allocated for the clinics where the number of students is bigger than in other interviewed University. This is the university where the clinical studies are done outside of university through street law programs at the public schools or internship at the certain institution. Students of the clinical program have limited contact with the university building.

There is separate room allocated for the legal clinics in all other universities, with less number of students, but during the interview the representatives of the clinics mentioned that the space is not enough.

In particular, due to the limited space it is impossible to meet with more than one client in the room and citizens are forced to wait outside. In addition, students at one of the universities mentioned the problem with internet and computer. They have to share one computer and loose time while waiting for it. The site visits at the legal clinics revealed that despite the computers at the universities there are no dividers in between the desks, which is problem for the individual work of students on cases and they are forced to work jointly on one case.

There was a case when the manager of the legal clinics of one university said that he/she fails to support effective communication between a student and a client due to limited space. Because there is no enough space in the room he/she has to sit in front of a client next to a student during the interview which draws more attention from a client and manager of clinical program becomes more involved in client interview than the student.

It was also revealed that in almost all interviewed universities except two there are no enough cabinets and shelves for case files in the rooms for legal clinics. One of the managers of legal clinics mentioned that he/she has to keep case files in his/her desk drawers, which is not comfortable. In one university the case files and other documents where on the table due to the failure to have cabinets or drawers. It is important to underline that only two university provided answer to the question of experts how long they keep the case files after the proceedings are finished and the answer was that the files are kept for 5 years from the moment the case comes to the clinical program and the data is not deleted from the electronic database in order to eliminate any chance of conflict of interests. It is important to underline that one of the above mentioned university legal clinic is only 5 years old and accordingly the case files where not destroyed yet. As for the form to destroy the case files the university representatives said that they either will shred or burn the copies of case files and return the originals to a client after 5 years from the date the case entered the legal clinics. Other universities did not respond to this question.

Funding resources of the legal clinics

It has been established with regard the funding of legal clinics that none of the university is funded through the grant program and legal clinics is entirely funded from the budget of the university. The funding source of the legal clinical program in one university is the budget of the university and also the income received from the clients who received legal aid. It is important to underline that there are exceptions for socially vulnerable people at the university where the clients are charged for the legal aid and they receive the legal services free of charge. The fee for legal service is not high and the fees are determined by the document developed by the manager of the legal clinic and clients are preliminary informed about them.



Structure of Legal Clinic

In order to determine the structure of the legal clinics the project experts determined how the functions at the legal clinics are disseminated and who are responsible for them. Whether the director, manager, coordinator are appointed at the legal clinic and based on which document they perform their duties.

It has been established that all interviewed legal clinics have the manager, who has assistant or coordinator. In some universities the assistants are bachelor or master degree students, who are not paid and in two universities the person is hired by the university, is not student and is paid for the job of an assistants or coordinators of clinical programs. It is important to underline that at one university the assistant of the manager of legal clinic at the same time performs the functions of the supervising lawyer and participates in the teaching process, unlike others where the assistant performs managerial functions. Also, there was only one university, where the supervisor was not attorney but he/she was former judge.

The goal and target groups of the legal clinics

The project experts spoke to the representative of legal clinics regarding the priorities and goals of the clinics. The majority of interviewed managers of legal clinics said that the main goal is to improve the practical skills of students and to provide legal assistance to clients. The managers of legal clinics of several universities mentioned that their priority is to provide citizens with legal services.

After the goal of the legal clinics has been established the target groups were identified. Legal clinics is mandatory course only for bachelor's in two university. In several universities legal clinics is mandatory as one possibility out of two for the last year undergraduate students or for the graduate students. In this university it is mandatory for a student to choose either legal clinics practical course or theory classes in a concrete subject which is taught through lectures and seminars. As for the other universities it has been established that the legal clinics course is only available for the graduate students.

The question was asked during interviews whether the students have to go through legal clinics twice – one during the undergraduate studies and later at graduate studies either in the same university or different. The answer to this question was that students are participating in the legal clinics second time despite the fact they went through the clinics during the bachelor studies or not.

The main directions of work of legal clinics

As for the main directions of work of legal clinics it has been established that only one university out of all interviewed works on criminal cases along with civil, administrative and constitutional law cases. The other universities (where the classic legal clinical studies are done inside the university without the cooperation with the organization outside) only take civil and administrative cases and only in exceptional cases they work on constitutional matters.

It is also important to underline that in some legal clinics one lawyer manages civil as well as administrative law clinical program and in some cases managing attorney is appointed according to the specialization and works on only one legal field. The limited budget of the university does not allow hiring more than one mentor lawyer where only one lawyer is assigned to work on cases of different legal specializations and he/she at the same time performs the duties of a manager of legal clinics.

The study revealed that there is only one university where the legal clinics is accessible at the undergraduate studies and it is mandatory to work in all specializations of law (civil, administrative, criminal or constitutional law). As for the rest of the universities students have the opportunity to choose the legal clinical program at the

graduate studies in the field they decided to be specializing in (in other words if they decided to choose public law than they have an opportunity to participate in the constitutional or administrative law clinics and in case they decided to choose private law than they can attend civil law legal clinics).

In addition, those universities where the legal clinics is offered in different format - either by teaching at public schools or internship at the concrete institution- the students are allowed to make a choice between receiving mandatory credit hours for legal clinics by teaching street law program or by internship at the organization.

Methodology of teaching/working at the legal clinic

The methodology of legal clinics was one of the topics during the interviews conducted by the project experts with the representatives of legal clinics. As a result of interviews it has been established that only one university with classic model of legal clinics provides theory courses along with the practical teaching by delivering the lectures on topics such as professional legal ethics of lawyers, advocacy skills, mediation and etc. The rest of the universities provide teaching only through handling real cases, representing real clients and providing them with legal assistance.

It is important to underline that at the universities where there is lack of real cases the moot courts are conducted during the course of legal clinics in order to improve practical skills of students and to evaluate their advocacy skills. The legal clinical program at two university does not have any shortage of case and accordingly there is no need to organize the moot courts for students there. The project experts asked the manager of this legal clinic whether the syllabus considered any alternative method of student evaluation in case the clinical program did not have enough cases to assign to each student. The response to that question was that there was not such need yet and accordingly there was not discussion of alternative mechanism and in one university noted that in such cases they conduct the moot court competitions.

The specifics of work of legal clinics and methodology were also the subject of interviews. It has been revealed that at two university it is not permissible to give telephone consultation on behalf of legal clinics and the work is performed only through the personal contact with a client and personally getting familiar with the case files. It was established that the other universities allow telephone consultations, which allows clinics to help the people in regions. As for the regional coverage there is only one university that organizes regional visits of students of legal clinic and they deliver personal, initial legal consultation on site. The work of legal clinical programs at other universities is ensured only in the capital city, Tbilisi.

At certain universities the work of students of legal clinical program is limited only to legal advice to a client and drafting legal documents and in certain universities the students represent clients at administrative agencies as well as at the courts. It has been established that at the university where students' work is limited only to drafting the legal documents the client's representation is done by the supervising attorney, who is at the same time the manager of legal clinical program. In addition, it was disclosed that at the universities where students represent clients at the court the supervising attorney/manager of clinical program attends the hearing, but does not have the representation authority, and in other cases supervising attorney along with the students represents the client at the hearing. Also, in one University, it was revealed that at one university the students have to represent the client alone, without his/her supervisor.

It has been revealed during the study that students from one of the university drafted legislative proposal in addition to performing the work described above. The proposal was presented to the Parliament. Another university legal clinical program drafts *amicus* while working with the Constitutional Court.



The regulatory documents of the legal clinics

It has been established regarding the internal regulatory document that all legal clinical programs have syllabus, all universities have the draft contract for legal services with clients, but only three University have the charter of the clinics which determines in details the functions and obligations of the manager, his/her assistant, students' supervisor, and lawyers.

Case selection

The project experts established regarding the procedures of case in take by the legal clinic that all interviewed legal clinics is open for any client but they try to give preference to the socially vulnerable groups. As for the content of the case it has been established that only two university has the list of those issues that are not acceptable at the clinics (for instance rape, deliberate murder and domestic violence cases). As for one interviewed University, the person can apply to their clinics only based on the memorandum of understanding between that University and another entity. In other universities there is no preliminary determined list of issues and case intake is decided by the unilateral decision of a manager.

Client interview

It has been established regarding the client interview that in certain universities the key role is played by the manager of a clinic or supervising attorney and in other legal clinics students talk to clients.

The study showed that one university conducts audio/video recording of client interview (the client is preliminary informed about the recording and he/she gives consent to record the interview). The supervising lawyer, manager of the clinical program and student analyze together the interview and discuss the mistakes and possibilities of better resolution of an issue.

In addition it has been established that all clinic students and supervising attorney jointly discuss the case strategy after the first client interview. In some universities the work is done jointly after the strategy is determined and in other universities the students work individually on concrete matter, than discuss the performed work with the supervising lawyer and then analyze their work in order to receive the final product. The representative of legal clinics of one of the university provided the information to the project experts that the communication between the students and supervising lawyer is not limited to face to face but they also use electronic communication soft which is accessible for each member of the group and can monitor each action, comment on them or give advice in case of such need.

Student evaluation

According to the conducted interviews the students' evaluation and schemes is performed through 100 credit system composed of certain components. Among these components are attendance and activity, which is a unified criterion for all clinical programs. In addition the syllabus includes the midterm and final exam component and grades received by the students. It is important that in certain universities the midterm and final exams are done in writing with the supervising lawyer or manager of the clinical program and in other universities communication with the client up until the court proceedings and after trial proceedings (including the court representation) is considered to be the midterm or final exam. In case of legal clinics done outside of university the evaluation of individual mentor lawyer is used by the university.

It is important to mention that the representatives of all universities underlined that all take into consideration the responsible and accountable approach of a student towards the case. The punctuality and active participation in the case preparation is also considered to be important parts of evaluation. It has also been revealed that in some legal clinical programs it is mandatory to take at least two cases during the clinical program in order to receive mandatory credits and pass the subject and in other universities there is no such requirement due to shortage of cases.

The interviews revealed that the low grade of a student in legal clinical program was mainly caused by the low activity of a student and frequently missing the classes. The representatives of the legal clinics mentioned that the interest of students, especially master's students, to work on cases is not high.

Considerations of professional legal ethics for lawyers during the work of legal clinics

Consideration of professional ethics during the legal clinical program was also discussed with the representatives of universities by the project experts. In particular, the question was asked about the confidentiality and conflict of interest; whether the students are aware of professional legal ethics and standards and whether there are sanctions for the violation of professional ethics for the students.

It has been established that only two universities have electronic data base where the information about the clients and their cases is stored. During the intake of a new case the conflict of interest is checked in the data base. There is no such data base in certain legal clinical programs and the information about the old clients and cases only depends on the memory of a manager/supervisor of legal clinics.

In addition it has been established that only one university teaches professional ethics at the initial stage of legal clinical program. In other universities there is no special course conducted by the mentor lawyers for the students on issues such as professional legal ethics for lawyers, advocacy skills, specifics of court representation and etc. It is important to underline that in certain universities students receive the knowledge through the special subject taught at the university, which is mandatory. But it is important to take into account the fact that this subject is only taught either at the bachelor's degree or at master's program and students who attend different universities for bachelor or master degree frequently start the work on the cases at the clinical program without the knowledge of this subject.

Procedures of application to the legal clinics

It is possible to reach the clinics either by phone or in person. All interviewed clinical programs have the hotline, where the client can agree the date and time of a meeting with the student at the clinics (in some cases the phone consultation is issued and there is no need to visit). It has also been established that the clients can visit the clinics without the call. Majority of interviewed clinical programs are included in the registry of free legal aid portal, where the details of contact information is included (phone, e-mail and address), which allows each person to reach the legal clinics.

The project experts asked a question during interview regarding the agreement with the State Legal Aid Service or any other organization providing free legal services regarding the referral of cases and whether there is separate webpage only for legal clinics, which will promote the work of clinics and will simplify the proceedings for application.

Three universities with the classic model of legal clinics answered that they have cooperation with non-governmental organizations and State Legal Aid Service based on which they refer cases to the legal clinics. In addition one University offers outside legal clinics to its students with the State Legal Aid Service. The other universities mentioned that there is no need for such cooperation due to big number of cases.



Promotion of legal clinics

Regarding the promotion of legal clinics and attraction of clients it has been established that majority of legal clinics does not have independent webpage and it can only be found either on the webpage of university or on Facebook. Manager of one of the university legal clinical program mentioned that the purpose is not to promote legal clinics. Taking into account above mentioned the promotion of legal clinics is done through information banners and leaflets. One university even provides radio and television promotion. It has been established through the interviews that the main source of information regarding the clinics is the personal contacts and dissemination of information about the successful cases.

Other issues

The different issues, problematic for the representatives of legal clinics and students were discussed at the end of meetings. The main dilemma for the public universities is the big number of students and lack of cases to provide them to work on. In addition, the main problem for public as well as private universities is the lack of interest among the students of graduate programs. The lack of space and resources allocated for the legal clinics is also a problem. The shortage of electronic data base, where the case files will be stored to avoid conflict of interests and confidentiality problems in future, is another difficulty for the legal clinics.