

## THE ROLE OF HUMAN RIGHTS LAW CLINIC IN THE REALIZATION OF THE RIGHT FOR AN EFFECTIVE REMEDY

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Donetsk National University was the first one in Ukraine that established the law clinic. “The law clinic” of the Economics and Law faculty of the Donetsk National University was established at the beginning of 1996. In 1999 there was created Center of Practical Studies – the structural division of the faculty, which had united “law clinics”, specified under the sphere of law. The activity of “law clinics” is regulated by the Decree about Center of Practical Studies.

The «International Protection of Human Rights” clinic is preoccupied with the preparation of individual complaints addressed exceptionally to the international bodies and institutions. The necessity of the “International Protection of Human Rights” law clinic’s existence is necessary as the Ukrainian law science widely analysis the issues of international legal regulation of human rights and freedoms, mainly provided in the United Nations Decrees, namely of those which are ratified by Ukraine. The interest for the European Union Law study has increased rapidly. Less attention is paid to the Law of the Council of Europe, though the Ukrainian legislation should be oriented on it as Ukraine is a current member of this institution; moreover, it is worth mentioning that the true “European” system of human rights protection, recognized as one of the most effective in the world, is created under the auspices of the given organization.

A number of international conventions and treaties was adopted in the frameworks of the Council of Europe, the majority of which are profoundly linked to the human rights, namely the European Convention on Human Rights and Fundamental Freedoms protection of 1950, European Social Charter of 1969, European Convention Against Tortures, Inhuman or Degrading Treatment of 1983, Framing Convention on the Protection of National Minorities of 1995, etc. There were also created corresponding “controlling” organs, which ensure the functioning of protection mechanism of one or another international document. Any state which entered the Council of Europe should establish certain changes in its laws consistent with the Precedent Law created by the decisions of European Court on Human Rights. Ukraine is not an exception.

On the 23 February 2006 Ukrainian Parliament – Verhovnaya Rada adopted Law “About the fulfillment of decisions and implementation of the European Court on Human Rights practice”, that regulates relations which may appear because of:

1) the Ukrainian duty to exercise the decisions of the European Court on Human Rights in the cases against Ukraine;

2) the necessity of the elimination of reasons due to which Ukraine breaks the Convention about Human Rights Protection and its protocols;

3) the implementation of European standards of human rights into Ukrainian legal procedure;

4) the creation of favorable conditions aimed to deduce the number of complaints to European Court on Human Rights against Ukraine.

All of the above provide information determines the necessity of future jurist's knowledge in the sphere of international standards on human rights, international and European human rights protection mechanisms and rules of applying procedure to the corresponding international organizations, and also gaining experience and skills in the process of the European Convention on Human Rights and Fundamental Freedoms usage at the national and international level.

During 2013/2014 year students of the «International Protection of Human Rights» law clinic, under the supervision of the clinic's head, and in cooperation with the law clinic «Medical Law», provided with the legal assistance poor citizen, invalid in the process of individual complaint to the European Court on Human Rights on the medical law case.

And finally it is important to note that law clinics can assist legal system in achieving positive changes in society by the means of pleading cases being the significant precedent, or by the means of creation of the progressive legislative acts. During their existence in Ukraine, law clinics have undertaken the significant role in the social life. The activity of law clinics is dealing with such important social issues as education and legal help. Therefore, the development of certain general rules and standards of law clinics' activity and their normative affirmation does not seem as monkey business. On the 1 November 2002, the Ministry of Justice adopted recommendations «Role of the public consultations and law clinics on the provision of legal assistance to population» («Роль громадських приймалень та юридичних клінік по наданню правової допомоги населенню»); on 29 May 1995, the Ministry Cabinet of Ukraine (government) adopted the Decree «About program of legal education for citizens in Ukraine» («Про Програму правової освіти населення України») # 366; Ministry of Education and Science of Ukraine established model decree about law clinic of university (order form the 3 August, 2008 # 592), according to which law clinic is a structural division of the educational institutions of third and fourth levels of accreditation, that carries out preparation of the experts in the specialty «Law» and is created as a basis for the practical education and carrying out of internships for the senior students. This can be accounted as a remarkable achievement and significant step towards the recognition of law clinics as the constitutive part of jurist's preparation. So far, the issue of the necessity of implementation of new university education standards, also in the legal education, is currently under consideration in Ukraine. There is no doubt that law clinics should be incorporated to those standards, and this in

turn demands their conscious and fruitful work, cooperation with one another and state authorities' bodies.

## НЕПРОФЕССИОНАЛИЗМ И НЕЭТИЧНОСТЬ ЮРИСТА ПО ОТНОШЕНИЮ К КЛИЕНТУ КАК УГРОЗА ГРАЖДАНСКОМУ ОБЩЕСТВУ В РОССИИ

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В соответствии с ч. 1 ст. 48 Конституции РФ каждому гарантируется право на получение не просто юридической помощи, а квалифицированной независимо от того, оплачивается ли она или должна оказываться бесплатно.

Право на квалифицированную юридическую помощь должно рассматриваться и как гарантия юридической безопасности. Представляется, что право на юридическую помощь является юридической основой для всех прав и свобод и обладает наивысшей юридической силой.

Однако до сих пор в российском законодательстве не закреплены критерии квалифицированной юридической помощи. Возникают большие трудности при определении показателей, по которым можно судить о том, что помощь была оказана юридически грамотно.

Неэтичное и непрофессиональное поведение юристов подрывает доверие граждан к закону, правосудию, настраивает их против государства, подрывает устои гражданского общества.

При этом в российском обществе и государстве возникают споры (конфликты) между юристами и их клиентами, в том числе увеличивается количество нарушений правовых и этических предписаний со стороны представителей юриспруденции.

Например, в марте 2014 года в Волгоградской области арестован адвокат, участвовавший в афере с присвоением земельными участками по представленным в суд фальсифицированным документам. По версии следствия, в сентябре и ноябре 2011 года двумя местными жителями были поданы иски о признании за ними права на земельные участки, расположенные в поселке Ерзовка Городищенского района. В качестве обоснования своих требований истцами были представлены подложные решения органов местного самоуправления, датированные 1991 и 1995 годами. На основании этих документов суд признал право собственности на земли, а областное управление Росреестра внесло соответствующие записи в Единый государственный реестр прав на недвижимое имущество [1].