

Experience of Legal Clinic in Germany

Legal Clinic Workshop
within

New Quality in Education for Gender Equality

Strategic Partnership

Law and Gender-LAWGEM



Main goals of legal clinics in Germany and their achievement

- In principle, there is no need for legal clinics due to the German social system.
- Main objectives:
 - Increasing the quality of education
 - is to increase and enhance the professional skills of young lawyers
 - Close the gap between education and society
- This new teaching method is slowly finding its way into German faculties.
- But no consistent concept on the part of the ministries or the universities.
- Initiatives tend to come from the students themselves

Clinical Legal Education in Germany

Until 2008 there was no CLE in Germany at all in Germany

Why?

- First of all, because of the *Rechtsberatungsgesetz* (The Legal Advice Act):
 - →until 2008 only admitted lawyers were allowed to give legal advice
- the training system for lawyers is also somewhat different in Germany
 - →4 years study→first state examination in law→*Referendariat*(means 1,5 years legal clerkship→ bar exam
- Due to the legal clerkship it was not considered necessary to deal with CLE
- furthermore, the legal system in Germany is designed in such a way that actually everyone has access to law and to legal assistance regardless of the economic circumstances

Change in Law in 2008

The *Rechtsberatungsgesetz* (Legal Advice Act) is replaced by the *Rechtsdienstleistungsgesetz* (Legal Services Act)

Our legal Basis

§ 6 Para. 2 of the German Legal Services Act: *“Anyone who provides free legal services outside of family, neighbourly or similarly close personal relationships must ensure that the legal service is provided by a person who is permitted to provide legal services against payment, by a person who is qualified to hold judicial office **or under the instruction of such a person.** Instruction requires induction and training which is oriented to the scope and content of the legal services to be provided as well as involvement in the provision of the legal service in so far as this is necessary in the individual case. ”*

CLE in Germany after 2008

the change in the law made CLE and Legal Clinics possible

some legal clinics were gradually established – means 3

it was still not considered necessary at the universities, because we are doing the legal clerkship

and it's still not socially necessary

The so-called refugee crisis

- since 2014 several Legal Clinics - Refugee Law Clinics have been founded due to student commitment
- from 2014 to today we have 30 Refugee Law Clinics
- Even the refugees actually have the right to a lawyer in Germany
- **But** there were hardly any lawyers in the field of asylum and migration law
- The students wanted to close this gap
- and with the previous change of law this was possible

Challenges

1. of an organisational nature:
 - Because legal clinics are mostly organised privately as associations → no connection to the university/faculty
 - parallel educational programme but not fully integrated
 - leads to problems of sustainability, as there are no responsible persons at the universities
2. of a technical nature:
 - Asylum and migration law
 - Discrimination cases
 - Gender equality issues
 - Sexual harassment

How would you strive to develop the role of legal clinic in higher education/academia?

- German academic staff and professors must engage with new modern teaching methods (esp. legal clinics) and commit to breaking new ground within legal education
- In order to have a long-lasting and sustainable impact, the concept must be supported by the university and
- must be institutionalised.

Thank you very much!

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The Refugee Law Clinic Saarbrücken e.V.

as an example for the CLE in Germany

Key Data on the RLCS

- Founded in May 2015
- on the initiative of students of the faculty of law but also of other faculties
- Legal form: non-profit association
- **Live client clinic**
- currently 85 members (association), of which 20 active advisors

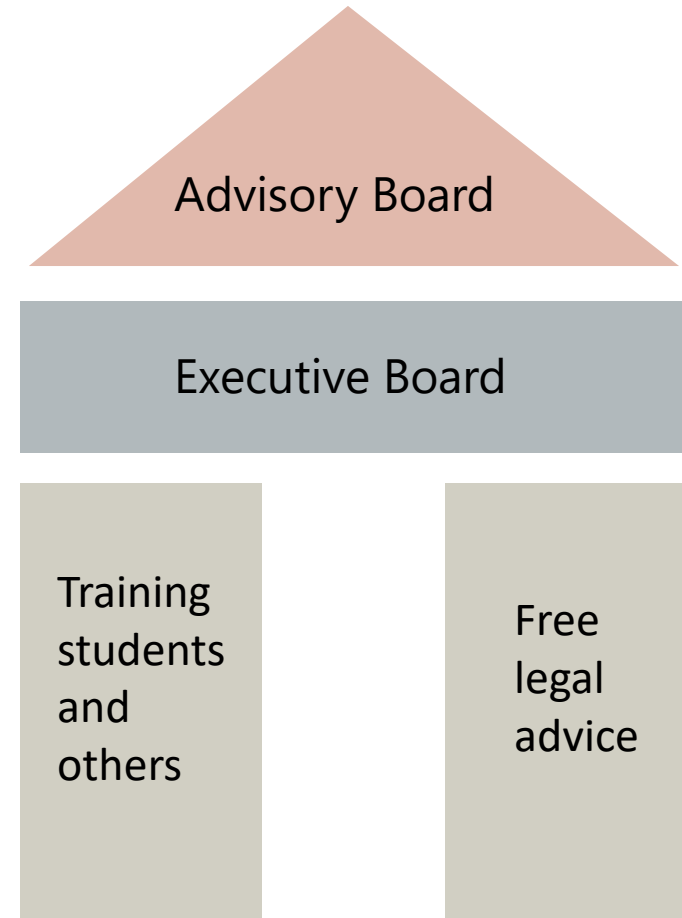


Liability

- there is no liability privilege for free legal advice
- But vice-versa, there is also no obligation to purchase a professional liability insurance - neither according to professional law nor according to the Legal Services Act.
- The RLCS has taken out a professional liability insurance and has based its sum insured on the amount of the minimum sum insured that applies to lawyers in Germany.

Structure of the association

- Board of the association: responsible for the planning and coordination of the training programme and legal advice
- The Advisory Board: consists of fully qualified lawyers and is available to answer any questions students may have in connection with the Law Clinic, **in particular questions regarding case handling.**
- 1st pillar – Training of students
- 2nd pillar – Legal advice



1st pillar: Trainings

- Training of the members is the basis for qualified and professional legal advice
- The law of asylum and migration law is not taught at the university.
- That is why we organize an interdisciplinary and practice-oriented training series every year with about 10 lectures and seminars.
- The training is not integrated into the curriculum. All participants do the training on a voluntary basis without benefiting from ects-points or anything else for their studies.
- Winter terms: Fundamentals of asylum and migration law and administrative law
- Summer terms: Deepening individual problem areas, e.g. family reunification, etc.
- regularly over both semesters: advice simulations, conversation workshops, supervision, trauma teachings and intercultural

2nd pillar: free legal advice

- A advisory team consists of two advisors (min. one senior advisor) and a keeper of the minutes.
- during the trainings it is already possible to attend experienced advisors and get a first impression of the consultation, e.g. as keeper of the minutes
- after the trainings entry into the advisory team as junior advisor
- after some experience = senior advisor
- for the advisors, supervision meetings and regulars' tables are offered for the exchange, both professionally and emotionally

Funding

- we charge a membership fee in the amount of 24,00€
- Apart from that, the RLCS finances itself exclusively by donations
- and there are always applications for public funds and prize money - this requires in-depth research and good public relations work

Challenges

- the sustainability of the project
- The financial resources
- Reputation

The federal association of the RLCs in Germany

- Founded in 2016
- **Almost 40 legal clinics** in Germany are members of the organization
- Effective organization for advancing systemic change in Germany's legal education and integration policy



Thank you very much!

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