

# FIGHTING DRAGONS OF THE PAST: INTERNATIONALIZATION OF LEGAL EDUCATION IN UKRAINE. EXPERIENCE OF DONETSK NATIONAL UNIVERSITY

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## INTRODUCTION

After graduation from the Economics and Law Faculty, Donetsk National University (one of Ukraine's leading establishments of higher education) in 1999 with a *Specialist in Law* degree<sup>1</sup> I joined the faculty and the next year was selected to study towards an LL.M. degree at the University of Pittsburgh School of Law (Pitt Law) under the Edmund F. Muskie Fellowship.

I graduated from Pitt Law in 2001 and upon my return to Ukraine resumed my teaching responsibilities at the Economics and Law Faculty (ELF), Donetsk National University. I joined the department of Civil Law and Procedure and, as a faculty member with a western LL.M. degree, was immediately promoted to the position of senior lecturer,<sup>2</sup> entitled under Ukrainian academic rules to deliver lectures and develop and teach one's own elective courses of specialization.

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1. As a legacy of the Soviet past, Ukraine still maintains its original system of academic degrees which is different from that adopted in most Western countries. The *Specialist in Law* degree is roughly similar to the J.D. degree from a U.S. law school. However, unlike the U.S. degree, in Ukraine law is studied at the undergraduate level, so an absolute majority of full-time students enter a law faculty right "from the bench," *i.e.*, immediately upon graduation from the secondary school, being only 17-18 years old. Legal education in Ukraine takes 5 years during which students receive a classical higher education aiming primarily at establishment of a strong academic foundation, with a number of non-legal subjects being taught during first 2 years of studies (such as logic, the Latin language, a foreign language, pedagogy and psychology, philosophy, the Ukrainian business language, history of Ukraine, world history, physical training, etc.). Currently, as a part of the process of accession to the Bologna process, Ukraine has undertaken to gradually bring its academic degrees system in line with general European standards and adopt a three level scheme (bachelor-master-doctor).

2. Ukraine maintains a rather traditional Soviet system of academic ranks: assistant lecturer, senior lecturer, associate professor (Docent), professor. Positions of the associate professor and professor (tenured professor) can only be held by lecturers who have defended their dissertations and were conferred the Candidate of Legal Sciences (C.L.S.) and Doctor of Legal Sciences (D.L.S.) degrees respectively.

From the very beginning, I was committed to incorporate my experiences gained at Pitt Law into the academic process at my home faculty. I contemplated introduction of changes in two spheres, first, a change in the methodology of teaching and second, a change in the contents of courses primarily through enriching them with the ample comparative material and overview of international developments.

However, both endeavors proved to be a hard task, since anyone seeking to teach in Ukraine in line with modern academic standards is virtually doomed to be in constant conflict with hidden “dragons” of the past, born and brought up by the old Soviet system of legal education, and now apparently inadequate both in terms of quality of skills gained and the level of professional integrity instilled. Despite the fact that these “dragons” have been extensively written about, identified, and fought with, they are still there, eventually in the minds of legal educators, who are simply unable to see how the whole process can function otherwise.

#### I. “DRAGONS” OF TEACHING LAW IN UKRAINE

It was once said about the reform of legal education in the post-Soviet countries that

. . . the question is whether post-Soviet lawyers, historically subject to outside control and external standards, can establish and maintain their own standards of behavior and professionalism. [ . . . ] Ultimately, the greatest challenge facing post-Soviet society is the creation of a new, or perhaps a legal consciousness on the part of the entire population, lawyers and laypersons, citizens and leaders. Lawyers and law students now stand at a critical, historic juncture where they have the chance to generate and cultivate a new legal and political culture—one with Russian (or Ukrainian), not alien, roots.<sup>3</sup>

Indeed, junior faculty, especially those with western educational backgrounds, immediately face the difficult challenge of needing to thoroughly review the whole approach to legal education which has been so long under the influence of ideological restraints and bound by the perception of the legal profession as a “necessary bourgeois holdover,”<sup>4</sup> doomed by the path of history to gradually disappear as a profession of obvious obsolescence.

The task faced was difficult: certain criteria of a “new age” of the legal profession had to be set, and standards of professional responsibility needed

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3. Lisa A. Granik, *Legal Education in Post-Soviet Russia and Ukraine*, 72 OR. L. REV. 963, 974 (1993).

4. *Ibid.* at 963.

to be fixed and enforced. However, anyone trying to somehow shake the foundations of approaches to training lawyers is likely to face a softer or harder opposition from the more conservative senior faculty used to traditional forms of teaching and interaction with students. As one commentator noted about post-Soviet law professors' attitude toward innovative techniques in teaching, "most teachers are not that negative but are strongly attached to the traditional teaching methods. Only a very few are advocates of a more interactive and creative teaching method that would develop the skills involved in 'thinking like a lawyer.'"<sup>5</sup>

#### *A. The System of Obsolescence*

Generally, universities still adhere to the old fashioned format of teaching, with a primary focus not on training and developing critical thinking and personal qualities of students but rather on preparing an average level specialist provided with a certain minimum command of legal knowledge and skills which are to be later developed in the legal practice. Traditionally, Ukrainian universities rely on in-class training while students<sup>6</sup> are also assigned specific work to be done at home. Students have on average about 15-18 classes a week with about 7-8 mandatory courses being taught each semester; attendance is compulsory and is checked on a regular basis by the Dean's Office staff. However, as one U.S. observer noted in 1998, "this is a

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5. Peter J. Sahlas & Carl Chastenay, *Russian Legal Education: Post-Communist Stagnation or Revival?*, 48 J. LEGAL EDUC. 194, 209 (1998).

6. This narrow rather technical practice-oriented approach seems to be a hallmark of any immature legal education and always precedes a value-based training aiming at development of a comprehensive understanding of the concepts of justice and fairness as well as critical thinking. A good example of similar problems existing in legal education of Bangladesh which currently undergoes a reform can be found in: Mohammad Monirul, *Reforming Legal Education in Bangladesh*, 55 J. LEGAL EDUC. 560 (2006):

Legal education has a number of theoretical and practical aims, not all of which are pursued simultaneously. If you ask any law student in Bangladesh about the objectives of legal education, s/he will simply answer that legal education should make the students conversant with substantive and procedural law. Should we be confined to so narrow a space or should we look at the issue from a broader point of view?

Until recently, legal education in Bangladesh was not perceived as an educational and intellectual pursuit but only as a means of imparting certain principles and provisions of law to enable students upon graduation to become juniors to "senior lawyers." But law is much more than principles and provisions—it deals with justice, equity, and fairness as well as the values about which societies organize themselves through orderly institutions. Law is also intertwined with economy, development, business, and the emerging global order. We must see that the objectives of legal education from a broader perspective.

*Ibid.* at 561 (footnotes omitted).

heavy concentration of time, but it is not time particularly well spent.”<sup>7</sup> And we should confess that not much has principally changed since that time.

The academic process under such an approach is based on the transcription and memorization of information given during lectures to be reproduced at seminars and ultimately at the final exam, traditionally taken in form of an oral interview. The cornerstone of this system are the lectures during which a professor instructs students on essential issues of a course juxtaposing theory and law (mainly referring to the provisions of codes and law statutes and supplementary legislation) and trying to cover as many facts and explain as many legal rules as possible.<sup>8</sup>

During lectures, students write down concise notes of what is being said from the lectern. Their role in the learning process is usually very passive and at best is limited to occasionally interrupting an instructor to ask a question. While usually professors readily answer questions from the audience, some of them too obviously frown at such students and generally discourage any attempts at feedback from those being instructed.

Lectures are followed by seminars (comparable to tutorials commonly used in British universities) during which an instructor would ask questions and students answer them, relying on the text of the lecture notes, and analyze hypothetical problems by looking at statutory law (usually codes and some supplementary law acts). The main material for studying a course therefore is handwritten lecture notes (a “*konspekt*”), the quality of which heavily depends on speed and legibility of handwriting of every particular student and is usually written by a few students in the academic group while others simply copy them afterwards.

The best students under this system have always been considered those who remember the maximum of the formalized information despite the fact

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7. Jeremy T. Harrison, *Legal Education in an Eastern European Law School*, 7 INT’L L. & PRAC. 263, 265 (1998).

8. Lecturing seems to have universally been a primary teaching technique of the past. As one American author suggests about development of US legal education,

[i]nitially, classroom teaching of the law was accomplished by lecturing the students about existing law. This teaching technique remains part of the law school teaching and learning environment today. Later, various interactive verbal techniques (through which the professor and student engage in a dialogue about the law using established legal reasoning elements and techniques), including principally Socratic questioning and other techniques centering around the case method, were added to (and, in some cases, supplanted) the lecture method, enabling students to develop oral advocacy and communication skills and engage in \*272 real-time legal reasoning and analysis in the classroom.

Joan MacLeod Heminway, *Caught In (Or On) the Web: A Review of Course Management Systems For Legal Education*, 16 ALB. L.J. SCI. & TECH. 265, 271-72 (2006) (footnotes omitted).

that they might not understand very well how it applies to practical situations. With such an approach, the main teacher's responsibility is preparing the outline of the core materials (essentially, the main rules of relevant law statutes) and presenting it in a condensed form during the limited time of the lecture.<sup>9</sup> However, as laws become more complex and controversial, the outline given at the lectures becomes increasingly more concise and students are expected to find the skipped or referenced material by themselves.

The main focus of legal education remains on studying black letter law primarily as it is reflected in codes, law statutes, regulations, rules, and procedural instructions, which creates a huge amount of extremely technical information. Very rarely, an instructor may make references to foreign laws and experiences to compare those with Ukrainian approaches. Usually no or only minor attention is paid to case law (with the exception, probably, of EC law and human rights law courses built by and large on studying case law of the European Court of Justice and the European Court of Human Rights respectively). If case law is mentioned, usually only a short overview is provided without any recourse to the facts and factors which influenced the judgment or comparison to other judgments involving similar circumstances.<sup>10</sup> In fact, such an approach, apart from being very impractical, is no longer based on positive law, because case law now *is* a proper source of law in Ukraine.<sup>11</sup>

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9. Normally a class lasts for 1 hour 20 minutes, but it is a well-established tradition among Ukrainian faculty to be 7-10 minutes late for the class (the so-called "*smoking grace period*" letting students to finish a cigarette and be back to the classroom). At the same time, under an old customary student rule, if a professor is more than 15 minutes late for a class students do not have to wait any longer and may leave the room.

10. For the reflections on unfortunate experience of a U.S. visiting lecturer to urge Russian law students to study judicial practice of national courts see: Harrison, *supra* note 7, at 270-71.

11. See for example Art. 17 of a newly adopted Law of Ukraine "On Enforcement of Judgments and Application of Practice of the European Court of Human Rights" of 23 February 2006 No. 3477-IV, which expressly obliges Ukrainian courts in disposing of cases to apply the judicial practice of the European Court of Human Rights "as a source of law," regardless of the fact that the applicable judgment may not be available in the Ukrainian or Russian languages understandable by a judge.

Moreover, Ukrainian courts of higher jurisdiction gradually assume more law-creating authority. For example, according to Art. 111 of the Code of Commercial Litigation Procedure, non-uniformity of the decisions of the Higher Commercial Court in analogous cases as well as their non-compliance with decisions of the Supreme Court of Ukraine in similar cases are the grounds for their cassational review by the Supreme Court of Ukraine.

Finally, the decisions of the Constitutional Court of Ukraine giving official interpretation of Constitutional or statutory provisions bind not only parties to the dispute out of which the question of interpretation arose but also everyone whoever will invoke the interpreted rule in the future. Therefore, such decisions of the Constitutional Court have an obvious norm-creating character.

B. “An Inert Bunch”

Ukrainian students participate in an academic process mostly passively, by being called on during classes and having to say something on pain of receiving a negative grade. They are generally not used to active and responsible participation in an interactive process of learning and are scared by the very idea of cooperating with an instructor. Relations between students and faculty (except probably junior faculty) are much more formal than those in typical U.S. law schools.<sup>12</sup>

Ukrainian students’ approach to the educational process can be illustrated by two well-known student proverbs: “*Have fun and enjoy joyful life between the finals sessions*” and another one relating to the process of preparation for the final test: “*Cram all night long, pass in the morning and forget by the evening.*”<sup>13</sup>

Students are normally discouraged from going beyond the outline and finding extra information on the subject because, as a rule, it is not required for passing a final test and teachers themselves are often not aware of such information. No recourse to the main trends in the development of legal institutions is made simply because no time is allocated for that. Very often a final test boils down to checking how well students remember the material given at lectures, so an interview is limited to questions based on the lecture notes (a *konspekt*).<sup>14</sup> As a result, some students who never bothered to attend

12. Some foreign visitors (especially coming from the United States) are surprised by Ukrainian students standing up to greet an instructor entering a classroom. This practice clearly comes from the secondary school where it has been common for decades. At the same time, Ukrainian students after getting back to their seats feel it absolutely appropriate to speak, text messages, play with their phones during the class creating thereby a very noisy environment, and only very harsh measures undertaken by a lecturer may somehow control it.

13. This seems to be a general drawback of the traditional Soviet “lecture-seminar” passive approach to teaching law. As it was noted with relation to Russian law students,

Indeed, observers often lament what they perceive to be a lack of creativity, initiative and critical thought among Russian law students. One Russian law teacher described his students as more “passive and objective” than “active and subjective.” He blamed the lack of problem-based learning exercises, group work, and court simulations.

Sahlas & Chastenay, *supra* note 5, at 209.

14. The key importance of the lecture notes (a *konspekt*) for gaining a good grade at a final exam is well illustrated by an old Soviet student joke about two guys who decided to find the smartest student in the world. They approached the brightest students from the United States, France, and Germany one by one and asked them how much time they needed to study Chinese from scratch to the level sufficient to pass a University level exam. Every time the investigators were given roughly similar answers: “A year,” or “10 months.” When the investigators came to a Soviet university they could not find anyone in the corridors but a student (obviously not a top-notch one) smoking in the restroom. When he was asked the question about a Chinese language exam, he replied: “D’you guys have any course *konspekt*?” “Yes, indeed!”. “Well

a class or take down notes during lectures successfully pass after having photocopied the notes and read them a night before the exam.<sup>15</sup>

Another major problem mentioned by western scholars teaching at Ukrainian universities is the absence of any reasonable rules of academic integrity. Cheating and plagiarism are very common among students and are generally tolerated or at least not severely punished by the university administration. The reason for that is not an “inherent rottenness” of Ukrainian students, but it is rather a matter of culture. Unlike U.S. law students, who are trained in a highly competitive atmosphere and are ranked according to their academic performance, Ukrainian law students come with secondary school background where they had a feeling of a constant confrontation with teaching staff and therefore are strongly convinced that helping one’s classmate against “evil” coming from an alien faculty member is good. As a result, they tend to treat giving notes to a classmate at the exam or helping him answer a question as a part of caring about their neighbor. Students are usually not ranked or, if they are, ranking does not have any impact on their future careers. And involvement of a particular student in cheating considered to be the sign of courage and bravery, while the university administration turns a blind eye to such behavior, treating it as a minor violation, not worthy of any serious counter measures.<sup>16</sup>

### *C. Course Materials, Resources and Facilities*

One of the most hampering legacies of the Soviet times is rather poor physical resources and facilities.<sup>17</sup> Library resources are usually scarce and mostly limited to outdated books and basic concise course materials. It is rather uncommon for a lecturer to provide students with their own essential reading materials and core selected laws. One of the main reasons for such a miserable state is underfunding. Universities simply lack the funds to regularly

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pals, lemme finish a cigarette, and then I gonna go and take a test.”

15. Another Soviet-time student joke: to successfully pass a final exam a student has to know at least 3 things: the name of the course, the name of the professor and the color of the course materials cover.

16. With, however, one notable exception: official document forgery. Several students have been expelled from the Economics and Law Faculty for forging instructors’ signatures in their academic performance record booklets.

17. Unfortunately, the problem of poor resources seems to have been very common to many East-European countries. See George A. Critchlow, *Teaching Law In Transylvania: Notes On Romanian Legal Education*, 44 J. LEGAL EDUC. 157, 161-62 (1994).

acquire even new Ukraine-published books, let alone books from foreign sources, which are usually considerably more expensive.<sup>18</sup>

As a result, every teacher buys books relating to his or her field of professional interest using their own money. This creates numerous, small, “private” libraries and collections of books and law journals maintained in professors’ offices with limited or no access by students. Often students and professors have only limited access to the Internet and computer-based resources such as the Ukrainian legal resource search tool “*Liga:Zakon*.”

#### *D. Teaching as an Intellectual Rush*

Salaries paid to Ukrainian faculty are usually not competitive when compared to compensations available in the legal practice. At the same time, the workload of an average teacher sometimes grows extreme. While normally full-time law school teachers have about 7-8 classes a week (sometimes as many as 20 classes a week), very often they are supposed to teach several courses at the same time virtually “from scratch” so the whole process of preparation and at the same time teaching a course looks much as a kind of an “intellectual rush.” Taking into consideration that a proper preparation for 1 in-class hour usually requires 8 to 10 hours of home preparation and library research, the workload of a Ukrainian professor appears truly frightening to his foreign counterparts, allowing no time at all for scholarship. As a result, the amount of scholarly work, writing, and research produced by professors is very limited and rather superficial.

## II. CHANGES UNDERTAKEN

### *A. Teaching Methodologies*

The introduction of active methods of teaching is designed to shift the main emphasis of legal education from the outdated “instruct and memorize” approach to a training system essentially based upon the active participation of every student in the process of learning. Individual research meant not just changing standards and guidelines, but more fundamentally, it called for a major reform in minds and a change in the very perception of the idea of legal

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18. The usual response of the university administration for any request for any development measures is: “Do whatever you want but please do not apply for any funds. They are none available. All funds are spent exclusively on salaries paid to faculty.”

education. We needed to put massive pressure on the university administration, and to convince students that they should be much more deeply involved in the process of learning and gaining new knowledge aimed at developing critical thinking skills.

The foundation of a new approach to teaching was formulated by us in the following way: we needed not just knowledgeable attorneys skillful in deft manipulations of the law, but well-educated and at the same time socially responsible lawyers ready to play an important role in the community and ready to form a framework for our civil society. Our efforts were encouraged by the Civic Education Project which provided for a continuous support of Western-trained alumni who joined the universities upon their return to home countries.

The whole format of teaching had to be reshuffled. I decided that it would be more productive to have essential course texts and reading materials published and distributed to students for study in advance, before going to a lecture, to change the lecture from instructing students to discussing with students the most problematic issues and trying to work out possible solutions by brainstorming, making lectures look much more like the famous Socratic Method of teaching.

I tried to devote seminars not to asking questions based on lecture notes but rather to solving hypothetical situations based on real cases adjudicated by Ukrainian or foreign courts which would not have an easy solution (if any) and require not just application of black-letter law, but also problems of theory and interpretation as well as, ideally, involvement of social and economical arguments (policy reasoning).<sup>19</sup>

In terms of relevant sources, I sought to introduce a case study method, something which had previously been done only occasionally by visiting foreign lecturers. I laid much stronger emphasis on analyzing cases adjudicated by courts of different jurisdictions, including the first instance, if the judgment provided an interesting and well grounded approach to applying a legal provision. At the same time, it became apparent that there was a

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19. For example, at the Civil Law class (contracts for the sale of accommodation) we looked at a hypo involving the sale of an apartment without informing a buyer about negative environment of the district where the house was located and problematic neighbors. I asked students to try to approach the problem not only from a pure practical legal standpoint (if there was a ground for invalidation of a contract as concluded under mistake of deceit) but also from the standpoint of legal theory (whether the law implies the duty of a seller to reveal any additional information not expressly required by law in context of the *caveat emptor* principle), and social policy (whether the finding of the court affirming such an implied duty would not strip apartments located in adverse environment of any market value depriving thereby their owners of any chance to sell them).

problem of general ignorance of Ukrainian students and faculty as to how a case should be read, analyzed and applied to similar circumstances. We had to organize a workshop for junior faculty on development of case analysis skills and then repeat it several times for students. The workshop was based on analyzing the high profile *Sovtransauto-Holding* case (2001)<sup>20</sup> decided by the European Court of Human Rights, which had a major impact on the whole Ukrainian legal system.

I would certainly love to assign to students more cases adjudicated by foreign courts as they sometimes provide with much more elaborate legal analysis, however, unfortunately such case law is rarely available in a Ukrainian translation, and the foreign language skills of most students remain rather poor.

### *B. Curriculum Development and Course Design*

The integration of a global aspect in the content of law courses, emphasizing the importance of comparative law and private and public international law, plays a major role in the internationalization of legal education.<sup>21</sup> One of the main focuses of the International & European Law Centre (IELC) has been assistance in comparative and international law research. In this direction, a number of new courses on comparative subjects have been developed and introduced based primarily on the resources provided by the IELC. These courses include comparative contract law, comparative commercial law, international sale of goods law (CISG law), international arbitration law, and secured transactions, among others. The latter course was developed in the comparative format through a grant from the Curriculum Development Competition administered by the Curriculum Resource Center of the Central European University in Budapest, Hungary.

Normally, every instructor is encouraged to develop his or her own course of specialization in the field of his or her academic interests. And the number of comparative and/or international law-oriented courses grows increasingly. The best format for these courses may be to be taught as electives chosen only by those who are truly interested in learning new material and feel it necessary for their future careers, often composed of a group of 10-25 students. However, often the faculty administration make these courses mandatory with

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20. *Sovtransavto Holding v. Ukraine*, no. 48553/99, ECHR 2002-VII.

21. Rennard Strickland & Philip H. Knight, *Legal Education in the Twenty-First Century*, 80 OR. L. REV. 1449, 1454 (2001).

up to eight academic groups of 25-30 rather indifferent students in each, an approach that significantly undermines the course's value.

### *C. Institutional Changes*

Of course, most of the efforts would be in vain if it were not for the institutional changes undertaken at the ELF, the principal development undoubtedly being the establishment of the IELC, the first university resource center of its scale in Ukraine.

The IELC was founded in January 2003 as part of a long-term academic linkage project between the Economics and Law Faculty, DNU and the University of Pittsburgh School of Law funded through the grant of the U.S. State Department. The IELC was created and currently operates as a branch (a structural subdivision) of the Economics and Law Faculty (a center).

The mission of the IELC was defined as providing support and coordination of legal research in the fields of international, EC, comparative, and human rights law, promoting international exchange and degree programs, assisting in introducing of the state-of-the-art teaching methodologies into the Faculty academic process of training law students, and maintaining links with law schools in Ukraine and abroad.

The IELC operates primarily as a resource center offering faculty, post-graduates, and law students wide opportunities in high-quality legal research as well as providing them with technical support and assistance in searching and applying for degree, non-degree, and professional internship programs abroad. Through the IELC assistance, a number of ELF alumni received their LL.M degrees at American, British, German and Dutch law schools.

The IELC maintains an outstanding library of law books, periodicals, CD-ROM materials and videotapes. Library resources were purchased through the partnership program with University of Pittsburgh, funds allocated by the Civic Education Project and the Curriculum Resource Center, as well as donated by the Human Rights Law Centre of the University of Nottingham and the British Council.

Since its foundation, the IELC has organized and conducted a number of research and academic events, in particular, seminars on active methods of teaching and the National Student Conference on Civil Law (in cooperation with the Civic Education Project), two summer schools on International Business Law<sup>22</sup> and the International Symposium on Law Practice

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22. The first Summer school offered the following courses: International Business Transactions

Management (jointly with the University of Pittsburgh School of Law), a summer school on IT law (in cooperation with the Queen Mary College, University of London),<sup>23</sup> an Introductory Comparative Law Course (in cooperation with the University of Iowa College of Law),<sup>24</sup> and the Fall School on International Business and Comparative Law (through the assistance of the Center for International Legal Studies (Salzburg, Austria).<sup>25</sup>

Students, who, along with regular studying at the ELF are involved in extra-curricular activities arranged by the IELC including attending classes of visiting foreign lecturers, “summer” school classes and receiving certificates of participation upon successful completion. These students considerably enhance their chances of successful professional employment or nomination for a scholarship if they choose to continue their education abroad.

The IELC coordinates pre-selection of students for participation in international moot court competitions on behalf of Donetsk National University and further training of composed moot teams, assists legal clinics, NGOs, public institutions and practitioners, in particular by distributing information on international, EC, foreign law and standards of human rights protection and giving public presentations.

The IELC serves as a principal Faculty tool for establishing and maintaining partnership relations with foreign educational and academic institutions. The academic partnership project between the University of Pittsburgh School of Law and the Economics and Law Faculty, DNU, which from the ELF part was coordinated by the IELC, in 2004 was acknowledged by the U.S. Embassy as the most successful in Ukraine. Today, the Faculty largely through the IELC efforts maintains academic links with Pitt Law and the University of Iowa in the U.S., the University of Regensburg in Germany, Amsterdam University in the Netherlands, Central European University in

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(Professor Ronald Brand), English for Lawyers (Ann Sinseimer and Teresa Brostoff), International Taxation (Professor Anthony Infanti). The second School provided training in Arbitration in International Business Transactions (Professor Ronald Brand), The 1980 Vienna Convention on Contracts for International Sale of Goods (Mark Walter), Corporations Law (Professor Douglas Branson), Law and Cinema (taught by a Pitt law student Joe Gulino).

23. The courses were taught by the Queen Mary College lecturers Iain Waldon and Ann Flanagan.

24. Taught by Professor John Reitz from the University of Iowa College of Law.

25. Two U.S. practicing attorneys—Mr. Reeder Fox from Duane Morris, LLP, and Mrs. Nancy McCaslin from McCaslin and McCaslin law firm were brought to Donetsk. Mr. Fox gave lectures on “Democracy and Rule of Law in the USA” and “Mediation, Arbitration and Alternative Dispute Resolution”; Mrs. Nancy McCaslin taught courses “Legal Business Terminology” and “International Business Transactions.”

Hungary, Durham and Nottingham Universities in Britain, and the University of Athens in Greece.

My particular observation is that since the Centre was established the quality of student and post-graduate research papers has substantially improved. According to recently approved standards of academic research adopted at the Economics and Law Faculty, a graduation thesis qualifying for the highest grade should include comparative analysis of relevant laws and doctrines from at least 5 legal systems of the world (with Russia, Germany, France, the United States, and England being the most popular), and the IELC's library is a primary resource for such research.

#### *D. Moot Court Competitions*

Undoubtedly, one of the best and most valuable challenges law students can be exposed to is participation in a moot court competition. The Economics and Law Faculty for the first time participated in an international law moot court competition in 1995 (the Central and East European EC Law Moot Court Competition), and after that regularly sent teams to a number of international moots which have already become traditional for us: the Philip C. Jessup International Law Competition, the Benjamin F. Telders International Law Competition, and the Central and East-European EC Law Moot Court Competition. Since 2001, upon the advice and through initial funding coming from Pitt Law, the ELF has started participating in the Willem Vis International Arbitration Competition. The moot experience brought something new and truly international in lives of those students who participated even on the national level, let alone those who reached international rounds, and had a fundamental impact on their minds. Many of them became committed to an international legal career and after graduation joined international law firms based primarily in Kyiv or went abroad to pursue LL.M. degrees.

However, the ELF teams' moot performance records being bright at the very beginning<sup>26</sup> gradually faded out as a number of competing universities grew. Poor results called for radical measures. In 2002, somebody came up with an idea of organizing a moot court club, a group of students coordinated by a senior student with a solid experience of participation in international

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26. In 1996, the ELF team won the national round of the Jessup International Moot Competition and competed at the international rounds in Washington D.C. (the USA) while the next year, in 1997, the ELF team ranked first at the national round of the Benjamin Telders Moot Court Competitions and proceeded to the international round held in The Hague (The Netherlands).

moot competitions. As a result, the ELF teams performance started improving (for example, in spring 2005, one ELF team received an award for best written memorials at the Jessup Competition, while another one was awarded a plaque for the best oral arguments at the Telders Competition, though neither won the competition). Some problems still remained, the largest being an inadequate initial command of English by Ukrainian law students, which is simply impossible to significantly improve within the several months of preparation for a moot continues.<sup>27</sup>

Therefore, we decided to nurture a new generation of “mooties” by working with freshmen from their very first year at the Faculty. In fall 2005, for the first time in Ukraine, we introduced a moot court clinic where students are taught the basics of international legal research, English language legal reasoning, case analysis, use of available internet and other resources, writing memoranda, using different standards of citations, academic integrity policies, and oral presentation training before the simulated panel of judges.<sup>28</sup> Possibly due to such measures, in 2006 the ELF team finally, after a 10 year endeavor, won the national round of the Jessup International Moot Competition and went to Washington D.C. to represent Ukraine at the international round.

Every September, a pre-selection round is organized by the IELC to choose students who would represent Donetsk National University in national and international rounds of moot court competitions. About six to eight students out of 15-25 participants are selected on the basis of their skills (knowledge of the subject, ability to present and responsiveness to judges’ questions and command of English). Those participants who were not selected for the teams are invited to improve their mooting skills by participating in the moot court clinic.

We also managed to transpose our international experience to the process of preparation for national law competitions. In October 2006, an ELF team won the National Competition in Civil Law and Procedure. The team was prepared for the competition by me, using techniques usually engaged in

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27. Oddly enough, the ELF curriculum drawn in compliance with the Ministry of Science and Education model curriculum for law faculties allocates 8 semesters for physical training and only 3 semesters for studying foreign languages.

28. Some commentators blame training through moot competitions as being too unrealistic and having nothing in common with a live litigation on behalf of a real client due to overemphasis of oral arguments and advocacy skills over brief-writing (see for example: Alex Kozinski, *In Praise of Moot Court—Not!*, 97 COLUM. L. REV. 178 (1997)). With this criticism in mind, we primarily train team members and clinic participants to write their memoranda, since this skill has proven to be essential for law students looking for an international lawyer career.

preparation for international moot court competitions, such as case analysis, policy reasoning, etc.<sup>29</sup>

#### CONCLUSIONS

My personal experience of study abroad at the University of Pittsburgh School of Law LL.M. Program has proven to be extremely helpful in changing my attitude toward studying law and serving as a model for reforms I have been advocating in my home institution.

Ultimately, what we struggle for is not a complete demolition of all pre-existing values and traditions, but rather departure from those post-Soviet legacies that have proven obviously outdated and now hamper the development of legal education. Existing impediments can be remedied by increasing the focus on developing critical thinking skills and the ability to learn instead of trying to forcibly stuff the students' minds with abundant information that we believe is necessary for their future career. A new generation lawyer should certainly be a highly moral, creative and independent-thinking personality, understanding his or her social responsibility and ready to make his or her own professional choices. And the main tool for modeling such a "Super Lawyer" is a new age of legal education.

There is still a lot of work to be done in this direction. We desperately need courses and re-training programs on legal ethics, professional responsibility and integrity, comparative analysis and legal writing. We still continue to lose our most promising junior faculty to law practices and experience considerable problems with funding. We are limited in terms of facilities and library resources. Most of the time, we work for free. But our main trump card is our enthusiasm and belief in what we are doing.

Despite the existing problems and the drain of qualified personnel, we still do our best to keep in line with the modern trends in higher education and seek to train competitive law students who later become excellent lawyers and bright researchers. Our alumni are successful in law practice and academia, business and NGO activities. The changes are visible and are underway; however, overnight fundamental reforms of a system built over decades and

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29. Notably, those techniques appeared to have been too innovative for some judges. When providing feedback to participants, one member of the moot board, a law professor from Lviv University expressed his concern about Donetsk team relying on the European Court of Human Rights jurisprudence as a proper source of law (despite the fact it already WAS a proper source of law at the time of competition—see *supra*, footnote 11).

minds molded by a now extinct ideology are simply impossible. These endeavors need further support and call for encouragement and cooperation from the part of the government, society and other universities, both in Ukraine and abroad.