

1. GENERAL GUIDELINES ON CREATING AND TEACHING CASE STUDIES

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1.1 POSSIBLE CLASS ROOM SETTINGS

Case studies may be taught in several different class room settings. Just to name a few:

- Exam
- Lecture
- Small seminar groups (Tutorien)
- Workshop/ en bloc case study sessions
- Take home assignment (Short: Homework; Long: Task during semester break)

Each of these settings has its own particularities regarding the size of the group, the time available for the case study, the purpose for which the case study is used etc. Most of the time teachers will find themselves in a situation where the class room setting is already determined (by the university etc.). If this is not the case teachers should consider the different possible set-ups and their characteristics. Once the class room setting is defined the implications of the particular setting for the design of the case study which is supposed to be carried out during the class, should be considered.

1.1.1 Exam

A case study may be presented to students as an exam. Exams usually take between 1h – 5h. They may be designed as open- or closed-book exams. Case studies offer a great way of checking different competences of the students. E.g. micro case studies (2.1) may be used to check if students have understood the legal theory taught, to check their legal argumentation skills (2.2) to see if they are able to apply their theoretical knowledge in practice (2.5) or to check if they are capable of analysing and correctly understanding a judgement (2.4). Using a case study may be of particular interest for interdisciplinary classes (2.6) as they allow the teacher to create a set-up which touches upon several disciplines.

1.1.2 Lecture

Case studies may be used in lectures. Lectures are usually attended by larger groups of students and only allow for a small amount of interaction between students and teachers. Usually a teacher-up-front style of instruction is chosen to deliver a lot of content, within a short period of time to a large audience. Case studies allow teachers to break with frontal teaching and include students in the lecture. However lectures offer limited room to delve into an in-depth analysis of jurisprudence (2.4.) or train students' legal argumentation competences (2.2). Therefore, usually micro case studies (2.1) are used in lectures, to illustrate the theory taught. An innovative way of including students in lectures is gamification (2.3).

1.1.3 Small seminar groups

Case studies are a particularly valuable teaching method for small seminar groups. Small seminar groups usually consist of 10 – 20 students and take place on a regular basis throughout the semester (e.g. 2h per week). This setting allows for a great level of interaction between teacher and students and requires active participation and preparation by the students. This may take the form of participant-lead presentations, role plays, debates etc. In this set up the full potential of case studies may be explored. Micro-Case studies (2.1) may on the one hand be discussed to illustrate theory or single legal problems, but on the other hand may also be used also to train solving cases on a micro-level, allowing teachers and students to focus on the technique of solving a case rather than on difficult and tangled legal problems. Case studies may also be used to train students' legal argumentation competences (2.2), e.g. by stirring up a discussion on the legal problems of the case in class. Teachers may also choose to take the time and analyse important judicial decisions during the seminar groups (it is however essential that students do the reading at home as preparation!) (2.4). This setting is also perfect to train the students practical skills by applying theoretical knowledge to a practical work (2.5).

1.1.4 Workshops/ en bloc case study sessions

Workshops/ en bloc case study sessions are class room formats particularly designed to discuss case studies. Those are usually one-time events during the semester varying in their time-frame from a few hours (min. 3h) to several days. This class room setting offers the time frame to conduct a multi-faced case study training varies competences of students, allowing for an indepth training of legal argumentation skills (2.2), application of legal knowledge from several fields of law and other disciplines (2.6), and may require students to prepare a practical legal document (2.5). They usually require a thorough preparation by the teacher. Such workshops are the ideal frame to carry out a 'Harvard Law School Case Studie' (2.7).

1.1.5 Take home assignment

Case studies may also be designed as take home assignment. These can take the form of a short assignment (such as homework) or a long-term assignment e.g. throughout the semester break. These kinds of assignments require students to work independently and apply the knowledge and competences they have acquired in class. They particularly give students the necessary time to develop a well-thought through and thorough legal argument (2.2), deliver well-constructed solutions to difficult legal problems or prepare an authentic practical work (2.5).

1.2 STEPS TO DEVELOP A CASE STUDY (PREPARATORY STAGE):

There are several different types of case studies (as we will explore below) which require different steps in preparation. However some aspects in the preparatory process will be similar for most kinds of case studies. These general aspects shall therefore be discussed up front.

1.2.1 Defining parameters

Before designing any type of case study, certain parameters should be determined. You might want to note them down on the very first page of your teaching note (see below). Such parameters are:

- The class room setting (see above)
- Time frame of the case study
- Subject/s (area of law, other subjects etc.)
- Number of students
- Cycle of studies (BA, MA, PhD; 1st, 2nd, 3rd year etc.)
- Prior Knowledge of students in the (specific) subject area
- Teaching objectives/learning outcomes
- Type of case study (see below: 2. Case Studies Templates)

Which type of case study you choose depends heavily on the other parameters, which is why it is important to determine those first. All of these parameters should guide the preparatory process, e.g. when formulating the tasks make sure that they can be completed within the given time frame and with the knowledge/competences the students poses; check if the case study allows to reach the learning objectives that you have identified etc.

1.2.2 Designing the case study and formulating the students task

Designing a case study usually follows the subsequent 5 steps:

1. Choosing a topic

You have already defined the area of law that your case study is set in. In most cases, however, you will have to narrow the topic down further. You should identify the legal problems/ topic area that you would like to teach through the case study. Depending on the time frame your case study may be built around one particular topic or around several problems which are interlinked.

2. The Case Settings

In a second step you should think about the case's settings. The following points should be clarified:

- Character: Who is the protagonist? How many protagonists shall the case have? What is the point of view, traits etc. of the protagonist?
- Conflict: What is the protagonist's problem? What decisions does the protagonist have to make? What is the protagonist's goal/aim/intention?

- Chronology: At which point in time/At which stage of a legal conflict is the case set? At the beginning of a legal conflict? Maybe, even before any legal conflict has arisen and the question is how to prevent a conflict? During a court procedure? After a (final) judgement has been delivered?
- Role of the student: What is the role of the student? Is the student an attorney-at-law serving a client? Is the student a judge at an (appellate) court? Is the student a notary? Etc.

If you decide to base your case study on a real-life case which has already been decided by a court, most of those settings will be pre-determined. This can be an easy and quick way to design a case study.

3. Narrate story

The traditional way to structure your case is the following:

- Opening
- Case Story
- Conclusion

The opening of the case should introduce the students to the settings and the protagonist(s). It may also include a first hint to the case issue/ the legal problems of the case. The opening is followed by the case story. It is possible to narrate the case story chronologically, problem-oriented, solution-oriented or protagonist-oriented. A chronological approach follows a straight time-line. A problem-oriented approach narrates all the facts related to one problem, before delivering the facts for the next problem. The solution-oriented approach delivers different solutions which require detailed examination. Last, a protagonist-oriented approach follows the different characters of a case if it has multiple protagonists in different roles. The conclusion usually creates tension and focusses on the case issue/ the legal problems of the case and opens up discussion.

If your case is based on a real-life case which has already been decided your main task is to simplify the facts, so students may comprehend them in the limited time frame and legal problems irrelevant for your teaching objectives are scraped.

Depending on the type of case study that you choose and the stage at which the legal conflict is set, you might take an entirely different approach: instead of presenting students with the already established facts of the case, you might present them different materials/evidence such as statements, letters, procedural documents, contracts etc. and let students work out the facts for themselves (see 2.7 for more details). In this case you will have to produce those different materials.

4. Formulate the students' task

For most case studies it makes sense to formulate a clear assignment question to give students some guidance on solving the case study. This assignment might be more or

less detailed. You may choose to ask a very open question such as “What are the legal issues of the case?; or a very narrow task such as “In the light of the principle of non-discrimination and the right to private and family life contained in the EU Charter, does the term 'spouse' used in the Directive apply to a same-sex third-country national and to the Union citizen to whom he or she is lawfully married under the law of a Member State other than the host State?”, depending on how much guidance you want to give to students. Your teaching objectives may however also require students to figure out the relevant questions by themselves, which is particularly characteristic for ‘Problem Solving Case Studies’ (2.7).

5. Edit case

After writing the module solution (see 1.2.4) you should come back to the case story and see if any facts need to be clarified, adjusted or erased to direct students towards the legal problems you would like them to analyse and to avoid any confusion.

1.2.3 Materials

Depending on the case study type and your teaching objectives you might want to provide students with further materials, such as:

- Relevant statutory provisions
- A list of relevant precedents
- Further reading materials
- Multimedia

1.2.4 Case analysis

Your case should always be accompanied by a case analysis in which you identify the relevant legal problems, the relevant statutes and provision applicable, relevant precedents as well as provide a possible solution of those problems. This is most important in order to prepare yourself for teaching the case study. The analysis you develop does not have to be set in stone. Your students might surprise you with different ideas and solutions. However, in order to guide the discussion and to be able to contribute to the discussion, it is essential that you have well thought through the case study that you are asking your students to solve.

If your case study is based on a case which has already been decided by a court, this requires you to read the decision thoroughly, if applicable take under consideration dissenting opinions and think about if certain aspects could have been decided differently.

1.2.5 Teaching note

The teaching note is thought for the teacher who is carrying out/teaching the case study. It should include the following:

- Setting-parameters for the case study (1.2.1)
- Teaching objectives/learning outcomes
- (Case synopsis, may be included in the teaching note, e.g. if there is no set case)
- (Case analysis, may be included in the teaching note, or separate: 1.2.4)
- Description of the teaching process

1.2.5 Teaching materials

If necessary you should prepare teaching materials such as a PowerPoint presentation, handouts or poster. Particularly when dealing with complex case studies such visualisations come in handy when discussing the case with students and may be of great help to you when guiding students through the case.

1.2.6 Evaluation

If students are graded for participating in the case study, you want to establish an evaluation/grading scheme upfront to be able to evaluate their work objectively. The evaluation system depends greatly on the type of case study chosen (see below: 2.)

1.3 STEPS TO TEACH STUDENTS HOW TO SOLVE A CASE STUDY (TEACHING STAGE):

After the case study has been designed, the implementation in class begins. Even though it should be clear from the above that there is a wide range of implementation possibilities, there are some aspects that can be universally observed for teaching a case study in general.

1.3.1 Preparing the students – warm up

At the beginning of a case study, it can be useful to first briefly introduce the topic. This may consist of introducing the subject of the case, giving a brief overview of the area of law in question, or (if appropriate) providing a historical outline to give more context to the case study that follows. These first points of contact help the student warm up to the topic and understand what the case will be about in the time to come.

1.3.2 Task and editor's note

The beginning of the case solution starts at the end: with the task. Before the first contact with the facts of the case, you should first direct the students' attention to the actual task. This is particularly important when students are solving a case study in an exam (and should therefore also be trained in class). A student's solution to a case study may be plausible and legally sound in itself, but if it does not answer the task (question asked by you) the student will not pass the exam. If the student already misunderstands the assignment, a satisfactory solution cannot be achieved. Hence, the first and most important step is to correctly grasp the questions asked.

If the case study is implemented in a lecture, small seminar group or workshop, the sequence can be easily controlled by first presenting the task. In the context of exams or take home assignments, it is more difficult to ensure a certain running order. In order to ensure that the students first pay attention to the tasks, it can be helpful to print them before the actual facts.

If certain areas of law, procedures or rules are excluded for your case solution, this should already be made clear to the students here. This also minimises the risk of the students not coming up with a satisfactory solution in the end. In addition, the time limit can be better adhered to, as the student only deals with the relevant legal norms from the beginning.

1.3.3 Working with the facts

As with the reading of the task, the same applies here: Only the actual and, above all, complete comprehension of the facts can lead to a successful case solution. The solution can only be correct if it is based on the facts of the case. Therefore, it is of enormous importance to emphasise the importance of the correct understanding of the facts. A non-negligible part of the processing time should therefore be set aside for reading the facts together or with the student's individual analysis of the facts.

This can be ensured by a corresponding assignment or also by a specific hint in the lecture. Within lectures or small workshops, this can obviously be controlled more easily. It is advisable to read through the subject matter together first and then to encourage the students to reread the facts themselves, so that the individual reading and comprehension level can now also be ensured. The first joint reading serves to understand the overall context.

A very good technique to assure students have fully grasped and understood the facts is to ask them to summarise the case in their own words. This also leads to a more active engagement of the students. If the facts are not yet clearly established (e.g. in a problem solving case study, see 2.7), you might want to discuss the evidence presented to the students together with them and record the facts on a white board (or similar device).

In the following reading rounds, the students should begin to identify the legal problems. It might be helpful for the students to underline or mark relevant passages and use symbols such as question marks or exclamation marks. It can also be helpful to write down initial thoughts with keywords next to the relevant passages or on a separate sheet of paper. In complex cases, you might want to record important facts about the protagonist or a timeline on a whiteboard together with the students.

1.3.4 Preparation of a solution sketch

The development of a solution sketch is the next relevant processing point. A solution sketch helps to give an overview of all relevant legal problems which will have to be

discussed. Creating a solution sketch can prevent certain problem complexes from being completely overlooked. Asking student to present a solution sketch upfront can also be an important tool for you in a workshop or take home assignment, as it allows you to check – during the work process – if students are on the right track.

In order to create the solution sketch, the first step is to identify the relevant legal rules. The keywords next to and markings of facts can make a good initial contribution to this and simplify the brainstorming. When searching for legal rules, all hypothetically applicable rules should first be included. In the further sorting, these should then be reduced to those that represent a relevant contribution to the case solution. There is no universal method for answering the question of whether a rule is relevant to a case. However, criteria can be plausibility considerations, the question whether there might be a more specific rule, and the question whether the rule adds anything to the solution.

Once the relevant standards have been identified, they should be placed in a logical order. The order of these differs from one area of law to another. In general, however, special rules are to be examined before general rules and the general rule is to be addressed before the exception.

The solution sketch does not have to be detailed. It can be sufficient if only headlines are formulated and additional information and arguments are added in bullet points.

1.3.5. The written solution/Presentation of the case solution

In a last step, the written solution is to be prepared based on the solution sketch. The time frame necessary to prepare such a written solution varies greatly from case to case. However you should allow for a sufficiently long period of time for the students to provide a fair opportunity to compile what they have previously worked on and to tight the strings together. Depending on the classroom setting you might alternatively ask students not to submit a written solution to the case study but to present their case in front of the class. In this case, it is usually very helpful for the other students and yourself if you ask students to support their presentation with PowerPoint slides (or a similar program). PPP slides visualise the presentation which is particularly important when you are presented with a great amount of information (facts) and a comprehensive legal analysis.

1.3 FURTHER READINGS

Amitai Aviram, Writing Case Studies, University of Illinois, Lecture slides, available at: https://pages.law.illinois.edu/aviram/Aviram-Writing_case_studies.pdf (7/6/2023)

David A. Garvin, Making the Case, Harvard Magazine, September-October 2003, Vol. 106, No. 2, available at: https://wwwuser.gwdg.de/~pctgoe/DATA/Gunnar/PALLIATIV/Langeoog_2018/Kommunikation/casestudy%20method.pdf (7/6/2023)

Edmund M. Morgan, The Case Method, *Journal of Legal Education*, 1952, Vol. 4, pp. 379 - 391

Joseph William Singer, How Law Professors Can Write a Problem Solving Case, *The Case Studies Blog* | Harvard Law School, 20 August 2013, available at: <https://blogs.harvard.edu/hlscasestudies/2013/08/20/how-any-law-professor-can-write-a-problem-solving-case/> (7/6/2023)