

2.1. MICRO CASE STUDIES TO FACILITATE THE UNDERSTANDING OF THE THEORY

*Jovan Zafirovski, PhD (Associate Professor) ss. Cyril and Methodius University,
Faculty of law “Iustinianus Primus” in Skopje*

2.1.1 Introduction

Using micro case studies is a great way to facilitate the understanding of the basic legal principles and legal theory by linking it to practice. Micro case studies consist of a short summary of the most important facts of a case which set the frame to discuss the pillars of the basic legal principles and theory. Micro case studies can be:

- simplified versions of real case law,
- base on real cases, but with altered facts (for pedagogic reasons) or,
- entirely fictional cases.

The aim is to present cases or examples that will facilitate the understanding of complex legal principles and theory by linking the theory to the Court’s reasoning and providing practical explanation on the basic legal principles. The students will learn legal principles and theory through understanding the cases presented by the professor. This technique also helps students to memorise legal principles and theory more easily. Furthermore, students might find it easier to present their knowledge of and talk about legal principles and theory when they are able to support their knowledge with cases and examples. Micro case studies can also be used to teach students how to tackle legal problems on a small scale. Students learn how to identify a legal problem, search for the relevant legal theory/precedent/statutory provision etc. and apply it to the facts of the case. Through this students train their ability to think in a structured way and advance their problem solving skills. Since micro case studies are rather simplified cases they allow students, particularly during the beginning of their studies, to focus on those technical aspects without being distracted by a vast amount of evidence and facts as well as complex intersecting legal problems.

Micro case studies may be used in almost any setting. They are particularly suitable for lectures and small seminar groups. They may, however, also be used in exams to test students’ knowledge of legal principles and theory and their problem solving abilities. The exact way of implementing micro case studies depends on the subject. The overall idea though remains the same: to make the legal theory more understandable and accessible to students in different cycles of legal studies in both the process of learning and in the process of presenting their knowledge.

Having in mind that by this method only the short summary or the most important facts of the (famous) cases that are pillars of the legal doctrines and Court’

decisions are presented, the method might be used in all theoretical and introductory courses. Moreover, it might be used also in more advanced and specialised legal disciplines when there is a need for it.

For both students and teachers micro case studies offer a simple and effective method to teach and respectively study the law.

2.1.2 STEPS TO DEVELOP A MICRO CASE STUDY (PREPARATORY STAGE):

2.1.2.1 Defining Parameters

Defining the Parameters of a micro case study is of a less significant role than for the other types of case studies due to its simplicity. Attention should, however be paid to the question of the teaching objectives and learning outcomes. Since micro case studies are particularly designed/chosen to illustrate legal principles and theory it should be the main focus of the teacher to make sure that the case is suitable to achieve this objective.

2.5.1.2 Designing the case study

How to design a micro case study greatly depends on the type of micro case study you would like to use.

If you choose a real life case (e.g. in which a certain legal doctrine was developed),

–for the purpose of better understanding–, the cases should be simplified or the facts might be altered with the aim to make it more understandable for different levels/cycles of legal studies. Make sure to take out any information which is irrelevant to the legal principle or theory that you would like to teach. This additional information would only confuse students and take away the focus from the actual goal. E.g. if a case has several protagonists you might also want to check if they are all necessary, or if you could narrow down the case to one protagonist.

If you choose an entirely fictional case designed to exemplify legal theory, preparing the case study is more complex. After having chosen a topic, you will have to determine the case settings. It is generally advisable to use only one protagonist with one problem. Usually the student is placed in the role of a judge at an appellate court at the end of a legal conflict with all the facts clearly established. Those settings allow students to focus on the legal problem at the heart of the case. When narrating the story try to stay as simple as possible and not include any information which is irrelevant to the legal problem you are trying to illustrate.

Also, different legal disciplines require different approach when preparing micro cases. In constitutional law, for example, a historical approach is needed when presenting cases and historical events that were certain breakthroughs in the legal reasoning establishing milestones in the legal theory (Magna Carta Libertatum, the French Revolution, the Van Gend en Loos Case etc.). In criminal law, the micro cases

should be concise including facts that will explain the logic of certain legal provisions. In some legal disciplines such as competition law, tax law, international private law etc. working through case law and simple examples is vital for understanding the subject.

A special emphasis should be made regarding the teaching of EU law in the countries that have different legal tradition from the Member States which are accustomed to the practices of the Court in Luxembourg. The teaching of EU law through case law of the CJEU alters the traditional understanding of the sources of law in some European countries that are candidates for EU membership (Serbia, Macedonia etc.). Therefore, in the process of teaching EU law it is essential to simplify the case law and link the established legal principles to more traditional understanding of the law.

Case analysis, teaching note and teaching materials

In preparation for teaching the micro case study you should prepare a short case analysis if you are using a fictional case, otherwise it might be useful to copy (into a separate document) the relevant passages from the judgment which you have based your case study on. To make sure students are familiar with the facts of the case you can prepare PowerPoint slides to illustrate the case in class. Alternatively you could print out the facts of the case for students on paper or upload them in advance on a learning platform (such as Moodle). Because of the limited scope of a micro case study it is usually not necessary to prepare a teaching note.

Evaluation

If you are using a micro case study to test students' knowledge about a legal principle or theory in an exam you want to establish evaluation criteria in advance. Such criteria can include:

- Has the student understood the facts of the case
- Has the student identified the legal problem
- Has the student presented a logical and well-structured solution to the legal problem
- Was the student able to recall the applicable legal principle, precedent and legal theory
- Has the student formed his own (critical opinion) on the matter

2.1.3 TEACHING MICRO CASE STUDIES (TEACHING STAGE):

There might be different approaches when using micro-case studies in the lecture. On one hand the teacher may explain the general principles of law through case law studies by supporting his arguments with the Court's decision and reasoning. On the other hand, the teacher may present the case and consequently elaborate on the legal principles and doctrines deriving from it.

Depending on his/her preferences, the professor might choose to use multiple cases that are dealing with same or similar facts that might draw same conclusions and explain the legal theory. Also, a set of opposing cases might be selected that might provide a distinction on facts that were important in the court decision. If necessary, the teacher might slightly change the facts in order to explain the theory better or to underline the important fact in the case which if changed will make the entire picture for the case different.

In small seminar groups (of course also in lectures, if the size of the group allows for it) the roles can be reversed: the teacher may ask students to solve a micro case study.

Depending on the subject the use of the micro-case study might be different while teaching different legal disciplines. However, there are usually three steps that are common.

1. The cases should be given to the students for reading prior to the lecture. This is very important for the reason that will prepare the students for the class giving them opportunity to independently analyse the facts and to make some conclusions about the case and the Court's reasoning.
2. In the next step you should use the Socratic Method which includes an interrogatory style to question students about the facts of the case, judicial reasoning, the current legal framework related to the case.
3. At the end, as a summary, you should explain the important legal doctrines and principles that are part of the case law and thus presenting the theoretical foundations of the court's reasoning.

Level of difficulty: ★★☆☆☆

Duration: ★★☆☆☆

Main teaching objectives: Facilitate the understanding of basic legal principles and legal theory by linking it to practice, teach students how to solve legal problems on a small scale in a logically and well-structured manner.