

**MELE**

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# GUIDE ON CASE STUDIES



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## GUIDE ON CASE STUDIES:

### HOW TO DESIGN & TEACH CASE STUDIES IN LAW

#### **INTRODUCTION: THE PEDAGOGIC CONCEPT OF CASE STUDIES, TEACHING OBJECTIVES, LEARNING OUTCOMES & TRANSVERSAL COMPETENCES**

The idea of the GUIDE ON CASE STUDIES is to create a guide for (new) lecturers, providing methodological guidelines on how to design and teach case studies for students, based on our reflection and experience. We hope to give teachers some fresh ideas on how to include and carry out case studies in class.

Following some pedagogic reflections on case studies, particularly on the question which teaching objectives and learning outcomes can be achieved and which transversal competences can be trained by using case studies in general, in the first part of the guide we provide you with a general guideline on how to create and teach a case study (1.). In the second part of the guide we have identified seven different types of case studies which are introduced subsequently (2.).

The guide is supplemented by example teaching materials for each type of case study.

#### **The (pedagogic) concept of case studies**

Case studies “use a narrative of a legal dilemma to exemplify principles of law”.<sup>1</sup> This narrative may be based on an already existing court decision or may present a legal dilemma as it unfolds. It may be based on a real-life case or be entirely fictional. Students are asked to put themselves in the position of a legal practitioner (e.g. a judge, a practicing lawyer, a notary etc.) and deliver a legal analysis and solution to the dilemma or argue and defend their advice for the protagonist. Case studies engage students in active learning. Hence, they offer a brilliant way for students to learn about the law and to apply legal knowledge that they have acquired.

#### **Transversal Competences: Teaching objectives & Learning outcomes**

Case studies are not only a great way of teaching students the law, but also train different transversal competences. Through working on case studies students:<sup>2</sup>

- Train their logical thinking abilities: Students learn to think in a structured way and used their common sense to arrive at a practical solution.

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<sup>1</sup> Harvard Law School, The Case Study Teaching Method, available at: [https://casestudies.law.harvard.edu/the-case-study-teaching-method/\(7/6/2023\)](https://casestudies.law.harvard.edu/the-case-study-teaching-method/(7/6/2023)).

<sup>2</sup> Inspired by:Oxford University Careers Service, Legal Case Study Interviews, available at: <https://www.careers.ox.ac.uk/legal-case-study-interviews#collapse1546601> (7/6/2023); Harvard Law School, The Case Study Teaching Method, available at: [https://casestudies.law.harvard.edu/the-case-study-teaching-method/\(7/6/2023\)](https://casestudies.law.harvard.edu/the-case-study-teaching-method/(7/6/2023)).

- Acquire the capacity for legal analysis and synthesis: Students learn to identify key issues from a lot of information (potentially under time pressure, e.g. in an exam).
- Acquire the capacity to construct a valid legal argument: Students learn to balance legal arguments and build up a line of reasoning supporting their stance.
- Acquire the capacity to apply knowledge in practice: Students learn to use their legal knowledge to solve a real-life legal dilemma and come to a practical solution.
- Practice decision making: Students learn to summarise the main points of an argument and come to a well-argued conclusion given a certain set of facts.
- Train their problem solving skills: Students learn to think and work problem-oriented and learn to focus on and solve those aspects which truly matter rather than those which are merely hypothetical.
- Acquire the capacity to communicate legal arguments orally or in written: Students learn to communicate clearly and effectively, as well as using a high standard of general literacy.
- Train their ability to communicate with non-experts in the legal field: Particular in case studies involving a client, students learn to explain difficult legal problems to lay persons and help them identify their underlying goals.
- Train their negotiation skills: Students learn to clearly communicate what they are trying to achieve and to identify points which they are willing to negotiate.
- Practice planning and time management: Students learn to manage their time effectively, prioritise important information and activities and deal with a large volume of unfamiliar information they are presented with.
- Acquire critical and self-critical thinking abilities: Students learn to critically question legal solutions to problems presented by jurisprudence and academia, as well as their own.
- Acquire the capacity for generating new (creative) ideas: Students learn to think out of the box when confronted with real-life problems which are most likely not treated in their text-books.
- Train their resilience: students learn to respond adequately to challenges such as a difficult problem or a situation which is not going in their way and learn to defend their point of view.
- Train their ability to work autonomously/or in a team: Depending on the assignment students learn to work on their own without the direct guidance of a teacher, or learn to engage in productive working relationships with their fellow students when assigned to solve a case in a group.
- Train their interpersonal skills: Students learn to be confident about presenting their work, handle feedback from their peers and teacher etc.

## 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; 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> 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](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](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)

## 2. Contributions

### 2. Contributions:

**2.1** Micro case studies to facilitate the understanding of the theory.

*Jovan Zafirovski, ss. Cyril and Methodius University*

**2.2** Legal argumentation competences.

*Carlos Varela and Antonio Álvarez del Cuvillo, University of Cádiz*

**2.3** Competitions between students and gamification with the written case studies.

*Maria del Mar Martin Aragón, University of Cádiz*

**2.4** Analysing jurisprudence as case studies

*Dovile Gailiute-Januson, Mykolas Romeris Universiy Vilnius and Dušan Popović, University of Belgrade*

**2.5** How to draft legal documents as simulations of professional situations

*Isabel Ribes and Jesus Verdu, University of Cádiz*

**2.6** Interdisciplinarity: how to design case studies covering different legal subjects or disciplines.

*Cecile Ogufere, Regents University*

**2.7.** Problem Solving Case Studies (Harvard Law School Method)

*Karoline Dolgowski, University of Saarland*

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

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### **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.

## 2.2. USING CASES FOR IMPROVING LEGAL REASONING SKILLS

*Antonio Álvarez del Cuvillo<sup>3</sup> (Associate Professor),  
Faculty of Labour Sciences, University of Cádiz*

### 2.2.1 Introduction

‘Teaching methodology’ implies pondering on the adequacy of the teaching activities, the exercises, and the evaluation methods to achieve the learning objectives. In most cases, the aim of introducing practical cases in Law courses is to improve the legal reasoning skills of students. However, some teachers do not think about the concrete skills that they would like to develop through each practical exercise. Instead, they tend to design complex cases attached to some point of the theoretical content, focusing on the theory rather than the necessary capabilities that the student should attain.

On the other hand, most Law professors have acquired their legal reasoning skills in practice, as ‘[tacit knowledge](#)’, which is not codified, nor explicit. Therefore, they cannot explain how they solve practical legal cases: they just do it. In that vein, they could take for granted these abilities in their students, without giving them technical advice for improving them.

The problem is that the skill level of the students is usually low and learning in practice tends to take a lot of time. In this context, sometimes it is difficult to give them proper feedback, especially when the number of students is high. Complex cases, which include all the necessary abilities, are usually long and difficult to correct. Also, when the students do not have a high level, there are so many mistakes that it is extremely hard to focus on all of them at a time.

This technique is primarily aimed at students with a low level of skills and, therefore, it is designed to be carried out over a large number of sessions (typically seven). However, as students have a higher level, the number of sessions can be condensed or reduced. Therefore, the difficulty and duration of this task have an inversely proportional relationship.

### 2.2.2 The method: Dividing the process of solving practical legal cases into several steps

The idea that we propose is to identify different steps in the process of solving practical legal cases. In each phase, we can identify a small and limited number of skills. This division helps us to:

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<sup>3</sup> Point 2.2.4 is written by Carlos Varela Gil, University of Cádiz.

- a) give students technical advice on each of the steps in advance
- b) give them more focused feedback once the assignment is delivered

Certainly, we can give the students previous advice about the techniques and procedures needed for solving each one of the steps. There are many possibilities: verbal explanations in the classroom, teaching videos, written materials, etc. In these materials, you can try to codify or make explicit your tacit knowledge. For example, you can think about what you really do in order to find relevant case law and create some ‘tips’ for the students.

One possibility is to prepare different exercises or practical cases for each one of the steps. For example, you can design an exercise in which the students only have to ‘identify the legal problems’. These kinds of exercises are shorter and easy to correct if you have a lot of students and also, the students can internalize the explicit advice that you have given them in advance. Also, you can give them more and better feedback when you focus on only one of the steps.

The other possibility, usually for more advanced students, is to give them only one complex case, but instead of solving it from the beginning to the end, you work the case with the students sequentially, step by step, in one or more sessions.

### 2.2.3 The steps that we propose

We propose to divide the process of case-solving into SEVEN different steps



Of course, you should adapt these steps to your subject and the characteristics of your students. Perhaps the outline of phases should be completely different. Anyway, you could add, remove, or change steps or you could choose to group some steps into one phase or to divide one of these steps into more phases. For example, with advanced students, you could work on the steps 1, 2 and 3 at the same time.

### 1) *Identifying legal problems*

Even if there are concrete questions for the students in the case, they usually refer to the interests of the parties involved. Beyond these questions, the student must identify abstract problems related with these interests. This could be relevant for the steps 2, 4 and 5.

### 2) *Finding the relevant theory and legislation*

It is very important for the student to be able to relate the practical case with the theoretical material that he/she has studied. Also, the student should be capable of finding applicable legislation and basic bibliography if necessary.

### 3) *Writing up simple case resolutions*

Some practical cases are 'simple' in the sense that they do not need complex argumentation. They are just useful for demonstrating the ability to do simple legal research. In these cases, although the answer tends to be brief, the students should avoid responses that are too short. On the contrary, a simple case is an opportunity for students to demonstrate their knowledge and technical skills.

### 4) *Finding arguments*

In more complex cases that require argumentation, students should be able to find arguments that could be relevant in the courts. It is important to find arguments both for and against the position that they would like to assume.

### 5) *Searching case-law*

Generally, students should be able to look for court decisions in order to elaborate advanced arguments, although the relevance of case-law could vary on each domestic legal order.

### 6) *Organizing legal arguments*

Before starting to write, it is essential to plan the structure of the argumentation. The order of the ideas should be adequate, with emphasis on clearness and persuasiveness.

### 7) *The final draft*

In the end, students should be able to write a proper text, using correct and adequate language. They also should be able to demonstrate their knowledge and skills in their writing.

## 2.2.4 Evaluation system

The learning process based on practical cases is completed with a good evaluation system. An evaluation system that makes possible properly grade both the acquired knowledge and the competences achieved.

The evaluation, therefore, fulfills a primordial function. It allows us to determine the degree of knowledge and competences obtained by the student. And that is not all, the evaluation system also contributes to stimulating student's effort, motivating him or her to work harder in order to succeed. Therefore, if we want the student to adopt all of the proposed steps with determination, we must establish some form of evaluation for each one. As an example, when approaching the first step (“identifying legal problems”), the professor can evaluate the degree of precision that the students have achieved. Similarly, the step that consists in looking for the relevant doctrine and legislation will be graded based on the level of accuracy in finding bibliographic materials or legal sources.

Therefore, the suggested evaluation system is in direct relation to continuous evaluation, in which the student is examined on each of the steps proposed for his learning (detection of legal problems; looking for applicable regulations in the case and his doctrinal interpretation; case law research; determination of arguments in favor and against; writing of the draft; etc.). On the other hand, this serves the student and the teacher to verify the learning level in each of the phases -and to be able to establish corrective measures in case they prove to be necessary from the beginning-, which also supposes a stimulus for the work of the student, who will undoubtedly make an effort to carry out each of the steps that he/she is graded on correctly.

Nevertheless, the separate evaluation of each one of the steps would offer a fragmented and partial view of the knowledge and skills acquired. It is necessary that once the steps in which the learning process has been divided have been completed,

the student is asked to solve a complex case, following all the steps that he/she has been learning during the continuous evaluation. This resolution should be evaluated taking into account the degree of agreement that has been taken in each of the steps that must be followed to resolve a practical assumption (identifying the main legal problems, determining applicable regulations, looking for relevant case law, etc.).

The final grade of the student should include both the partial results obtained in each one of the tasks carried out during each step, and the result of the final test in which the result is obtained in the complex case.

### Further Materials

University of Cadiz, Cómo hacer un caso práctico en materia jurídica: una aproximación secuencial, available at: <https://ocw.uca.es/course/view.php?id=101> (21 July 2023)

*Level of difficulty:* ★★★★★ **(may be designed for any level of difficulty and duration)**

*Duration:* ★★★★★

*Main teaching objectives:* To develop the necessary skills for legal argumentation, such as identifying legal issues, conducting research, constructing and organizing arguments, and writing in a clear and precise manner, we propose breaking down the process of solving a practical case into a series of successive steps. This approach allows for a focused and separate emphasis on different skills.



### **2.3. GAMIFICATION AS A BOOSTER IN THE LEARNING PROCESS**

*María del Mar Martín Aragón, (Replacement Lecturer),  
School of Law, University of Cádiz*

#### **2.3.1 Introduction: the new reality of teaching as the starting point**

Updating in high education is not only related to the materials we offer our students but also to the teaching tools we use. Nowadays we need to face the importance of making our lectures more than just a monologue. The old-style sessions where the professors would offer the information and the students would memorize it, are doomed to disappear. In this sense, there seems to be a new trend that understands the learning process as an active one, so the student would be considered as a creator of knowledge being the owner of their learning process. This is intended to build a class session that could be perceived as a context where we create knowledge in a collaborative and active way.

It is also important to take into consideration the impact ICTs have made in the education system. Thus, the use of this kind of technology in the class couldn't be understood as something extraordinary, but as a tool to be used on a daily basis for our teaching. Overall if we aim to achieve what has been called "the 21<sup>st</sup>-century skills": communication, collaboration, critical thinking, and creative thinking. Beyond that, if we take advantage of the ICTs to offer our students appealing materials and interesting ways of learning, the combination is a win-win. Also, we need to bear in mind that these techniques have shown to be highly efficient when talking about grades, interest, commitment, and skills acquisition.

Taking all of the above under consideration, I am sharing here my experience with the *Kahoot* platform and app whose motto is "Make learning awesome". The use of this platform is related to gamification as a teaching/learning process. Conceived as a kind of trivia, you can apply this tool for designing questions around a specific case law study as it will be exemplified in the teaching material. This particular initiative was implemented in a Master's Degree Program in *Water Coastal Management*, specifically in the *Conflict Resolution* subject. Although this was a postgraduate program, students weren't used to legal terms and vocabulary as the Master's Program was on water management, and their backgrounds were so diverse. Taking this under consideration, the level of difficulty couldn't be extremely demanding, in that case, the group would have lost interest. So, the concepts needed to be addressed in a challenging but available way. I strongly recommend using this tool in first courses, but it can also be applied in higher courses though in specific circumstances such as the ones in my experience. As for the level of difficulty you can tailor it to your own scenario, context, and level. It is a very flexible tool so you can adjust the setting from a base level to an

extremely difficult one, it will depend on the kind of questions and the matters you are addressing.

Regarding the schedule to prepare the materials, it would be advisable to compose the questionnaire once you have explained the whole lesson and you have had the opportunity to test the level of comprehension and the times of study of your own group. Designing the questions and uploading them to the platform wouldn't take you more than an hour, depending on how long you would plan the test to be. In class, it would also depend on your specific schedule, you can choose the time for questioning, for answering and I also add extra time after each question to explain and discuss the answers, not just the right ones but overall all the incorrect ones.

The learning outcomes projected are mainly related to involving students in their own learning process, so they can be active figures in the class. By considering so, another of the goals would be to ease and simplify the process of comprehension for difficult terms and concepts from Law that students may have not heard before. Last but not least, there is a strong commitment to collaborative work lying below this proposal, as the students would need to make groups to answer the test on *Kahoot*.

### 2.3.2 Methodological Guidelines

1.- Creating your account: You can use the app or the web, both are very friendly and intuitive interfaces. One key aspect you need to know is the difference between *kahoot.com* and *kahoot.it*. The first one is the platform for teachers to design the quiz and the second is the one for joining an existing game that has already been designed. So, taking the web as the guiding example, the first step would be to get into *kahoot.com* and sign up. The platform would ask you which type of account would you like to create. Four options would display on your screen (teacher, student, personal and professional), you may go for the teacher one. Then you would be asked about your education organization, again four options to choose from (school, higher education, school administration, and business), so in our case, it would be higher education. And the last step would be the usual creating an account process, signing up with your email, and setting a password. To make the process easier you can log in with your Google, Microsoft, Apple, or Clever account.

2.- Designing the teaching material: once you have logged in, you'll find in the upper right corner the *create* button, which will give you two options *kahoot* or *course*. This time we will go for the *kahoot* and you can start a design from scratch or use a template to guide you. I encourage you to use the blank canvas as it is a very friendly and easy process that will give you the opportunity to customize and adapt the quiz for your class requirements. Once you have chosen that, you'll find a three-part screen (Figure 1).

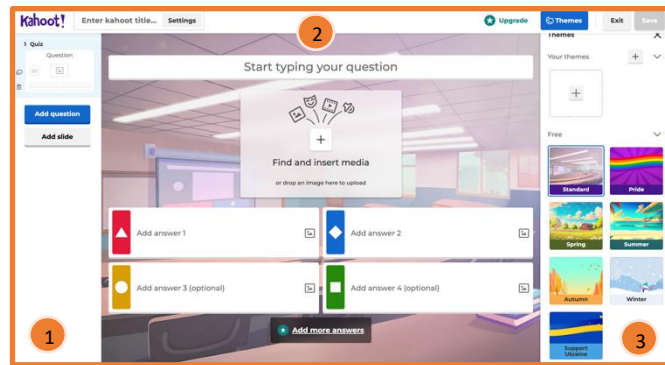


Figure 1. Kahoot! and the K! logo are trademarks of Kahoot! AS

In screen 2 you have the view of the question you are designing at this very moment. You have the start typing your question panel and you can also add some media. By default, four options of answer will display, but you can delete or add more as long as you have at least two answers. Once you write the answers you can click on a circle that will appear, to let the system know which one is correct. As an extra feature, you can add pictures to each answer, if you want to make the options more attractive or visual to your students.

Moving into screen 2 you have the general overview of your quiz and quick access to easily add new question slides by pressing the add question button. The system will ask you which kind of testing would you like to add, showing an example. You have a quiz, true or false, type answer, slider, puzzle, or quiz + audio, note that only the first two are for free, the others are premium features. My experience is based on true or false, and quizzes, as they are quick, fun, and keep this resemblance with a TV contest show. You'll find two more tabs: question bank and question generator. The question bank is a very useful tool if you become a regular *kahoot* user, so you can save your questions by categories and use them in any other test. You can also have access to public question banks.

Screen 3 is for special settings. If you click the upper button "themes" you can customize the wallpaper for your quiz by using the free ones provided by the platform or even uploading your ones. If you click screen 2 the setting would be for the specific question displayed, so you can establish the time limit for answering (I usually use 20 seconds, depending on the length of the question), the points (standard, double, or no points), and the answer options (single or multi-select). At the lowest part of this screen, you'll find the *duplicate* button. This is a very helpful option that will allow you to create all your slides having one of them as the sample or model. This short route will save you some time in case you count on using the same general scheme for your questions and answers. There is also the option to *delete* the slide, next to the *duplicate* button. Once you're done you shall title your *kahoot* in the upper left part of the screen, so you can find it easily in your folder, and then save it in the upper right part.

Back in the main menu screen, you'll find in the right part, all of your *kahoots* (Figure 2).

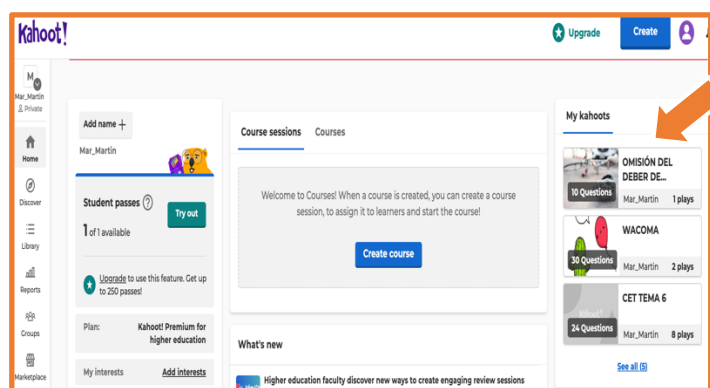


Figure 2 Kahoot! and the K! logo are trademarks of Kahoot! AS

3.- Learning by playing: now that you have your quiz fully designed, it's time for the students to prove their knowledge and skills. They can play in groups or individually, it's up to you depending on your interests. As for my sessions, I prefer the group option, as they can exchange points of view and different readings on the same item. The first thing you need to do is to go to *your kahoots* and click on the start button (Figure 3). An automatic screen will pop up and ask you if you prefer the single or the team mode. Remember there's only room for 10 players (or 10 groups) in the free version. Then you need to choose if they will be playing on personal or shared devices.

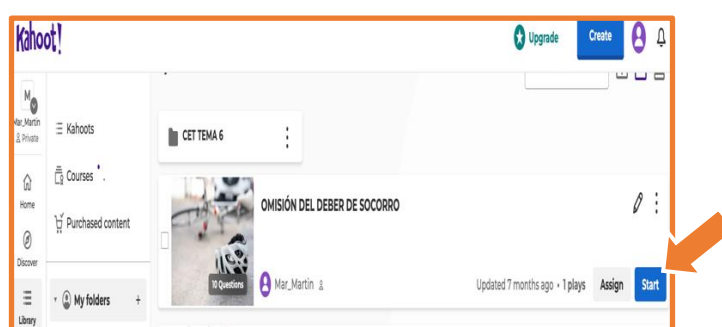


Figure 3 Kahoot! and the K! logo are trademarks of Kahoot! AS

Then an automatic screen will pop up again with a QR and a PIN code you will display in the class so the students can join the game. They can join on *kahoot.it* or via the app, in any case, all they need to do is to introduce the pin or use the QR code. The students can use a nickname of their choice, or pick one provided by the app. Here I recommend they use their real name as you can later download the results and use them for evaluation. The question will be displayed on the screen and then the

answers will appear (Figure 4), and the students will have a fixed time (by you) to answer.

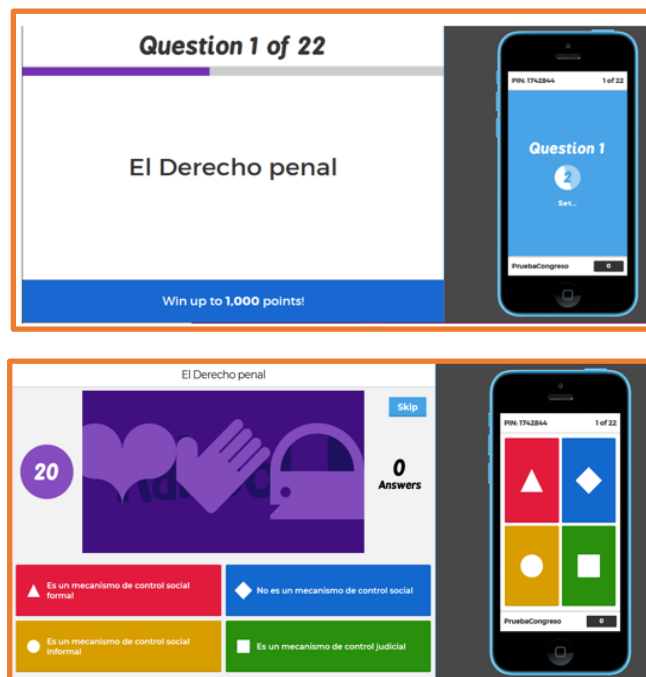


Figure 4 Kahoot! and the K! logo are trademarks of Kahoot! AS

The system points you back taking under consideration not just your answer but also the timing. After the time is over, *Kahoot* would show you the correct answer but also a top 3 ranking. When the answer is incorrect, the student’s screen will display a motivational message such as “There are no wrong answers, only new lessons”. And I really think this is very encouraging for students, so they don’t feel disappointed and also to create a good environment in the class (Figure 5).





Figure 5 Kahoot! and the K! logo are trademarks of Kahoot! AS

Finally, the platform or the app would ask for feedback on the experience not just in statistics terms but also for the student to check if they have accomplished the learning goals. And as I said before the teacher can download the results in case they would like to use it for evaluations or grading.

### 2.3.3. Evaluation

I really think asking your students back after these kinds of experiences is a must. So whenever I have had the opportunity to use *kahoot* in my sessions I have asked my students what they thought about it. In general terms, I must say that they really enjoyed this activity. In some degrees (not the case for the Master's Program I am using for this shared experience) they have even proposed to create their own *kahoots* for next sessions in order to better internalize the contents of the course. Your students would benefit not just from a new tool but also from a new way of learning, considering it as a process that doesn't need to be something boring or dreary. Regarding how I specifically score this case study, in this Conflict Resolution course, participating in the *kahoot* was a part of the practical activities and it would be rated up to 1 point (out of the 3 points established for the practical part). In this sense, 1 point would be for a full correct test and the rest of the punctuation would be given proportionally. You can download the scores of the students directly after the *kahoot* has finished. That's why I strongly recommend encouraging our students to use real names, so you don't need to ask one by one whose behind the nickname. Another idea for evaluating this case study, is considering it as extra points or even creating a series of 10 easy tests and score them up to 0,1 point so they can have up to 1 point.

Level of difficulty: ★★☆☆☆

Duration: ★★★★★

Main teaching objectives: To involve students in their learning process, to ease the comprehension of essential concepts, and to encourage collaborative work.

## 2.4. ANALYSING CASE-LAW

*Dovile Gailiute-Janusone, Mykolas Romeris University*

*Dusan Popovic, University of Belgrade*

### 2.4.1 Introduction

Analysing case-law as case studies relies on the following premises:

- uses a case-law to exemplify principles of law;
- employs “hub-and-spoke” discussion between professor and student (Socratic method);
- analyses the dilemma after it has been resolved by the court.

## STEPS TO PREPARE THE CASE-LAW AS CASE STUDIES



### 2.4.2 Set learning objectives

A law professor should clearly set the learning objectives of the case study in advance. The case that will be analysed by the students should be chosen precisely in line with those objectives.

### 2.4.3 Choose the case

The selected case should be an important one, preferably already decided on by a higher court instance or by international courts (depending on the situation). It would be the best to choose a case that shows a trend in interpretative methods and outcomes. However, the selected case could also demonstrate an innovative interpretative method developed by the court. Judges are often flexible and welcome more appropriate methods for reaching their decisions. Therefore, the selected case could demonstrate methods that move beyond case precedent, or case comparison.

For the comparative analysis several cases could be chosen, however, the number of cases given to the students should be reasonable, otherwise, there is a risk that students will choose to read only some of the given cases. In case there is a need to analyse a bigger number of cases, it is suggested to assign each case to a group of students.



Some examples of the choice of cases depending on the learning objectives (examples provided from the case-law of the international courts):

- analysis of the development of the position of the court (for instance, the changing position of the European Court of Human Rights in the cases regarding Roma evictions: *Buckley v. UK* (20348/92), *Chapman v. UK* (24884/94), *Yordanova v. Bulgaria* (25446/06), *Winterstein v. France* (27013/07)).
- comparison of the decisions and argumentation of different courts (for instance, different interpretation of the concept “home” by the European Court of Human Rights and the Court of Justice of the European Union: *Niemietz v. Germany* (13710/88) and *C-46/87 - Hoechst v. Commission*).
- comparison of the decisions and argumentation of different instances of the courts (for instance, different interpretation of the right to monitor employees by the Chamber and Grand Chamber of the European Court of Human Rights: *Bărbulescu v. Romania* (61496/08)).
- assessing if national courts follow the case-law of the international courts and apply similar standards.

#### 2.4.4 Assign questions

A law professor should prepare a set of questions to be responded by the students as a preparatory work before the class. The questions should not be only theoretical ones but should also require the students to understand the case facts and identify the parties. Understanding the case facts also includes understanding the case’s procedural history. A student should be able to trace the path the case followed from the initial lawsuit through the court system to end up before the court that issued the decision he/she is analysing. Once the facts are understood, the assigned questions should require the students to identify the legal rules used by the court, and to develop arguments in favour of claimant and respondent.

#### 2.4.5 Direct a flow of discussion

A law professor should direct the flow of class discussions. He/she should identify participants who hold opposing views and ask questions to stimulate debate. He/she should assign participants to stakeholder groups with different points of view of the situation. He/she should encourage input from all sides until the participants uncover most or all of the learning objectives.

#### 2.4.6 Finalise

A law professor should direct the students into identifying the key takeaways of the case at hand. However, he/she should also require the students to consider how the rule would apply to different facts. The students should imagine different (but similar) factual scenarios, and apply the rules to those facts to see what the result would be. This would imply combining the analysis of the (existing) case law with analysing the hypothetical cases.

#### 2.4.7 Further Materials/Readings

Smits, Jan M., The Use of Case Law in the Legal Curriculum: Why and How? (2022). The Use of Case Law in the Legal Curriculum: Why and How?, in: A.W. Heringa, S. Hardt et al (eds.), Legal Education in the 21st Century: Indonesian and International Perspectives, The Hague [Eleven] 2022, pp. 117-125, Available at SSRN: <https://ssrn.com/abstract=4134260> or <http://dx.doi.org/10.2139/ssrn.4134260>

The Case Study Teaching Method. Harvard Law School. <http://casestudies.law.harvard.edu/the-case-study-teaching-method/>

Legal Interpreting Skill Development: Case Study Analysis. <https://www.unco.edu/project-climb/toolkit/skill-development/legal-case-study.aspx>

Arrifin, Adlina. The Reading of Legal Cases Among Law Students. Available at: [https://www.academia.edu/5690883/The Reading of Legal Cases Among Law Students](https://www.academia.edu/5690883/The_Reading_of_Legal_Cases_Among_Law_Students)

Level of difficulty: ★★★★★

Duration: ★★★★★☆

*Main teaching objectives:* Transfer and application of theoretical knowledge to practical situations, learning about formal requirements, preparation for professional life by gaining practical experience

## **2.5. HOW TO DRAFT LEGAL DOCUMENTS AS SIMULATIONS OF PROFESSIONAL SITUATIONS**

***Jesús Verdú Baeza (Associate Professor, School of Law) and Isabel Ribes Moreno (Associate Professor, Faculty of Labour Science),  
University of Cádiz***

In this template on professional situation case studies we shall take a closer look at case studies simulating the drafting of legal documents in professional situations. Examples include the drafting of classic legal documents such as filing an application/complaint to a court or other public authority, drafting labour/civil/trade contracts or wills, but also the calculation of contributions or taxes, drafting of reclamation letters, filling bank forms, and organising modules of compliance schemes in different fields of law, etc.

This guide is not limited to a specific legal area, notwithstanding the examples given are linked to EU and international law, whose cross-cutting nature means that all legal disciplines could use this guide to make a case study, such as drafting a legal document or complaint.

The aim is to familiarise law students with the practical scope of the theoretical content taught at University. In particular, the drafting of classical legal documents such as contracts is often neglected in legal education. At least it does not take up the space that would do justice to its importance in later professional life. Familiarising students with such tasks provides them with an opportunity to practice their skills from an early stage on.

After participating in a case study simulating professional situations, students will

- be able to transfer theoretical knowledge to practical situations
- be able to apply their legal knowledge in practice
- be familiar with the formal requirements of drafting certain legal documents
- understand better the practical relevance of knowledge taught at university
- overcome the seemingly insurmountable hurdle of gaining practical experience during their course of studies
- be prepared better for entering professional life or the practical part of legal training (outside of university).

This type of case study is therefore particularly suitable for students at the end of their legal education (e.g. 3<sup>rd</sup> year Bachelor-Students or Master's Degree). Due to the fact that a broad prior legal knowledge is required, the degree of difficulty should not be underestimated, both with regards to the preparation that has to be done by the teacher and with regards to the execution by the students.

Since it involves the writing of longer text documents, such a case study is particularly suitable for longer series of lessons or a block course and should best be designed (partly) as a take home assignment.

## 2.5.1 STEPS TO DEVELOP A PROFESSIONAL SITUATION CASE STUDY (PREPARATORY STAGE):

### 2.5.1.1 Define the subject to be assessed, the setting you will be teaching in and the learning outcomes

To do this, the teacher will have to identify relevant issues beforehand to determine the complexity of the case study. Some points to consider:

- Subject of the class
- Specific content you would like to teach/exemplify through the case study

Regarding the settings you will be teaching the case study in, it might help you to consider the following points:

- Degree/Master's degree course in which the students are currently enrolled
- Prior-knowledge of the students; subjects previously taken by the students or the previous qualification of master's students.
- Length and type of the class (en bloc, weekly throughout the semester, interactive, take-home/library tasks etc.)
- Size of the group you will be teaching (does the size allow for interaction with individual students?)

Last you should think of the specific learning outcomes, hence what students should be capable of doing after finishing the case study.

Your thoughts should be recorded in a teaching note (see above: 1.2.5)



### 2.5.1.2 Writing the case study and identify the task to develop

1. For this task, first the substantive law to be applied must be determined which means the Treaty/Convention/Law/Regulation, etc. For example, it may be a question of domestic law that has to be resolved in domestic, supranational, or international instances.

As a (non-exhaustive) list of practical tasks we propose:



- legal documents/contracts,
- calculation of contributions or taxes
- drafting complaints
- writing reclamation letters
- drawing up a legal will
- filling bank forms
- filling contracts (labour, civil, trade, etc.)
- drafting statutes or rules of procedure (Companies, Trade Unions, Organizations, NGO's, etc.)
- organizing modules of compliance schemes in different fields of law (equality, crime, occupational risk prevention, harassment, discrimination, etc.)

2. When narrating the case story, for a professional situation case study it might be most suitable to choose a problem- or protagonist oriented approach, because in most cases the task will not require students to draft a legal analysis of issues that have already been drawn to a conclusion (equalling the view of a judgement at the appellate stage), but rather are asked to interfere in an ongoing situation, to take action themselves and change the legal situation (lawyer's view). For such a task the different interests at stake of the different protagonists or regarding the different problems at hand, must be attributed more weight than the underlying story. The case should end with a brief conclusion focusing on the discussion points, opinions and considerations.

3. Alternatively, instead of presenting the students with a single story including all the relevant facts, it may make a professional situation case study more vivid and realistic if you choose to write several documents resembling evidence, such as letters, statements by different protagonists, official documents etc. and ask students to distract the facts from the evidence presented to them.

4. For further more general elaborations, see above: 1.2.2.

### 2.5.1.3 Materials

The lecturer should help/assist/suggest how the student can obtain the substantive law materials needed for case study resolution or should give the student basic directions so they can look for the materials autonomously. The lecturer could evaluate the materials given depending on the level of the students or the students' previous studies.

It is advisable to check the relevant materials before carrying out the task, especially if the materials have been updated.

### 2.5.1.4 Templates

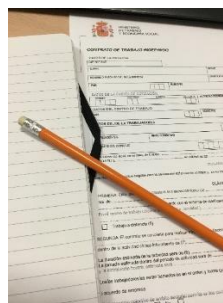
For most professional situations in the legal field, there are form specifications. In the course of time, a number of model templates have been established in order to maintain these formal requirements. Within the framework of a case solution, it

cannot be expected to have all these form specifications available. You may, therefore, want to provide your students with the necessary template(s)

Sometimes, to begin drafting legal documents it is therefore necessary to provide the students with standardised templates for contracts, complaints, claims, applications, reports, or briefs, e.g. as an annex to the facts of the case.

Alternatively, you might choose to include the search for an adequate template in the students' tasks. Depending on the topic, the first places to search for such templates are contract manuals, form books or collections of judgements. Materials for this purpose may also be found on various webpages, particular those related to EU and international law.

Those materials may be particularly helpful, taking into account that they may apply to different branches of law



### 2.5.1.5 Evaluation

The mark scheme should be clearly identified based on:

- Compliance of the document with applicable substantive regulations.
- Drafting of the document in accordance with applicable procedural rules.
- Quality of drafting with particular emphasis on the correct use of legal terminology and language.
- Accuracy of spelling and grammar.
- Submission by the required deadline.

### 2.5.1.6 Deadline

Establish a deadline for the writing and presentation of the case, which is reasonable considering the complexity of the matter and the materials provided.

### 2.5.1.7 Evaluation and feedback

The number of students in the group must be considered. The lecturer will lay out the possible solutions in class, emphasising the relevant issues. After the presentation, if

the group is reduced it is advisable to give individualised feedback after correction in class. It is also advisable to prepare a standard answer to simplify the task.

### 2.5.1.8 Q & A

Questions and discussion after the lecturer's presentation.

## 2.5.2 STEPS TO TEACH STUDENTS HOW TO SOLVE A PROFESSIONAL SITUATION CASE STUDY (TEACHING STAGE):

All of your thoughts regarding the teaching process should be recorded in a teaching note (see above: 1.2.5).

### 2.5.2.1 Determination of the query/intention and facts

The first step of solving a case study is to determine the query/intention of the protagonist(s) and the facts. This can either happen together with the students or students may be asked to do so at home in preparation for the class.

Usually, professional situation case studies are designed to help the protagonist's (e.g. client's) query/intention to succeed. In order to do so, it must first be determined what the actual query/intention of the protagonist is.

It is in the nature of things that legal laypersons (who will mostly be involved) usually express themselves inaccurately and legally incorrect. Therefore, the first task is to "translate" the protagonist's query into a legal question. To stimulate that process, it might help to ask the students the following questions: What intentions have been put forward by the protagonist? What does the protagonist want to achieve? Is this aim realistic? Have steps already been taken in this regard? Within which legal field does the problem of the protagonist fall? What legal procedure can help the client to succeed in his query?

### 2.5.2.2 Clarification of the substantive legal issues

After working out what the intention of the protagonist is, you should turn next to the legal issues of the case. Even though the main task in a professional situation case study is to draft a practical legal document, the students nevertheless need to think about the underlying legal issues. Before starting the work on the actual draft, the teacher should therefore stimulate a discussion about the relevant legal issues. This can be done e.g. through a set of questions related to the different problems. If the case study is designed as a take-home assignment, you might want to include specific questions related to the underlying legal issues in the students' tasks. A conclusive description of the questions to ask is not possible here, as they differ depending on the specific case. You could however start by asking students which provisions of particular statutes or judicial precedents could be applicable to the situation. However, keep in mind that the focus of a professional situation case study does not lie on the



substantive examination of the case, but on the transfer of the legal results into a practical legal document.

### 2.5.2.3 Procedural and strategical consideration

After working out the intention of the protagonist and the underlying substantive legal problems, in a next step students should think of solutions to those problems, including procedural aspects through which the intention/query of the protagonist can be realized. Different solutions may be discussed with students at this point. The main objective leading such a discussion will usually be which solution is in the best interest of the protagonist, hence helps the protagonist to achieve his query and bears the smallest risk. There may be cases where the protagonist wants to achieve several (maybe even conflicting) goals. In this case, solutions need to be compared and weight against one another. Students might want to accompany their practical legal document with an explanatory note to the protagonist (particularly if the protagonist is a paying client seeking advice from a law firm) laying out the pros and cons of different solutions and an explanation why the student has decided to choose one solution over another. As a teacher you may want to include writing such an explanatory note (where necessary) as a specific task.

### 2.5.2.4 Draft

In a final step, the draft itself needs to be drawn up. The challenge for the students lies in transferring their legal analysis into a practical legal document. Authenticity is of particularly important at this point. The student should therefore focus on precise, technically correct legal language and stay as close to the structure suggested by the templates as possible. Templates including a pre-defined selection of words and phrases can be of great help at this stage. They may also provide a basic structure which the draft can follow. However, students must keep in mind who the document is addressed to. One of the major differences between a legal analysis written for a university class and a practical legal document is the audience. While a legal analysis for a university class is being read and must be understood by people with a prior legal knowledge (e.g. the teacher, fellow students etc.), practical documents might have to be understood by a variety of people with a variety of backgrounds. Further explanations, clarifications etc. might hence be necessary. The most important rational, however, is to assure that the practical document proposes an adequate solution to the protagonist's problems.



### 2.5.3 Further Materials/Readings

#### Templates:

- European Convention of Human Rights

<https://www.echr.coe.int/Pages/home.aspx?p=applicants&c>

[https://www.echr.coe.int/documents/admissibility\\_guide\\_eng.pdf](https://www.echr.coe.int/documents/admissibility_guide_eng.pdf)

- European Social Charter

<https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure1>

- EU Law

[https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/complaints-about-breaches-eu-law/how-make-complaint-eu-level\\_en#:~:text=You%20may%20submit%20your%20petition,citizenship%20and%20free%20movement%20website.](https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/complaints-about-breaches-eu-law/how-make-complaint-eu-level_en#:~:text=You%20may%20submit%20your%20petition,citizenship%20and%20free%20movement%20website.)

- ILO Conventions

<https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/representations/lang--en/index.htm>

<https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang--en/index.htm>

#### Reading Materials:

*Kerstin Diercks-Harms*, Die rechtsgestaltende Anwaltsklausur, Boorberg, 2013

*Markus Sikora/Bernadette Keil*, Kautelarjuristische Klausuren im Zivilrecht, Vahlen, 6th ed. 2022

*Joseph William Singer*, How Law Professors Can Write a Problem Solving Case, The Case Studies Blog | Harvard Law School, 20 August 2013, available at: <http://blogs.harvard.edu/hlscasestudies/2013/08/20/how-any-law-professor-can-write-a-problem-solving-case/>, (01/06/2023)

*Level of difficulty:* ★★★★★

*Duration:* ★★★★★

*Main teaching objectives:* Transfer and application of theoretical knowledge to practical situations, learning about formal requirements, preparation for professional life by gaining practical experience

## **2.6. INTERDISCIPLINARY: HOW TO DESIGN CASE STUDIES COVERING DIFFERENT LEGAL SUBJECTS OR DISCIPLINES**

***Cecile Ogufere (Lecturer),  
Regents University, London***

### **2.6.1 Introduction**

The following case study approach could be applied as a tool for interdisciplinary learning. It may be used in either common law or civil law jurisdictions. The interdisciplinary approach allows students to study a particular topic from different perspectives. In doing so, they can apply a critical analysis on the topic. The advantage of this approach is that students enter industry with a broad and deep understanding of current challenges around the world that are related to the topic.

Students taking either a law or non-law degree may be engaging in various other modules such as history, politics, psychology, sociology, among others. This learning brings diversity of thought to the interdisciplinary case study. Thus, to facilitate learning, teachers can initiate an interdisciplinary approach to pedagogic delivery.

The aim of the interdisciplinary module is to introduce the students to its basic concepts and the system that it operates in. For example, in the crime and criminal justice module students may be introduced to crime as a construct and the criminal justice system that it operates in, including the courts and other government agencies such as the prisons and security services.

Students are introduced to the topic of discussion on the virtual learning platform. They are provided with materials to read and pre-recorded lectures to watch prior to attending face to face classes either on campus or online. Some of the lectures are downloaded from other websites while others are created and recorded by the teacher. Students apply their learning to a scheduled case study for discussion. Students then bring other theories and practice in each and across disciplines into the case study discussion.

At the end of the module the following learning outcomes are expected and students should be able to:

- communicate arguments/reasoning, both orally and in writing in domestic and international settings.
- explain theories, concepts, and facts in the field/s of study relevant to the task.
- use established discipline-specific knowledge for practical purposes.
- identify and contrast perspectives from different disciplines.

### **2.6.2 The Teaching Delivery**

The students are provided with an hour of an interactive in-class lecture which is supported by the pre-reading materials on the virtual learning platform. Students also have access to a key textbook. This is further supported with data from various government and intergovernmental websites. Students are encouraged to research academic journals for further information.

Some of the materials that are placed on the University's virtual learning platform are pre-recorded lectures and videos for the class to watch prior to attending the live, in-class sessions. Students would also be expected to read one or two chapters from the key textbook as well as read some literature on the topic for discussion.

In order to create an inclusive environment for international students, it is wise to draft a few seminar questions that recognise and encourage comparative approaches to the module in their respective jurisdictions. For instance, I have asked the students, to research what agencies are involved in the criminal justice system in their countries. This comparative approach also provides a way for students to engage in critical analysis of the criminal justice system. Furthermore, this forms part of the international dimension of the module.

The seminar questions form the basis of class discussion. This is done in the form of debates, group discussions and simulations but more often case studies are used to provide an overall understanding of the topic. I find that this approach works well for first year students as they get to know each other. This teaching style also builds up confidence for shy students who would not otherwise take part in class discussion. The caveat here, is that one must be careful not to let a few students do all the talking and dominate the class. Good class management would allow all students to have their voice heard without necessarily embarrassing anyone.

At the end of each session, students are encouraged to take notes of what they have learned and write reflections on the topic. They are also encouraged to ask questions so that any grey areas and misunderstanding can be clarified. This way, they will have the foundational information to refer to when engaging in the assessed case study towards the end of the course.

It is good practice to introduce the topic for the following week using a power point presentation or some other teaching delivery during the last hour of class time. This introductory session allows students to guide their reading for the next session. This is especially important for those students who like to engage in advanced research around the topic. It is also wise to leave some time towards the end of the session to discuss issues surrounding the assessment such as researching and critiquing sources as well as referencing.

### **2.6.3 Final Assessment: Interdisciplinary Case Study**

The final assessment of the module uses a real time interdisciplinary case study to synchronise the students' learning of the module and related learning from the other

disciplines. Students are therefore provided with a descriptive outline of the current situation which they build on using knowledge acquired from other disciplines. This tests the students' ability to precipitate the facts from navigating appropriate sources. Students then take an analytical approach to the case study.

In line with the expected learning outcomes together with other background knowledge acquired throughout the module, students provide discussion on the issues related to the contemporary case study. Students should benefit from engaging with real world issues which is becoming a key requirement from prospective employers.

#### 2.6.4 Feedback to students

##### *Informal*

Students are provided informal feedback during class discussion. This helps them brainstorm ideas and delve into their collective memories on what they have learned from the module together with other modules. The interdisciplinary approach enables them to pool together their thoughts on relevant studies from the various subjects. The teacher's role is to ensure that the students understand the requirements from the assessment brief and to guide them into meeting the learning outcomes.

##### *Formal*

Students are provided formal feedback on the virtual learning platform against the Turnitin assessment. Marks are given for accuracy of facts, analysis, research (number of citations), and overall presentation of the essay. Overall, students can integrate knowledge attained from other modules and prior learning into the case study.

#### 2.6.5 Feedback from students

In the past, students have indicated that the interdisciplinary case study approach has really helped to synchronise their learning. They explained that this helped them with their revision and exam preparation as well as their wider understanding of real-world issues.

*Level of difficulty:* ★★★★★

*Duration:* ★★★★★

*Main teaching objectives:* Transfer and application of theoretical knowledge to practical situations, learning about formal requirements, preparation for professional life by gaining practical experience

## 2.7. PROBLEM SOLVING CASE STUDY (HARVARD LAW SCHOOL METHOD)

*Ass. Jur. Karoline Dolgowski (Research Associate),  
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In 2007 *Todd D. Rakoff* and *Martha Minow* wrote the pioneering essay ‘A Case for another Case Method’ calling legal education to move away from the traditional Case Method, developed by Christopher Columbus Langdell in 1871, towards a more innovative approach on case studies.<sup>4</sup> This essay marked the beginning of the Harvard Law School’s ‘Problem Solving Case Study’ Method. Harvard Professor Joseph William Singer summarised the idea of the ‘problem solving case study method’ as compared to the established ‘case method’ as follows:

*“The old Langdellian case method asks students to read judicial opinions; we do that to teach students how to interpret cases, to read the law, to consider alternative rules of law, to make arguments on both sides of contested questions, to understand the judicial role and legal reasoning. Such cases start at the end when the facts are decided, the legal issues identified and narrowed, and a ruling of law announced and defended.*

*The problem solving case method focuses on the case at the very beginning—before the facts are all known, before the parties’ goals are clarified, before the legal issues have been narrowed, before the dispute has crystallized or run its course. This problem solving case method asks students to consider who the client is and what their goals are or might be, what the facts are and what facts the lawyer needs to find out, what various legal rules affect the client’s ability to achieve the client’s goals, and what options might be available to help the client achieve her goals ethically and within the bounds of the law.”<sup>5</sup>*

The aim is to familiarise law students with the practical scope of the theoretical content taught at University in a sense that students are not merely studying the law, but are confronted with real life cases. Other than the traditional case study types the students find themselves at the beginning of a legal dilemma which unfolds itself subsequently and most of the time in the position of a practicing lawyer vis á vis a client rather than in the position of a judge. While, e.g. in Germany the entire law curriculum at university is deliberately designed to equip students with the ‘qualifications for the office of judge’<sup>6</sup>, the fewest students end up pursuing a career as

<sup>4</sup> *Todd D. Rakoff, Martha Minow, A Case for Another Case Method, Vanderbilt Law Review, 2007, Vol. 60, p. 597, available at: [https://heinonline.org/HOL/Page?handle=hein.journals/vanlr60&div=27&g\\_sent=1&collection=journals\(7/6/2023\)](https://heinonline.org/HOL/Page?handle=hein.journals/vanlr60&div=27&g_sent=1&collection=journals(7/6/2023);); the latter terminology shall be used here to avoid terminological confusion with the case studies introduced in the other templates.*

<sup>5</sup> *Joseph William Singer, How Law Professors Can Write a Problem Solving Case, 20 August 2013, available at: <http://blogs.harvard.edu/hlscasestudies/2013/08/20/how-any-law-professor-can-write-a-problem-solving-case/>*

<sup>6</sup> In German: ‚Befähigung zum Richteramt‘.

a judge. Most students, successfully finishing a degree in law, end up working as practicing lawyers in law-firms. But even those working as judges rarely find themselves at the appellate courts, where the facts of the case are already established and their sole task is to deliver a legal analysis. It is therefore the much more relevant scenario for students if a case study is based at the beginning of a legal dilemma with the protagonists seeking legal advice from a practicing lawyer. However, we are of the opinion that the 'case method' and the 'problem solving case study method' should not be understood as excluding one another, but rather as being complementary. Both are in our opinion aimed at training different competences of the students and therefore both have their reason for existence. E.g. the case method is a brilliant way of illustrating theory in lectures (as e.g. template 2.1 has shown), or can give students an in-depth understanding through carefully studying and analysing jurisprudence (as can be seen in template 2.4).

Through the problem solving case study method, on the other hand, students learn inter alia:

- to comprehend, analyse, organise and prioritise vast amounts of information
- to think client-oriented
- to argue and defend their advice for the protagonist
- how to approach and solve legal problems
- to apply legal knowledge to a real-life case
- to be creative when searching for solutions for legal problems
- to think outside of the box
- to take under consideration socio-, political- and strategic aspects of a problem
- interact with their fellow students through debate, presentation or ad hoc role plays

This type of case study is – in our opinion - particularly suitable for students at the end of their legal education (e.g. 3<sup>rd</sup> year Bachelor-Students or Master's Degree). Due to the fact that a broad prior legal knowledge is required, the degree of difficulty should not be underestimated, both with regards to the preparation that has to be done by the teacher and with regards to the execution by the students. Harvard Law School requires students as of their 1<sup>st</sup> year to participate in problem solving case study workshops. The idea is to train critical and creative thinking from the very beginning. If teaching such young students, teachers must, however, bear in mind their limited legal knowledge when designing and teaching the case study.

A problem-solving case study typically requires at least one class session to fully implement, with some multi-part or multi-player role plays requiring more time. A workshop or en-bloc session would be a particularly suitable class room setting to conduct such a case study. It might be necessary to plan parts of the case study as take-home assignments, e.g. if additional readings is necessary or large-scale practical documents need to be drafted.

### **2.7.1 STEPS TO DEVELOP A PROBLEM SOLVING CASE STUDY (PREPARATORY STAGE):**



### 2.7.1.1 Define the subject to be assessed, the setting you will be teaching in and the learning outcomes

Before starting to design the case study, certain general parameters should be determined. For a problem solving case study, the following parameters are of particular importance:

- Subject(s) of the class: a 'problem solving case study' will most likely involve aspects of different legal fields or even other disciplines. Resembling a real-life dilemma this can hardly be avoided and is even desirable. However, you will have to think about the question if you can expect knowledge from the students regarding subjects which fall outside the scope of the class you are teaching, or if you need to provide them with additional information.
- Specific content you would like to teach/exemplify through the case study: it is important to identify that content in the very beginning, so your case study stays focused. With a real-life case it is easy to get carried away and lose sight of the original aim of the class.

Regarding the settings you will be teaching the case study in, it might help you to consider the following points:

- Duration of the class: a problem solving case study requires a rather long period of time; if necessary design part of the case study as a take home assignment.
- Previous knowledge of the students: Depending on their knowledge you might need to provide them with extra materials.
- Size of the group: the size of the groups is of particular importance to answer the questions if students should work on their own, in small groups or if the case study should be solved together by the entire group? Is it possible to involve everyone in the discussion of the case?

Last you should think of the specific learning outcomes, hence what students should be capable of doing after finishing the case study.

Your thoughts should be recorded in a teaching note (see above: General Guidelines 2.1)

### 2.7.1.2 Writing a problem solving case study and formulate task

When designing a problem solving case study you may follow the subsequent steps:

1. Choosing a topic

First you should choose a topic in the field of law that you are teaching. Since the students will find themselves in an ongoing process, it is most realistic to choose a topic that is unsettled in case law (and academia). If possible you can base your case study on a real life case. In order to do so, it might be necessary to conduct interviews read newspaper articles, research available case documents etc. If you do so make sure to disguise information to pay tribute to confidentiality issues. Information which

is not publicly available might have to be treated with particular care in order not to affect ongoing cases by publicity.

## 2. The Case Settings

The most important for the case settings is the question who the client is and what he or she desires. The problem solving case study method focuses on serving the interests of a client. The overall task of the student is to help the client to navigate the law and find the solution which best serves the interest of the client. Next, other protagonists should be identified. The cases settings should be narrated in a small introductory note.

### 3. 'Narrate' story – more accurately: 'assemble' story

After the settings of the case are determined, the facts of the case should be established. While most types of case studies consist of a small 'story' narrating the facts of the case, for a problem solving case study, it is more suitable to 'hide' the facts in various different documents, such as statements of the client and other protagonists, legal documents, court orders, news reports etc., as this is the much more realistic scenario a young lawyer will find him- or herself in.

### 4. Formulate the students' task

You may choose to formulate a very broad task, such as: 'You are a trainee at the law firm and are being asked to take over client X's case.', or you may formulate more detailed tasks to guide students through the case study. If the facts are not narrated in a one single story, you may first ask the students to establish the facts. Next you could ask students to find answers to particular legal problems, e.g. 'Client X is not sure if the contract has been validly concluded. He asks for your advice.' However, even if you decide to let the students work out the tasks themselves and to give them greater freedom in solving the case study, it is very helpful to formulate more detailed questions for yourself which you can use when teaching the case study to stimulate and direct the class discussion.

### 5. Draft case analysis

Other than for those case studies which are based on an established set of facts (narrating a particular story), this type of case study requires the teacher to include a short synopsis in the draft case analysis (and potential variations).

Apart from a sketch of the relevant legal problems and their solution (see 1. General Guidelines), you may also want to note down procedural and tactical considerations.

#### 2.7.1.3 Materials

Depending on the case study, you will have to provide your students with further materials, such as templates (see 2.5.1.4), statutory provisions, readers on subject of the class etc.

#### 2.7.1.4 Evaluation and feedback

Due to the complexity of problem solving case studies the evaluation of the students work, cannot be done by a single standard. However, when evaluating their work the following considerations may be helpful:

- Has the student understood the facts of the case? Or alternatively: Have the facts of the case been established correctly? Has the student correctly evaluated the evidence presented to him or her?
- Has the student clearly identified the aim/goal of the client?
- Is the solution presented legally sound? Have all the relevant legal problems been discovered? Have all relevant legal rules, statutory provisions etc. been applied? Have relevant precedents been applied and distinguished from the facts of the given case?
- Has the student thought about the legal problems? Did he/she come up with their own opinion/ideas regarding these problems? Has the student been creative in finding a solution to the problems?
- Did the student take under consideration socio-, political- and strategic aspects of the problems?
- Is the solution well-argued and convincing?
- Was the solution practicable?
- Does the legal solution further the protagonist's/client's aim/goal?
- Is the solution in the best interest of the protagonist/client? Is the solution strategically the best way to move forward? Has the student made any strategic considerations? Has the student sketched alternatives?
- Has the student clearly communicated his/her solution (either in written or orally)? If asked from the students, was the solution communicated to the client in an understandable and comprehensive manner?
- Was the student able to answer questions from his/her peers or you? Did they show flexibility of mind when presented with counter arguments? Did the student engage in a discussion about his/her solution?
- Etc.

Feedback is of the essence for a problem solving case study in order for students to benefit from it as much as possible. Considering the time and effort students will have to put into such a case study, a personal feedback (either in written or in a personal conversation) treating the evaluation criteria mentioned above appears adequate.

### **2.7.2 TEACHING A PROBLEM SOLVING CASE STUDY:**

Other than the traditional case method, the heart of a problem solving case study lies at the discussion of the case in class. When teaching a problem solving case study it is therefore the prime task of the teacher to stimulate that discussion. The Case Studies Team at Harvard Law School gave the following advice to teachers: "Instructors:

- May assign questions prior to class to focus participants on particular issues
- Identify participants who hold opposing views and ask questions to stimulate debate

- Assign participants to stakeholder groups with different points of view of the situation
- Encourage input from all sides until the participants uncover most or all of the learning points
- Lead participants to an “aha” moment during which conventional wisdom is trumped by deeper, more seasoned insights”<sup>7</sup>

The content of the discussion may follow the subsequent steps:<sup>8</sup>

### 2.7.2.1 The client/protagonist

Before delving into the facts of the case it should be discussed who the client is, what his/her legal obligations and goals are and what he/she generally wants.

### 2.7.2.2 The facts of the case

In a next step the facts of the case should be established. In their discussion students should clarify what happened and which facts are relevant to the client’s case.

### 2.7.2.3 The applicable law

Next, students should discuss what laws might be relevant to solving the client’s problem, constraining the client’s actions, or empowering the client with respect to other actors. In order to do so it is necessary to identify the relevant law, particularly statutory provisions and cases applicable. It might be helpful to provide students with a list of relevant provisions and cases (prior or past the discussion) and require them to look up those cases or statutes and report on what the law requires or summarise the law in their own words. Subsequently, class discussion should centre on the question how the law applies to the facts of the case and particularly the client’s situation.

### 2.7.3.4 The client’s goal

Finally, potential options to solve the case, their pros and cons, as well as their suitability to serve the clients goal should be discussed. At this point you might want to encourage your students to take under consideration procedural (if this has not already been done in the previous step) and tactical considerations. Ask them to put themselves in the place of a professional – the legally soundest solution might not be the most practicable. In the end discuss how your solution should/could be communicated to the client.

## 2.7.3 FURTHER MATERIALS AND READINGS

<sup>7</sup> <http://casestudies.law.harvard.edu/the-case-study-teaching-method/>

<sup>8</sup> As suggested by *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).

### 2.7.3.1 Materials

Harvard Law School provides several Case Study Workshops which can be used by teachers in class for free. We have therefore refrained from creating further example materials for this tool box. You will find the Harvard Law School workshops on the following webpage: <http://casestudies.law.harvard.edu/workshop-based-case-study/> , as well as: <http://casestudies.law.harvard.edu/case-study-resources/>

### 2.7.3.2 Readings

*Upinder Dhar, Santos Daher*, The Case Method in Legal Education, Asian Journal of Legal Education, 2018, Vol. 5 Issue 2, pp. 182 – 185

*David A. Garvin*, Making the Case – Professional education for the world of practice, Harvard Magazine, September-October 2003, Vol 106, No. 6, available at: [https://wwwuser.gwdg.de/~pctgoe/DATA/Gunnar/PALLIATIV/Langeoog\\_2018/Kommunikation/casestudy%20method.pdf](https://wwwuser.gwdg.de/~pctgoe/DATA/Gunnar/PALLIATIV/Langeoog_2018/Kommunikation/casestudy%20method.pdf)

*Elizabeth Moroney*, Summer Reading: Legal Education’s 9 Big Ideas, Part 3 – It All Started With the Case Study, available at: [https://blogs.harvard.edu/hlscasestudies/2013/07/23/summer-reading-legal-educations-9-big-ideas-part-3/\(12/6/2023\)](https://blogs.harvard.edu/hlscasestudies/2013/07/23/summer-reading-legal-educations-9-big-ideas-part-3/(12/6/2023))

*Todd D. Rakoff, Martha Minow*, A Case for Another Case Method, Vanderbilt Law Review, 2007, Vol. 60, p. 597, available at: [https://heinonline.org/HOL/Page?handle=hein.journals/vanlr60&div=27&g\\_sent=1&collection=journals](https://heinonline.org/HOL/Page?handle=hein.journals/vanlr60&div=27&g_sent=1&collection=journals)

*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/\(7/6/2023\)](https://blogs.harvard.edu/hlscasestudies/2013/08/20/how-any-law-professor-can-write-a-problem-solving-case/(7/6/2023))

Harvard Law School, The Case Studies, The Case Study Teaching Method, available at: [https://casestudies.law.harvard.edu/the-case-study-teaching-method/\(12/6/2023\)](https://casestudies.law.harvard.edu/the-case-study-teaching-method/(12/6/2023))

Level of difficulty: ★★★★★

Duration: ★★★★★

Main teaching objectives: Transfer and application of theoretical knowledge to practical situations, learning about formal requirements, preparation for professional life by gaining practical experience

### 3. CONCLUSION AND GENERAL REMARKS

All teaching techniques have their pros and cons and there are no general rules for assessing their suitability, but rather a number of factors and determining factors have to be taken into account. Having said that, the truth is that, in principle, the case study technique has several advantages a priori and can be used flexibly in different scenarios, enabling extraordinarily positive results to be achieved in the teaching of law.

The aim of this guide is to present some models that can guide teachers in preparing their own case studies and adapting them to the specific circumstances of their teaching and legal framework.

On one hand, the conclusion of this guide is that this teaching technique offers a brilliant way for students to learn about the law and to apply the legal knowledge they have acquired during their studies at the University level.

On the other hand, another remarkable advantage of this technique is that, in addition to the substantive law that students will learn through the case, they will acquire or improve during their training a number of transversal competences that will help them in their preparation for the near future. For example they will not only train their logical thinking abilities, but acquire the capacity for legal analysis and synthesis, and enhance the capacity to construct a valid legal argument and apply knowledge in practice. In short, practicing legal cases will help them to develop decision making, train their problem-solving skills, acquire the capacity to communicate legal arguments orally or in written, between others.

In a nutshell, through the case study technique, students will be able to deepen their theoretical learning of law but, at the same time, develop their ability to transfer their knowledge to an environment that is close to practical life, preparing them for professional life, often far from the academic world. Without hesitation using the case study method in legal education will be one of the most useful learning methods.