

**Володимир Васильович Носік**

*Відділ забезпечення інтеграції академічної та університетської  
правової науки та розвитку юридичної освіти  
Київський регіональний центр Національної академії правових наук України  
Київ, Україна*

**Михайло Михайлович Хоменко**

*Відділ забезпечення інтеграції академічної та університетської  
правової науки та розвитку юридичної освіти  
Київський регіональний центр Національної академії правових наук України  
Київ, Україна*

**Лариса Василівна Красицька**

*Відділ забезпечення інтеграції академічної та університетської  
правової науки та розвитку юридичної освіти  
Київський регіональний центр Національної академії правових наук України  
Київ, Україна*

## **ПАРАДИГМА РЕФОРМУВАННЯ ВИЩОЇ ЮРИДИЧНОЇ ОСВІТИ В УКРАЇНІ В КОНТЕКСТІ ПРАКТИЧНОЇ ПІДГОТОВКИ СТУДЕНТІВ-ПРАКТИКІВ**

**Анотація.** *Актуальність дослідження обумовлена тим, що існує особливий суспільний запит щодо якості правничої освіти, забезпечення відповідності змісту юридичної освіти сучасним вимогам ринку праці та завданням професійної діяльності правників. Метою статті є розгляд методологічних, науково-теоретичних, законодавчих, освітніх, навчально-методичних засад щодо практичної орієнтованості освітнього процесу з підготовки правників як парадигми реформування вищої юридичної освіти та визначення форм організації освітнього процесу, спрямованих на покращення якості юридичної освіти. Методологічна база дослідження сформована з урахуванням філософських, загальнонаукових та спеціально-наукових методів наукового пізнання. Запропоновано концептуальні підходи щодо впровадження в освітній процес вищих юридичних навчальних закладів можливих навчально-методичних форм організації практичної підготовки студентів з урахуванням елементів Болонського процесу та формування єдиного освітнього простору за європейським вектором розвитку України. Розглянуто методологічні, науково-теоретичні, організаційно-правові, навчально-методичні засади до загального розуміння практичної підготовки студентів правників у освітньому процесі, її функціонального призначення в умовах здійснення реформи юридичної освіти як складової правової реформи в Україні. Наголошується на необхідності збереження і подальшого розвитку фундаментальної вищої юридичної освіти та поєднання її зі сформованими національними і зарубіжними доктринами права та практичною орієнтацією освітнього процесу як парадигми реформування юридичної освіти в Україні. Зроблено висновок про те, що формування практичних навичок та вмінь у здобувача юридичної освіти відбувається в освітньому процесі завдяки різноманітним формам навчально-методичної організації освітнього процесу. Зокрема, розглянуто особливості проведення практичних занять з використанням кейс-методів та вирішенням казусів, а також бінарних занять, проходження практики, роботи в юридичній клініці, здійснення дуальної освіти, участі в судових дебатах тощо. Практична цінність дослідження полягає в тому, що в статті доведено, що в освітньому процесі доцільно зберігати національні традиції вищої юридичної освіти та запроваджувати нові, прогресивні форми організації освітнього процесу, спрямовані на підвищення якості вищої юридичної освіти, яка б відповідала вимогам ринку праці та викликам, що стоять перед сучасним демократичним суспільством, глобальним тенденціям розвитку та завданням професійної діяльності правників у різних сферах*

**Ключові слова:** *правник, освітній процес, практична орієнтованість, кейс-метод, юридичні клініки, дуальна освіта*

**Volodymyr V. Nosik**

*Department for Integration of Academic and University Legal Science  
and Development of Legal Education  
Kyiv Regional Center of the National Academy of Legal Sciences of Ukraine  
Kyiv, Ukraine*

**Mykhailo M. Khomenko**

*Department for Integration of Academic and University Legal Science  
and Development of Legal Education  
Kyiv Regional Center of the National Academy of Legal Sciences of Ukraine  
Kyiv, Ukraine*

**Larysa V. Krasnytska**

*Department for Integration of Academic and University Legal Science  
and Development of Legal Education  
Kyiv Regional Center of the National Academy of Legal Sciences of Ukraine  
Kyiv, Ukraine*

## **PARADIGM OF REFORMING HIGHER LEGAL EDUCATION IN UKRAINE IN THE CONTEXT OF TRAINING PRACTISING STUDENTS**

**Abstract.** *The relevance of the study was explained by a special public demand for the quality of legal education, ensuring compliance of the content of legal education with modern requirements of the labour market and the tasks of professional activity of lawyers. The purpose of the study was to consider methodological, research and theoretical, legislative, educational, and methodological foundations regarding the practical orientation of the educational process of training lawyers as a paradigm for reforming higher legal education and determining the forms of organising the educational process aimed at improving the quality of legal education. The methodological framework of the study was formed considering philosophical, general scientific, and special scientific methods of scientific cognition. Conceptual approaches to the introduction of possible methodological forms of organising practical training of students into the educational process of higher legal educational institutions were proposed, considering the elements of the Bologna Process and the development of a unified educational space according to the European vector of development of Ukraine. The study considered methodological, scientific and theoretical, legal, and methodological foundations for a general understanding of the practical training of law students in the educational process, its functional purpose in the context of implementing the reform of legal education as a component of legal reform in Ukraine. The study emphasised the necessity of preserving and further developing fundamental higher legal education and combine it with the established national and foreign doctrines of law and the practical orientation of the educational process as a paradigm for reforming legal education in Ukraine. It was concluded that the development of practical skills and abilities of a legal education applicant occurs in the educational process due to various forms of methodological organisation of the educational process. In particular, the authors considered the features of conducting practical classes using case methods and solving incidents, as well as binary classes, practical training, working in a law clinic, performing dual education, taking part in court debates, etc. The practical value of this study lies in the fact that it proved the advisability of preserving the national traditions of higher legal education in the educational process and introducing new, progressive forms of the educational process aimed at improving the quality of higher legal education, which would meet the requirements of the labour market and the challenges facing a modern democratic society, global development trends and tasks of professional activity of lawyers in various fields*

**Keywords:** *lawyer, educational process, practical orientation, case method, legal clinics, dual education*

### **INTRODUCTION**

The development of Ukraine as a democratic, social and legal state, the establishment of the constitutional order and strengthening of civil harmony, ensuring the exercise of human and civil rights and freedoms necessitate the development of higher legal education as one of the key constitutional requirements for judges, as well as in cases stipulated

by law, and other legal professions (prosecutors, lawyers, notaries), holding positions in state and local government bodies, public entities, and other subjects providing legal services in the field of public and private law.

Analytical study of the current state of higher legal education in Ukraine demonstrated that in the conditions

of rapid changes in socio-economic, state-legal and political phenomena occurring in Ukrainian society and the state, considering the European dimensions of the development of a single educational space, considering the elements of the Bologna declaration, national higher legal education is in a state of transition from one system to another. On the one hand, the educational process retains stereotypical opinions on the methodological, educational, organisational, and pedagogical foundations of training lawyers in higher legal educational institutions with a focus mainly on students' obtaining of fundamental theoretical knowledge, on the other hand, selectively, at their own discretion, higher educational institutions introduce the latest forms of organisation of training lawyers into the educational process, with a practical orientation of curricula, which make provision for the involvement of practitioners in teaching, students' participation in lawsuits, the organisation of student legal clinics, etc.

At the same time in the implementation of new forms of the educational process with a focus on the practical component in the preparation of students, there are system problems of state-legal, educational and methodological, financial and other nature that require decisions at the state level, starting with planning the training of lawyers for the final certification of graduates and employment. The first attempts to solve these problems were already made after two draft laws "On Legal Education and General Access to the Legal Profession" (Registration No. 7147 of September 28, 2017)<sup>1</sup> and "On Legal Education and the Legal Profession" (registration number 7147-1 of October 17, 2017)<sup>2</sup> were submitted to the Verkhovna Rada of Ukraine in 2017, which defined the specific features of the practical orientation of the educational process in the training of lawyers, and which were withdrawn in 2019. Subsequently, the Draft Concept for the Development of Legal Education<sup>3</sup> was submitted to the Verkhovna Rada of Ukraine, which is under consideration by the corresponding committee of the Parliament. This means that old and recent problems on the development of legal education remain relevant for scientific and theoretical understanding and development of practical models for the modernisation of legal education, including improving the practical orientation of curricula in law schools, and this is one of the important tasks of the state at the present stage of its development and implementation of reforms in many spheres of public life.

The legal literature has already expressed opinions on the areas of higher legal education reform. In particular, the Ukrainian legal literature has investigated both general issues of reforming Ukrainian legal education in the scientific studies by Yu. Barabash [1], A. Boiko [2], V. Komarov [3], O. Kot [4], N. Kuznetsova [5], S. Pohribnyi [6], V. Tatsiy

and V. Komarov [7], and the specific features of teaching certain academic disciplines in the context of reforming legal education in the scientific studies by A. Hryniak [8], A. Dovhert [9], O. Kokhanovskaya [10], M. Pleniuk [11], R. Stefanchuk [12], and other legal scholars. In foreign literature, the modernisation of legal education is also the subject of heated discussions, in particular, in the studies of John Land [13], R.J. Wilson [14], V.A. Woodruff and A. Baker [15].

However, the issues of practical orientation of training lawyers in the context of reforming higher legal education indicate the need to further identify problematic aspects in the practical training of lawyers, in the acquisition of practical skills, abilities and research of provisions for determining areas, approaches to the development of professional competences of lawyers and forms of organising the educational process to improve the quality of higher legal education.

*The purpose of this study* was a consideration of methodological, scientific and theoretical, legislative, and educational foundations regarding the practical orientation of the educational process of training lawyers as a paradigm for reforming higher legal education and determination of the forms of the educational process aimed at improving the quality of legal education.

## 1. MATERIALS AND METHODS

Consideration of the practical orientation of training lawyers as a paradigm for reforming higher legal education is impossible without the use of the main tools of the methodology of legal science. The methodology of legal science is considered as a system of methodological principles, techniques, means, and methods of scientific cognition, which is used to obtain data in the study of state-legal reality in the context of legal practice tasks [16, p. 157].

The methodological framework for studying the practical orientation of the educational process of training lawyers comprised the dialectical method, axiological, and institutional approaches. The dialectical method allowed considering the practical orientation of training lawyers in the development of various forms of practical training of lawyers and identify the features of their individual types. The establishment of the possibilities of applying an axiological approach to the analysis of the practical orientation of training lawyers can consider the features of the axiological approach in state studies, which is defined as a general research strategy, united by a single idea, the essence of which is manifested in the knowledge of the state through the lens of relative value orientations (assessment of the compliance of the specific historical manifestation of the state with the value orientations of the individual and society) and absolute value principles of the state [17, p. 52]. Thus,

1. Draft Law of Ukraine No. 7147 "On Legal Education and General Access to the Legal Profession". (2017, September). Retrieved from [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=62613](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62613).

2. Draft Law of Ukraine No. 7147-1 "On Legal Education and the Legal Profession". (2017, October). Retrieved from [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=62728](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62728).

3. Draft Concept for the Development of Legal Education. (2020, November). Retrieved from <http://kno.rada.gov.ua/fsview/75465.html>.

the general strategy of studying the practical orientation of training lawyers in Ukraine is united by a single idea, the essence of which is manifested in improving the quality of higher legal education through the lens of relative value orientations (assessment of compliance of the state of higher legal education with the requirements of the labour market and the challenges and requirements of society) and absolute value principles of development of the lawyer as a person. Axiological and institutional approaches provide an opportunity to consider such basic categories as higher legal education, legal competences, and the educational process in combination and unity. General scientific methods of analysis and synthesis, induction and deduction contributed to the development of judgements and opinions on the practical orientation of the educational process in the context of higher legal education reform.

The basis of the special scientific level of research on the practical orientation of training lawyers was developed by historical legal and comparative approaches. The comparative legal method allowed establishing the advisability of preserving the national traditions of higher legal education in the educational process and introducing new, progressive forms of the educational process aimed at improving the quality of higher legal education, which would meet the requirements of the labour market and the challenges facing a modern democratic society, global development trends and tasks of professional activity of lawyers in various fields.

As an empirical material of the study, the study used the analytical materials on the results of educational measurements, national surveys of the state of development of legal education in Ukraine, namely the Report on the results of the analytical study “Knowledge and skills of graduates of law faculties and institutions of higher education through the prism of compliance with the needs of the labour market”<sup>1</sup> conducted by the expert group on legal education of the Directorate for Human Rights, Access to Justice and Legal Awareness of the Ministry of Justice of Ukraine in 2018, the results of national surveys of lawyers, employees of the court staff and jurors in 2019 [18].

## 2. RESULTS AND DISCUSSION

### 2.1 *Doctrinal approaches to practical training of students in the conditions of legal education reform in Ukraine*

Law of Ukraine No. 1556-VII “On Higher Education” of July 1, 2014<sup>2</sup> defines the quality of higher education as the compliance of the conditions of educational activities and learning outcomes with the requirements of legislation and standards of higher education, professional and/or international standards (if any), as well as the needs of stakeholders

and society, which is ensured by implementing internal and external quality assurance procedures.

As noted by V. Tatsiy and V. Komarov, “the competency model of training lawyers involves bridging the substantial gap between legal education and social practice. Strengthening the practical orientation of training is also associated with combining the training of applicants for legal education with professional activities in the formats of volunteering, providing free legal aid, legal clinics, internships, etc. Modernisation of legal education according to a competence-based approach, strengthening the practical component in the training of lawyers should not lead to the rejection of fundamental higher legal education, which is pertinent to the best traditions of the Ukrainian law school” [7, p. 50-51].

This is confirmed by sociological studies that were conducted to determine the basic competences of graduates of law faculties or higher educational institutions. Report on the results of the analytical study “Knowledge and skills of graduates of law faculties and institutions of higher education through the prism of compliance with the needs of the labour market”<sup>3</sup>, conducted by the expert group on legal education of the Directorate for Human Rights, Access to Justice and Legal Awareness of the Ministry of Justice of Ukraine in 2018, according to employers, a graduate of the law faculty should have the skills to draw up procedural documents (25.3%), the ability to logically express their opinion and have communication skills (25.3%). Almost an equal number of respondents indicate the need for analytical, critical, and logical thinking skills (9.6%), skills in working with the legislative framework, data registers and relevant software, skills in quick search and processing of information (8.4%), interaction with clients (7.3%). In addition, graduates of law faculties should be proficient in a foreign language at the proper level, in particular, be able to draw up documents in a foreign language, and master translation techniques (7.3%). No less important are the skills and abilities to resolve conflicts and organise working hours (6%). As is evident, it is practical skills and information and communication competences that employers put first when determining the requirements for future lawyers. It is quite possible to agree with this, without forgetting that the professional activity of a future lawyer requires them to be also a well-mannered, educated person, but, admittedly, practical training of a law student should be a priority in the content of legal education.

Yu. Barabash notes that considerable efforts need to be made for the methodological updating of the content of teaching in law schools. Only when legal education gets a different “practically oriented sounding” will we be able to

1. Report on the results of the analytical study “Knowledge and skills of graduates of law faculties and institutions of higher education through the prism of compliance with the needs of the labour market”. (2018). Retrieved from [https://uba.ua/documents/ZVIT\\_Jurosvita.pdf](https://uba.ua/documents/ZVIT_Jurosvita.pdf).

2. Law of Ukraine No. 1556-VII “On Higher Education”. (2014, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1556-18#Text>.

3. Report on the results of the analytical study “Knowledge and skills of graduates of law faculties and institutions of higher education through the prism of compliance with the needs of the labour market”. (2018). Retrieved from [https://uba.ua/documents/ZVIT\\_Jurosvita.pdf](https://uba.ua/documents/ZVIT_Jurosvita.pdf).

lay the foundation of a new philosophy of certification of graduates of the end-to-end master of law curriculum as the first important step in accessing the legal profession. This means that it is necessary to discuss not only the creation of new selection filters, but also to work hard to ensure that a young lawyer has a sufficient level of not only theoretical knowledge, but also basic skills to fulfil oneself in various areas of legal practice [19].

Issues of practical orientation of training lawyers are also relevant for foreign law schools. Thus, R.J. Wilson notes that the origin, growth, and recognition of clinical law education worldwide is the greatest innovation in the pedagogy of law schools – and, admittedly, in student education – since Socrates' “science”, the case method was brought to Harvard by Christopher Columbus Langdell [14].

Back in the 19<sup>th</sup> century, Langdell attempted to create a scientific method based on primary legal materials, which, in his opinion, were the decisions of higher courts. The idea was to understand the principles underlying the solution. According to Langdell, the primary materials would be decisions of higher courts, conveniently edited so that students could understand the logic of reasoning and the principles applied by the judge. The classroom is a laboratory. Scientific methodology requires the student to conduct an experiment, and not just observe how the teacher does it. For this reason, the teacher had to make the student understand the case and understand the judge's reasoning, emphasising his principles. The role of the teacher was not to explain these principles, but to help students find them through correctly formulated questions [20].

In addition, foreign literature emphasises that American law schools should better organise work on preparing students for legal practice. Teaching students to “think like an advocate” is still necessary, but not enough to make students act like an advocate faster after completing their training. Training lawyers is particularly difficult because lawyers work on many types of issues, both in dispute resolution and negotiation. Some legal disputes are resolved during the trial, but most are resolved through other processes in the “shadow of the law”. Although the legacy of the Langdell system has developed in law education in recent decades, it is quite difficult to combine legal doctrine, practical skills and clinical experience in the learning process. It is elementary to recognise general problems of legal education; their solution can be quite difficult, and there is no universal answer to this issue [13].

The above-mentioned doctrinal approaches to understanding the practical component in the training of lawyers in states with different legal systems demonstrate that in modern conditions of global challenges, the problem of increasing the practical orientation of training lawyers is a transnational issue. As noted above, in Ukraine, these problems are supposed to be solved first at the conceptual level with the definition of strategic and operational goals for reforming legal education as a component of legal reform.

In particular, according to the draft concept for the development of legal education<sup>1</sup> strategic goal 5 provides as follows:

- increase in the volume of practical training of lawyers to 30 ECTS credits and quality assurance of its completion, which will be based on the principles of joint monitoring by the law school, practice bases and relevant professional legal communities;

- promotion of the development of legal clinics in the form of separate structural divisions of higher educational institutions and introduction of training courses on legal clinical practice into the educational process;

- active introduction of innovative forms and methods of teaching into the educational process: cases, training court sessions, etc.;

- involvement of representatives of legal communities in teaching individual courses or conducting classes for applicants for legal education;

- promotion of participation of applicants for higher legal education in training internships in public authorities, courts, notary offices, prosecutor's offices, the bar, and other entities of public and private law;

- assistance and support, in particular material support, for the participation of applicants for higher legal education in court debate tournaments (*moot court*);

- gradual introduction of elements of a dual form of education into the system of training lawyers;

- the widest possible involvement of applicants for legal education in applied scientific research, participation in student scientific societies, etc.

The analysis of the forms of practical training of lawyers in modern conditions given in the Concept does not raise any special objections. At the same time, the implementation of the above-mentioned forms of training lawyers can have a positive effect if students acquire theoretical knowledge of law. In this regard, V. Komarov fairly argues that the basis of fundamental higher legal education should not be pragmatic, highly specialised knowledge, but methodologically important and stable one. Legal education will only be fundamental when it is based on the corresponding concepts of science. At present, unfortunately, there is a substantial gap between the level of legal education and legal science. It is necessary to combine the legal science with legal education. The foundation of legal education should be based on the achievements of Ukrainian and world scientific thought, which would help improve the depth of higher legal education. Fundamental higher legal education should provide a specialist with basic, system-forming, methodologically significant knowledge that originates from understanding and covers the primary essence of legal phenomena. This also applies to other competences focused on the results of training and mastering a certain practical experience [3, p. 24].

Agreeing with this opinion, it is worth adding that a future lawyer should not only acquire practical skills and abilities, for example, of drawing up legal documents,

---

1. Draft Concept for the Development of Legal Education. (2020, November). Retrieved from <http://kno.rada.gov.ua/fsview/75465.html>.

procedural documents, but also be knowledgeable in law, be capable of having a tolerant conversation on professional topics, while commanding both a high professional and cultural level. In this regard, N. Onishchenko emphasised that structurally, “knowledge of law” lies in the opportunity to thoroughly investigate, study legal provisions and, accordingly, master that knowledge to the required extent and at the necessary level (to protect rights, freedoms, and legitimate interests). Thus, the first step – familiarisation with the legal material. The study of legal provisions involves many aspects of doctrine and practice, law-making, and legal implementation. Admittedly, such a study involves both instrumental and essential components. Therefore, knowledge of law is the assimilation of diverse legal knowledge by a person to use it in all spheres of life for the most complete exercise of rights, freedoms, and legitimate interests. This process is defined by the following tasks: 1) establishment and development of legal knowledge of a person in the field of public administration; 2) education of respect for law as a social value and for the principles of lawfulness; 3) development of needs and skills to actively protect their rights, freedoms, and legitimate interests in accordance with the procedure established by law [19].

Investigating the problems of high-quality training of law students as a component of legal reform, N. Kuznetsova noted that during training, a lawyer should acquire the skills of logical, critical, and systematic analysis of documents, understanding their legal nature and significance, skills of consulting on legal issues, namely possible remedies for the rights and interests of clients, in accordance with the requirements of professional ethics, proper compliance with the provisions regarding non-disclosure of personal data and confidential information, skills of independent preparation of draft law enforcement acts. The graduate should have the ability to critically and systematically analyse legal phenomena and apply the acquired knowledge in professional activities [5, p. 66-67].

The above scientific and theoretical approaches to understanding the practical training of students with the need for them to acquire fundamental knowledge in law suggest that the development of practical skills and abilities of an educational applicant occurs in the educational process due to its various forms, and, most importantly, during practical classes, internships, while working in a legal clinic, taking part in court debates, etc. Practical training is an established form of training lawyers, which in modern conditions causes more problems in organising it and monitoring its completion by applicants for legal education. Therefore, it is advisable to expand the existing practice base, which would facilitate the completion of its various types (introductory, educational, industrial, etc.), considering the specific features of providing legal aid and acquiring skills of professional activity of lawyers in various fields.

## 2.2 Case-method and solution of isolated cases as a form of training lawyers in the context of its practical orientation

Article 1 of the Law of Ukraine “On Higher Education”<sup>1</sup> defines an educational (educational-professional, educational-scientific, or educational-creative) programme as a unified set of educational components (academic disciplines, individual tasks, practices, control measures, etc.) aimed at achieving the learning results provided for in such a programme, which entitles the student to a certain educational or educational and professional qualification(s). Thus, it is the content of the curriculum for training lawyers that determines the general orientation of the educational process within a particular speciality, including speciality 081 “Law”, namely teaching students the rules of legal argumentation, which can take place in practical classes and other forms of training. In this regard, N. Kuznetsova fairly noted that the entire educational process is focused precisely on the development of students' well-established skills in this technique – the technique of legal argumentation. On the one hand, the judicial system should work out common standards of judicial decision (admittedly, considering the specific features of each jurisdiction and the relevant instance), on the other hand, general and special legal educational institutions should develop a methodology for the development of appropriate skills and abilities for writing such decisions by students [5, p. 70].

The development of proper skills and abilities for preparing legal and procedural documents by applicants for higher education occurs during practical classes, so it would be advisable to conduct practical classes in academic disciplines in certain branches of law using the *case method*, which has become widespread in law schools in foreign countries. According to foreign literature, this method originated in the 1870s, when it had an extremely specific field of application – legal science. Harvard Law School has used it to teach this subject, studying past court cases. [21] This method is actively used in the educational process [22]. The essence of the case method is that students are invited to comprehend a real professional situation, the description of which reflects a practical issue and substantiates the complex of previously acquired knowledge. The main in this problem is the absence of unambiguous solutions. The purpose of the case method is to involve students in a situation where they need to make a decision [23, p. 124]. Admittedly, the use of the case method in solving practical problems in civil law differs from the method of solving a practical problem in criminal law or procedure.

The theory of a model incident is based on the possibility and necessity of applying a legal provision to an indefinite number of cases covered by a single legal idea. Systematisation of legal incidents into standard groups helps clarify the content and features of the application of particular legal provisions. The technique of solving a legal

1. Law of Ukraine No. 1556-VII “On Higher Education”. (2014, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1556-18#Text>.

incident in a particular branch of legal discipline has several features. The most substantial differences can be identified between the method of solving an incident in criminal and civil law. Firstly, when resolving an incident under criminal law, it is mandatory to analyse the subjective component of the offender's behaviour. The compensatory function of civil law and the need to restore the violated property and / or personal non-property sphere of the victim due to the latter allows ignoring the degree and nature of the fault of the delinquent or the person who violated the contractual obligation. In all cases, this does not affect the amount of liability. In addition, the science of criminal law and civil law define the category of guilt itself differently. There are different presumptions of guilt in civil and criminal law. Secondly, the resolution of an incident under criminal law is limited by the need to apply the Criminal Code of Ukraine. Civil law has a broader system of sources compared to criminal law. Thirdly, a substantial difference between the resolution of an incident in criminal and civil law is the possibility of applying an analogy in civil law, as well as the possibility of an expansive interpretation of civil law provisions [24, p. 29-30].

Draft Concept for the Development of Legal Education<sup>1</sup> is directed towards the involvement of representatives of legal communities in teaching individual courses or conducting classes for applicants for legal education. In this area, it is advisable to conduct binary practical classes with the participation of practitioners and a teacher of a higher educational institution in solving isolated cases, especially if the decision-making on them lies in the plane of, for instance, substantive and procedural law.

### *2.3 Legal clinics and other forms of training lawyers in the context of its practical orientation*

Applicants for higher education also acquire practical skills while working in legal clinics. Today in Ukraine, the education through legal clinics is organised based on the Model Regulation on the Legal Clinic of a Higher Educational Institution of Ukraine, approved by Order No. 592 of the Ministry of Education and Science of Ukraine dated 03.08.2006<sup>2</sup> (hereinafter referred to as “the Model Regulation on the Legal Clinic of a Higher Educational Institution of Ukraine”), Paragraph 1.1 of which states that the legal clinic is a structural division of a higher educational institution of III-IV accreditation levels, which trains specialists in the field of “Law”, and is created as a basis for practical training and conducting training practice for senior students. According to Clause 2.1 of the Model Regulation on the Legal Clinic of a Higher Educational Institution of Ukraine<sup>3</sup>, the purpose of the legal clinic is to increase the level of practical knowledge, skills, and abilities of students of legal specialties; to ensure access of representatives of socially vulnerable groups of society to legal aid; to

develop a legal culture of citizens; to educate and train students in the spirit of adherence to and respect for the principles of the rule of law, justice, and human dignity; to expand cooperation of higher educational institutions that train legal specialists, with judicial, law enforcement, justice, state and local authorities, with other institutions and organisations; to introduce elements of practical training of law students in the field of legal services into the educational process.

Notably, legal clinics are widely used in foreign countries. Moreover, they can provide legal aid directly to certain segments of the population [25], or they can be used as a method of teaching [26], since, for example, research indicates that legal clinics of law schools can play an important role, in particular, in improving the level of education in the field of human rights, clinical education in human rights can be considered as a successful method, described by accessibility and acceptability [27].

Paragraph 2.3 of the Model Regulation on the Legal Clinic of a Higher Educational Institution of Ukraine<sup>3</sup> makes provision that in accordance with the purpose and objectives of the legal clinic of the higher educational institution, for its full and effective functioning, the management of the legal clinic and the higher educational institution organises and ensures as follows: a special course on the basics of legal clinical practice, which covers the basics and functions of legal clinics, and also focuses on the main aspects of legal practice; theoretical and practical classes on the results of the legal clinic; legal education, legal explanations, and other educational and practical activities; free legal aid on the protection of rights and freedoms of people and organisations from all branches of law in accordance with the current legislation of Ukraine; work with documents of a legal nature and databases; preparation and distribution of publications for the population on topical legal issues; cooperation with representatives of state and non-state bodies and organisations; research-to-practice conferences, seminars, trainings, and other events on topical legal issues; work on systematisation and analysis of judicial practice of Ukraine, decisions of the European Court of Human Rights, solving legal issues in law enforcement agencies, state authorities, and local self-government; cooperation with other legal clinics of higher educational institutions of Ukraine and outside the state. Further development of legal clinical education in Ukraine will certainly contribute to the practical orientation of the educational process of training lawyers, as well as improving the quality of higher legal education.

Admittedly, the introduction of a dual form of education would contribute to the practical orientation of the educational process. However, questions arise regarding the training of lawyers in this area. Part 6, Article 49 of the Law of Ukraine “On Higher Education”<sup>4</sup> stipulates a dual

1. Draft Concept for the Development of Legal Education. (2020, November). Retrieved from <http://kno.rada.gov.ua/fsview/75465.html>.  
2. Order of the Ministry of Education and Science of Ukraine No. 592 “On Approval of the Model Regulation on the Legal Clinic of a Higher Educational Institution of Ukraine”. (2006, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0956-06#Text>.  
3. *Ibidem*, 2006.  
4. *Ibidem*, 2006.  
5. Law of Ukraine No. 1556-VII “On Higher Education”. (2014, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1556-18#Text>.

form of higher education as a way for full-time applicants to receive education, which provides for on-the-job training in enterprises, institutions, and organisations to acquire certain qualifications in the amount of 25 to 60 percent of the total volume of the curriculum based on an agreement. On-the-job training provides for the performance of official duties in accordance with the employment agreement. Dual education is carried out based on a contract between an institution of higher education and an employer (enterprise, institution, organisation, etc.), which provides for procedure for employment of a higher education applicant and remuneration of their work; scope and expected results of training a higher education applicant in the workplace; obligations of the institution of higher education and the employer regarding the implementation by the applicant of higher education of an individual curriculum at the workplace; procedure for evaluating the results of training obtained at the workplace.

It is worth agreeing with V. Horodovenko, according to whom before the introduction of dual education in the legal profession, education should be approached prudently. This is explained by the fact that most positions in the legal profession are appointed by persons based on the results of competitive selection. It is advisable to introduce some elements of dual education in the training of lawyers, in particular, the conclusion of cooperation agreements with law firms and law associations, notaries, etc. and conducting industrial practice, internships on their bases [19].

Admittedly, the dual form of education is progressive in the context of obtaining professional education, but it is also possible to introduce certain elements of dual education in the training of lawyers, in particular, to provide jobs and create opportunities for professional activities, for example, in free legal aid centres, in territorial communities to provide future lawyers with certain types of legal services for free primary legal aid in accordance with agreements concluded with the educational institution (providing legal information, providing advice and explanations on legal issues, drawing up applications, complaints and other documents of a legal nature (except for documents of a procedural nature)). All these actions, however, will become possible after appropriate changes to the current legislation of Ukraine governing the grounds and procedure for providing free legal aid.

The participation of applicants for legal education in model court debates and model court sessions proved their effectiveness regarding the acquisition of practical skills and abilities in the context of the practical orientation of training lawyers. Model court debates and model court sessions contribute to the establishment and development of such practical skills as public speaking and critical thinking, the ability to formulate, argue, and defend the legal position, the ability to draw up procedural documents, present oneself as a specialist during a court speech.

Reproduction for educational purposes of the judicial process provides an opportunity for its participants to feel and critically evaluate their professional skills and abilities, to determine the further area of their improvement. Important in this context is the support of participants in the educational process by professional associations of lawyers, practitioners, judicial authorities, etc. Thus, the experience of the Seventh Administrative Court of Appeal is positive, which approved the regulation on holding model court sessions with students of higher educational institutions<sup>1</sup>.

## CONCLUSIONS

Summing up the above, one can draw a general conclusion that for reasons of an objective and subjective nature, there is a need for qualitative changes in the legal education system considering the future accession of Ukraine to the unified European educational space, which determines the need to develop and implement in the educational process of higher legal educational institutions methodological, theoretical, legal, and educational foundations for reforming legal education, the component of which is practical training of students and providing them with access to the profession. In this regard, it is worth supporting the work that has commenced on the preparation and adoption of the Concept for the Development of Legal Education, which defines strategic and operational goals, the achievement of which will raise legal education to the European level of educational training of lawyers for the state and society.

Consequently, the modernisation of higher legal education towards practical orientation of training lawyers is one of the important tasks of the state at the present stage of its development and implementation of reforms in many spheres of public life. The problem of increasing the practical orientation of training lawyers is a transnational problem. It is advisable to preserve the national traditions of higher legal education in the educational process and introducing new, progressive forms of the educational process aimed at improving the quality of higher legal education, which would meet the requirements of the labour market and the challenges facing a modern democratic society, global development trends and tasks of professional activity of lawyers in various fields. The development of practical skills and abilities of a legal education applicant occurs in the educational process due to various forms of the educational process: during practical classes using case methods and solving incidents, in particular, by conducting binary classes; during practical training; while working in a legal clinic; by participating in court debates, etc.

The problems discussed in this study do not cover all aspects of legal education reform. Therefore, the study of various forms of practical training of students in law universities of Ukraine and foreign law schools is one of the critical areas of legal education in the future.

1. Regulations on Model Court Hearings with Students of Higher Educational Institutions: Order of the Seventh Administrative Court of Appeal. (2018, November). Retrieved from <https://7aac.gov.ua/wp-content/uploads/2019/05>.

## REFERENCES

- [1] Barabash, Yu. (2017). Reform of legal education: Separate components of successful implementation. *Law of Ukraine*, 10, 9-19.
- [2] Boiko, A.M. (2019). Certain issues of reforming national legal education. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 85-96). Kyiv: Yurydychna Praktyka.
- [3] Komarov, V. (2017). Higher legal education of Ukraine: New dimensions. *Law of Ukraine*, 10, 20-37.
- [4] Kot, O.O. (2019). Higher legal education in Ukraine: Practical problems and the ways to overcome them. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 127-140). Kyiv: Yurydychna Praktyka.
- [5] Kuznietsova, N. (2017). Ensuring of high-quality practical training of law students is an integral part of the reform of legal education. *Law of Ukraine*, 10, 66-72.
- [6] Pohribnyi, S.O. (2019). Legal education in Ukraine: Problems and perspectives. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 141-152). Kyiv: Yurydychna Praktyka.
- [7] Tatsii, V.Ya., & Komarov, V.V. (2019). Problems of guaranteeing the quality of higher legal education. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 41-62). Kyiv: Yurydychna Praktyka.
- [8] Hryniak, A.B. (2019). Methodological peculiarities for the organization of practical training of students on civil disciplines (on the example of the special course "Contract Law"). In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 409-420). Kyiv: Yurydychna Praktyka.
- [9] Dovhert, A.S. (2019). Some thoughts on teaching the disciplines of private law. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 197-218). Kyiv: Yurydychna Praktyka.
- [10] Kokhanovska, O.V. (2019). Civil problems of information relations: Experience of teaching the MA special course as the answer to the current challenges. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 181-196). Kyiv: Yurydychna Praktyka.
- [11] Pleniuk, M.D. (2019). Modern views o teaching private law in higher educational institutions. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 251-260). Kyiv: Yurydychna Praktyka.
- [12] Stefanchuk, R.O. (2019). Regarding the modernization issue of the organization and teaching civil disciplines. In O.V. Kokhanovska, & O.O. Kot (Eds.), *Reform of legal education: Current challenges* (pp. 219-234). Kyiv: Yurydychna Praktyka.
- [13] Lande, J. (2013). Reforming legal education to prepare law students optimally for real-world practice. *Journal of Dispute Resolution*, 2013(1), article number 2. Retrieved from <https://scholarship.law.missouri.edu/jdr/vol2013/iss1/2/>.
- [14] Wilson, R.J. (2009). Western Europe: Last holdout in the worldwide acceptance of clinical legal education. *German Law Journal*, 10(6-7), 823-846.
- [15] Woodruff, W.A., & Bucker, A. (2008). The Bologna process and German legal education: Developing professional competence through clinical experiences. *German Law Journal*, 9(5), 575-618.
- [16] Mashkov, A. (2008). *Problems of the theory of state and law. Fundamentals*. Kyiv: K.I.S.
- [17] Serebro, M.V. (2014). Essence and perspectives of using axiological approach within constitutional law. *Scientific Bulletin of the International Humanities University. Series: Jurisprudence*, 1(11), 50-52.
- [18] Results of national surveys of lawyers, court staff and jurors in 2019. (2021). Retrieved from [https://newjustice.org.ua/wp-content/uploads/2019/07/NJ\\_2019\\_Surveys\\_Results\\_July2019\\_UKR.pdf](https://newjustice.org.ua/wp-content/uploads/2019/07/NJ_2019_Surveys_Results_July2019_UKR.pdf).
- [19] Legal education and legal profession. Holos Ukrainy. (2020). Retrieved from <http://www.golos.com.ua/article/332183>.
- [20] Perdomo, R.P. (2018). From Harvard to Stanford. On the history of the legal education of United States. *Boletín Mexicano de Derecho Comparado*, 51(151), 313-358.
- [21] Esteban, A.A., & Cañado M.L.P. (2004). Making the case method work in teaching Business English: A case study. *English for Specific Purposes*, 23(2), 137-161.
- [22] Levin, B.B. (1995). Using the case method in teacher education: The role of discussion and experience in teachers' thinking about cases. *Teaching and Teacher Education*, 11(1), 63-79.
- [23] Terentieva, N.O., & Nedashkivska, D.V. (2013). Essence and structure of case-method: Certain aspects. *Tavriiskyi Visnyk Osvity*, 1, 123-129.
- [24] Khomenko, M.M. (2019). Regarding the issue on the need to form the skills of legal reasoning while solving civil law cases. In *The ninth juridical debates on topical problems of private law: materials of the International scientific and practical conference* (pp. 28-35). Odesa: Astroprint.
- [25] Chouinard, V. (1990). State formation and the politics of place: The case of community legal aid clinics. *Political Geography Quarterly*, 9(1), 23-38.
- [26] Geraghty, T. (2020). Legal clinics and the better trained lawyer, part II: A case study of accomplishments, challenges and the future of clinical legal education. *Northwestern Journal of Law & Social Policy*, 16(1), 47-91.
- [27] Meghdadi, M.M., & Nasab, A.E. (2011). The role of legal clinics of law schools in human rights education. Mofid University legal clinic experience. *Procedia – Social and Behavioral Sciences*, 15, 3014-3017.

**Volodymyr V. Nosik**

Doctor of Law, Professor

Corresponding Member of the National Academy of Legal Sciences of Ukraine

Acting Chief Researcher of the Department for Integration of Academic

and University Legal Science and Development of Legal Education

Kyiv Regional Center of the National Academy of Legal Sciences of Ukraine

01124, 3 Pylyp Orlyk Str., Kyiv, Ukraine

**Mykhailo M. Khomenko**

Candidate of Law, Associate Professor

Head of the Department for Integration of Academic and University Legal Science

and Development of Legal Education

Kyiv Regional Center of the National Academy of Legal Sciences of Ukraine

01124, 3 Pylyp Orlyk Str., Kyiv, Ukraine

**Larysa V. Krasyska**

Doctor of Law, Associate Professor

Acting Leading Researcher of the Department for Integration of Academic

and University Legal Science and Development of Legal Education

Kyiv Regional Center of the National Academy of Legal Sciences of Ukraine

01124, 3 Pylyp Orlyk Str., Kyiv, Ukraine

**Suggested Citation:** Nosik, V.V., Khomenko, M.M., & Krasyska, L.V. (2021). Paradigm of reforming higher legal education in Ukraine in the context of training practising students. *Journal of the National Academy of Legal Sciences of Ukraine*, 28(2), 140-149.

**Submitted:** 29/03/2021

**Revised:** 26/04/2021

**Accepted:** 20/06/2021