



ABA RULE OF LAW INITIATIVE

American Bar Association
Rule of Law Initiative - Moldova

RECOMMENDATIONS TO THE MOLDOVA UNION OF LAWYERS REGARDING CONTINUING LEGAL EDUCATION

Author: Tom Russell,
*Criminal Law Legal Specialist**

Chisinau, 2010

** Tom Russell has worked extensively with national and state bar associations in the United States as a Department Director in the Washington State Bar Association and Associate Dean of the National Judicial College which was an affiliate of the American Bar Association. He has also chaired committees and worked on boards within the framework of the Washington and Oregon State Bars. In addition he has 41 years of experience as a practicing lawyer in Oregon and lawyer and judge in Washington. In those years he interspersed leadership roles in continuing legal education and judicial education, receiving recognition for his creativity in introducing new methods of professional education to the legal field. His law practice was exclusively litigation, trial and appellate, state and federal, and he served as a partner or principal in two law firms and as well as the Prosecutor in several jurisdictions. While with ABA ROLI in Moldova, Mr. Russell has served as Acting Country Director as well as the Criminal Law Legal Specialist, doing a number of projects involving training seminars as well as curriculum development for the Moldova National Institute of Justice and the Moldova Bar Association's legal education programs.*

Introduction

This project was undertaken to make recommendations to the Moldova Union of Lawyers ("UofL") on how to implement the new requirements it is charged with carrying out regarding Continuing Legal Education ("CLE") under the Amendments to the Law on the Legal Profession enacted on August 6, 2010. Before these Amendments, the Moldova Bar Association, a statutorily created organization representing some, but not all, of the lawyers in the country facilitated a limited amount of legal education for its approximately 1500 members. This was done mainly through some seminars provided or facilitated as a member service in furtherance of its own 2004 resolution that each member attend a minimum of 8 hours of continuous legal education each year.

The referenced Amendments change this picture in a number of significant ways.

- They change the name and present structure of the MBA organization to the Union of Lawyers ("U of L"). They change the requirement that those lawyers that must be members of the Union and subject to the regulations controlling the practice of law, expands from just criminal defense counsel, to all lawyers who will appear in Court, except prosecutors. This will expand the membership and scope of the U of L by bringing in an unknown number of lawyers who provide legal services and court representation, particularly in civil matters such as business structures and transactions, real property, wills, trusts and probate matters, family law and so forth.
- The requirement that all lawyers as defined above, receive at least 40 hours per year of CLE, and annually report their compliance to the U of L. Also there is the concomitant change and requirement the Council of the U of L be the regulatory body that (1) approves both the type of training provided to intern lawyers as well as the continuous training that qualifies under the 40 hour standard, (2) sets guidelines for and approves providers that conduct such training and (3) ensures that the required reports of completed training are received from all the lawyers required to meet these training standards.

While the Amendments carry no requirement that the U of L organization provide such training itself, the "Informative Note to the Draft Law on Amending and Completing Some Legal Acts" ("Informative Note") submitted to the Parliament with the proposed Amendments certainly anticipates that this will be the case and that the costs of such training should come from the Union's membership fees and additional funds available to the Union.

The Organization of this Report

The recommendations of this report are built on the law after the Amendments were passed by the Parliament. They anticipate that the membership of U of L will expand significantly as most of all the lawyers in the civil practice of law come within the framework of the U of L membership and these CLE regulations. The recommendations anticipate that the U of L will follow the future suggested by the "Informative Note" and become the major provider of CLE for its members and that the funding for the same will be according to the suggestions in the "Informative Note".

So these recommendations respond to the following points:

- Fulfilling the mandatory CLE obligations ("MCLE") to be conducted by U of L as required by the Amendments.
- Creating a CLE training plan and suggested curriculum elements of that plan.
- Setting standards for CLE training provided by all providers.
- Implementing a plan for the delivery of CLE to the members that is cost effective and meets the scheduling needs of the members

Methodology

In addition to the experts' own history in working in this field for over 40 years with various state and national bars; in making these recommendations resources included various CLE executives in Bar Associations in America and Canada. Also as part of the current overall ABA ROLI project, concerning other facets of U of L operation, this expert discussed many of the subjects in these recommendations with: lawyers throughout Moldova and with the President, and members of the U of L Council. In addition there has been some prior work in this field by ABA ROLI in its Legal Profession Reform Index of April, 2009 at pages 37-8, and further by a joint effort of the Council of Europe and the European Commission on Increased Independence, Transparency and Efficiency of the Justice System of the Republic of Moldova. Their specific reports reviewed were: "Roundtable in Order to Assist the Bar in Setting Up a Training System and Drawing Up Training Curriculum for Lawyers" (December, 2008) and "Assessment Report and Recommendations on Initial and Continuous Training Systems for Lawyers in Moldova" (December, 2009). The latter report echoes some of the main themes of this report, namely shifting the focus of training from abstract knowledge to problem solving and applied knowledge; and, that the focus of learning should be participatory with the learners, rather than a "one-way delivery of knowledge by experts/lecturers;" as the author stated in paragraph four of the prior report.

Recommendations

1. Mandatory CLE

This process of converting voluntary CLE to MCLE has about a 20 years history in other jurisdictions like the U.S., Canada, France, and the U.K. What has evolved is a variety of programs located in the MCLE country and elsewhere, and more and more frequently, through formats other than on-site seminars.

a) Structure: In most jurisdictions there is a Bar Board or Committee appointed to deal with the policy issues as well as to ensure the actions of the staff are in compliance with those policies. Because of the amount and variety of paperwork this activity generates, almost all aspects of interaction with CLE providers and members is consigned to Internet based interactive exchanges with the MCLE authority, including from sponsors or members requesting approval, payment of required fees, tracking member's credits accumulated through participation in approved activities, and submission of annual member's attestations of compliance. See a model rule for MCLE at <http://www.abanet.org/cle/ammodel.html>.

b) Finances: It is not uncommon for the recognized Bar to pay for and conduct all or most of these activities as is required. It is also not uncommon that the Bar assess the members an annual fee over and above membership dues for the CLE activities, which would be consistent with the approach described in paragraph 6 of the "Informative Note". In a lot of instances fee reduction or scholarship is recognized for things like public service e.g. State Assisted Legal Aid, or for contribution as a faculty member to the course.

c) MCLE Course Approval: You can count on the fact that with mandatory CLE, besides the U of L, other providers will want approval for their tuition based courses. Law Schools in a MCLE jurisdiction routinely decide it is a sensible service for their graduates and the Bar as a whole. Entrepreneurial lawyers also decide it is a complimentary enterprise. Then there are Europe wide organizations that will be interested in attracting Moldovan lawyers to their international courses in London or, e.g. Switzerland in the winter, or through participation via electronic means, etc. In terms of approvals, most jurisdictions don't focus automatically on the provider's experience and skills as much as the standards for the courses provided. Also they charge an application fee to all non-U of L providers, usually based on the length of the course and the number of attendees. In some jurisdictions, after a provider has established a track record for complying with the MCLE requirements for CLE training, they can be deemed an "Accredited Sponsor". There is an annual fee involved instead of paying for consideration for approval for each course submitted. The advantage for the multi courses CLE pro-

vider (and the MCLE authority) is they don't have to submit the details of each course for approval. The courses are automatically approved for the number of hourly credits calculated by the Provider and submitted on a short form to the MCLE authority. For example of such a rule see: WSBA CLE Board Regulation 105 (a) and (b) at: http://www.courts.wa.gov/court_rules/pdf/GAAPRREGSP.pdf and for an Accredited Sponsor Application Form see: <http://www.wsba.org/cle/accreditedsponsorapplicationform.doc>.

Standard requirements to get individual courses accredited are: description of the activity including date, time and place, length of learning hours outside of introductions, breaks or recesses, methods of presentation, format for the presentation, who is it advertised to as potential attendees, quality of the faculty, quality of the written materials distributed and the method of their distribution, method of evaluation, schedule for the event and is it presented for lawyers at the beginning, intermediate, or advanced level. See a model course approval form at <https://www.clereg.org/forms/uniformapp.pdf>.

Also required is how many hours are devoted to specific areas that the U of L may require of each lawyer per year, e.g. ethics, substance abuse, "professionalism" (i.e. conduct with other lawyers, judges and clients), law office management, handling clients money not associated with the lawyer's fees or costs, case and client management, new lawyer skills required within a limited time after receiving the license, focused courses in a member's specialized area of practice, etc. All providers should be required and agree as part of the approval process, to keep records of who attended and how long each stayed at the course or took an on-line course. Summaries of the same are usually required to be forwarded to the MCLE agency in digital format, and then entered into each member's computer based and on-line accessible files of activities completed.

To allow for a member who takes a course from a provider who didn't apply for course approval, MCLE provides a form that the lawyer can fill out and covers all the points described above for providers. It is available on-line or via fax or mail and must be submitted and approved before the reporting deadline for the lawyer in order to count those hours towards the required forty hours.

d) MCLE Standards: Rules are generated usually by the board or committee designated to oversee these matters. In the U of L case it appears such a group would be either advisory or delegates of the U of L Council who is the responsible party under the Draft. They go into things like all the above requirements for approval; plus whether licensed lawyers who become judges, or who are inactive, suspended, or disbarred, must comply with MCLE; whether other activities that further legal education for the creator as well as for others, such as preparing and teaching

the course, writing articles for Bar publications and other learned treatises, are entitled to credits for these activities; whether using on-line generated educational resources, etc. qualifies for equal hours of credit as long as they otherwise comply with MCLE rules and if so how many of the total 40 hours can qualify in this manner; establish annual deadlines for lawyers to report their credits with affidavits or other forms of sworn statements the lawyers must use to report; setting standards for sanctions for failure to report or failure to complete the required hours with approved courses, providing for a grace period after notice to allow for delayed compliance, providing for hearings and appeal from decisions that involve sanctions, and so forth. See the ABA Model Rule on CLE at: www.abanet.org/cle/ammodel.html

2. The U of L CLE Service

(A) The annual curriculum plan

The most important thing to say about an annual plan is that it shouldn't be frozen in stone. In any given year a new law, regulation, or case decision or event (like April 7th) will happen that has a significant effect on a significant number of practitioners and they will want, and the Bar should create, a course just on that new development.

That being said, there are components of an annual curriculum for any Bar that should be routinely considered in setting the annual training plan.

1) The Amendments anticipate that interns must receive 80 hours of formal training during their eighteen month Internship and that the U of L Council sets the standards for the same. Although the Amendments are silent as to the source of payment for this it would logically follow that the Bar would include the funding for this in the Intern fee it is authorized to collect. The current U of L has recently received the referenced Joint Report from the Council of Europe with suggestions on the Intern training program. To the topics suggested there: accountancy, ethics and bar structure, I would add skill courses like advocacy speaking and writing, negotiation, time management and organization, together with practical courses on staff retention and management, file management systems, recommendations and requirements concerning document storage, technology that assists the legal practice, client communications and control, engagement letters or contracts, how to screen for the clients that are more trouble than benefit, how to tactfully terminate a client relationship, how to avoid a disappointed or disgruntled client, fee structures, and legal regulations and requirements for operating a law office. Another suggestion from the prior report- to provide more direction or standards to the Supervising Lawyer for the Intern, is also endorsed here.

However given the fact this training will directly impact future generations of all Moldovan lawyers, implementing any plan and training might best be done through an initial pilot program centered in Chisinau. There are sure to be practical issues as well as unforeseen consequences in any such plan and training. It would be wise to identify them and resolve them before an entire mandatory program is approved.

2) Likewise the U of L can anticipate that newer licensed lawyers will have basic needs unique to their level of experience and have a keen interest in “how-to” courses applicable to their specialty of practice. Examples include real estate contracts and transactions, criminal law, bankruptcy, family law, administrative law, construction law, immigration law and so forth. Such a series should be part of the annual plan for the MBA as the need will be continuous as new members get immersed in the challenges of practice.

3) The U of L will also want to consider mandatory courses for all lawyers on topics such as are referred to in the Section above on MCLE, topics like ethics, professionalism, handling of client funds, etc. The current U of L Ethics and Disciplinary Commission should be helpful here in identifying actions of lawyer misconduct, error or disability that seem to reoccur in patterns over the years.

4) As mentioned earlier, in every plan there should be room for “New Developments in the Legal Profession courses. These can include new statutes or case law of broad impact, as well new practice enhancements like computer-based file and data storage or legal research.

5) Keeping in mind that with the broadening of the U of L membership to include independent civil practitioners who want to appear in Court, there will be a resultant diversity of interests and educational needs. Lawyers who practice in real estate transactions and disputes will want those courses. Lawyers who focus on estate planning, trusts, will drafting and the probate of estates of the deceased usually consider these topics specialties in and of themselves. Lawyers engaged in family law matters have the same feeling. Tax lawyers usually represent another area of specialty. Business and commercial lawyers also tend to work mostly on those kinds of legal services which have enough complexity to them that ongoing training is necessary. All of these lawyers may also have interests in general courses that focus on the filing, resolution, trial and appeal of civil law disputes. But they have little or no interest in a course for criminal lawyers that focuses on the criminal law itself or criminal procedural matters. Each of these specialized interests should be recognized in the training plan.

6) There are some skill-based courses that are of interest to almost every lawyer. For example: developing a client basis and developing the loyalty of a client basis

through excellent client service, persuasive legal writing and speaking, law office management practices and legal research, are all topics that draw significant attendance in other jurisdictions. There should be consideration for these kinds of interests in every annual plan.

7) The most successful programs known to this expert incorporate an on-going CLE advisory committee or board made up of experienced practicing lawyers from the predominant practice areas, who do the same jobs as the target legal learning audience. In every profession there are people who are willing and interested in education as a tool for improvement of themselves and their colleagues. This advisory group can not only identify the areas of greatest need but can identify in each course topic, issues and aspects of specific needs and interests within that topic. Sessions of this group can be synergistic with one suggestion begetting more suggestions and a healthy dialog ensues. So the meetings should be in person or if need be, via a telephone conference call.

(B) Course Enhancements

(a) Evaluations. These should be standard and filled out by all members participating in any U of L learning experience. They can help identify the quality of the faculty, the written material, identification of the best topics within each course as well as a space where members can suggest subjects they would like to have presented in the future.

(b) CLE Committees. As mentioned above these committees drawn from each of the constituencies mentioned: criminal lawyers, newer lawyers, and the various branches of the civil law practice, as well as a sprinkling of trial judges in these groups who can also indentify issues and potential faculty from lawyers or judges who seen adept on a topic.

(c) Volunteer Faculty Recognition. If you are dealing with volunteer faculty or committee members, it is a good investment to recognize their contribution in some tangible form. The item need not be expensive but can still be thoughtful and can go beyond the typical paperweight. For example the more creative and popular ones that come to mind are: pen sets, umbrellas with an U of L logo on it, and even fresh baked cookies delivered in a tin with the logo on it.

Using Adult Professional Educational Methods

There is an old joke among providers of professional continuing education that when you go to a conference or seminar, the best learning occurs during the breaks, out in the corridors or at lunch. There is a kernel of truth in this because it recognizes that the average attendee arrives with specific issues they want ad-

dressed and self direct themselves to another attending colleague who probably has the answers and they specifically discuss what the attendee wants to know.

Actually this phenomenon recognizes the factors that make the adult professionals of the U of L constituency vastly different from the average University graduate student. Unfortunately this difference is what most of our traditional methodology fails to recognize. Factors that have been studied and recognized as important points include:

- Your learner has existing experience in the focus area of the seminar whereas the University student is a blank slate upon which the professor is writing all new information. This basic difference leads to more consequences.
- Your learner is self-directed. He/she knows what it is in the subject area that would be helpful and what they know already. Some of the suggestions in the following Delivery section on how to break total seminar agendas out into stand- alone individual topics, responds to this need.
- Your learners would be more appreciative if they, or at least people like them, had a hand in selecting the learning curriculum. That's what they are producing in the previously mentioned corridor conversations or lunches and that is why many feel that is where their best learning occurs.
- These learners learn better when they feel the learning experience will help them do their jobs so they can work smarter instead of harder.
- These learners have a desire to develop their job competencies instead of collecting more abstract information or theories.

So it is that U of L sponsored courses should be organized and structured to deliver what the learners know would be the most helpful to them. Responses to all these factors can be recognized among the following suggestions that set out standards or recommendations to the faculty U of L should utilize to deliver the training. *One caution in advance.* Some of these suggestions represent a difference in presenting that U of L potential faculty are not used to. Most of their existing style is based on the way they learned in school- straight lectures and some written material. It would be helpful in upgrading the training to a more meaningful level to have a consultant available to conduct "training the trainers" sessions to teach by demonstration and give the faculty a chance to try out new methods in the security of a laboratory on new methods. Such resources can be usually be found in the ranks of consultants on public speaking or in the Communications Department of a University.

For every course there are some common recommendations.

(a) The faculty person assigned should develop well in advance, objectives for each course. These objectives are always stated in terms of learner competen-

cies to be achieved. For example, they are usually stated in the form of things the learner will be able to do when finished, as in- "when you complete this course you will be able to..."

-conduct your negotiations in a win-win fashion for all parties involved.

-identify the three biggest factors that lead to hearing continuances and evolve strategies to minimize them.

-anticipate where the greatest number of "fair trial" objections will occur in your proceeding and have handy all relevant Moldovan and ECtHR decisions on those subjects.

Notice each objective starts with an action verb and promises a job related result. These objectives should not only be explicitly stated at the front of the materials for each course but woven into the advance notices of the course in the published agenda for the program.

(b) For every course there should be written materials that accumulate and synthesize

relevant information on the topic beyond what will be presented in the class. These materials shouldn't be scholarly essays or simple reprints of entire statutes or whole court opinions. Rather they should be step by step guides, check lists, diagrams, abstracts of law or decisions, contact lists of helpful references and web addresses for further information. Further what it *shouldn't be* is just a regurgitation of power point pages or a simple outline of the course presentation. The latter two are insults to the learners as they can follow along without it being repeated in front of them and equally bad, it encourages the presenter to simply read off a list when, as we will see, the presenter has lots of more valuable things to do in the class.

(c) For every course the faculty should have in advance, a plan to engage the learners in the discussion and promote exchanges of viewpoints. As mentioned above, the learners come into the class, perceiving their experience on the topic is relevant. The fact is that they are right. They are resources and useful tools in the mutual learning that should occur during the learning period. There are some things that help set the stage. A faculty member who gets the list of attendees in advance and finds out by asking, who among the registrants has a lot of experience and is not shy about responding, helps in the initial selection of who to call on first. Opening the session with a story or rhetorical question and then asking for what the moral of the story is for the topic in hand, or getting a class show of hands on possible answers, gets the session off on the right foot. You'll recall that is how I started this section on Methodology, with the "old joke among CLE

providers” and it was done for exactly the same reason, to engage the learner and to lead into a central point of the presentation.

The classic Greek theory of rhetoric is still a mandate. Start by telling the learners what will be discussed, then do it, and at the end repeat what was discussed and the main points gained from the discussion. The reason this formula has lasted for centuries is because it is based on how to set up the brain to receive information. It is complimented by another ancient Greek, rhetorical rule, that is the rule of primacy and recency. Namely, what you hear first and what you hear last are the most memorable part of a learning segment and by cycling the information with repetition of the same, it is placed even more indelibly in your brain.

The faculty should make it known that questions or comments from the learners are encouraged and what his/her rules are for recognizing such input- whether as it occurs, or at set periods. Always treating any question or comment with respect and either answering it then or explaining you intend to get to that point shortly or you'd like to cover it personally during a break because it deserves a longer answer, encourages everyone to participate with questions or comments. Some of the questions will only be about issues of interest to the questioner and not the rest of the class. Even these need to be answered, quickly, and then generalize from the point of the question to make a larger point of interest that relates to the whole group. Faculty persons who move from the front of the room and move closer to the group or stand at the sides, get more participation. Faculty who by continuously maintaining sweeping eye contact with all the learners, break down the psychological “distance” that initially stands in the way of discussion **and** it helps faculty spot the persons who are engaged enough to call on to make a comment or ask a question. You can see it in their body language.

The faculty needs to distinguish between “covering” a topic and helping the learners really get help on the subject. Faculty who “cover a topic” want to go as quickly through as much material as time allows on the subject. Of course the most efficient way to do this is to stand in front of people and talk at them as fast as possible and allow no questions. But no one would really say that is a learning experience unless the subject is so new and unusual that only the presenter knows anything about it. This is usually the case at “Conferences” which have as their prime goal, the delivery of new information instead of building competencies or promoting understanding. Modern learning theory suggests that at one sitting, the typical young adult brain can only absorb new information on 7 different issues. This goes down to 4 for adults of age 50 and further on. So if this is all the learner can absorb, then the focus should be on those issues that are the hardest to master. The other matters that a faculty member feels are important, should go into the written material each learner takes home.

So when you cut down the number of things you will discuss, you free up more time to spend on each subject. This permits the introduction of more learner participation at the session. The faculty person changes roles from “the presenter” (i.e. the font of all knowledge) to the “facilitator” (the person who is guiding the learning of each person and of the group as a whole). The tools to use are varied and are driven by the course goals. Within the confines of the course room you can set up debates with individuals or teams assigned to various viewpoints, reviews of real or hypothetical cases discussing issues and the decisions inherent in them, problem solving regarding procedural issues or legal issues, breaking the class into groups to report to the class on their consensus on an assigned issue. Such groups can easily be formed by the faculty person by just having the people in the front part of each group turn around themselves or their seats and discussing it with the others in the group. I did that once with a drunk-driving case problem for judges. I gave them 20 minutes to discuss it in groups, left the room, had a cup of coffee, came back and the class never noticed I had left, they were that intense. If the focus in the class is on a skill or issues inherent in a procedure, e.g. negotiating or participating in a certain type of court hearing, then the alternatives of role playing, simulation, and demonstrations become useful tools.

Some faculty may get alarmed about leaving the old standard of being rooted behind a podium and talking for 50 minutes. Admittedly it is more of a challenge to be creative in *facilitating learning* rather than *talking at some group* for a long time. But in reality it is much more rewarding for the faculty. They already know the subject they would be just talking about for 50 minutes. So they personally get no advancement of their learning on the subject. Whereas if they facilitate a group learning experience, they pick up new information and may question some of their assumptions, plus they will feel satisfied that the group really gained competencies and enjoyed doing it. Every good teacher will tell you the joy of teaching is learning from the students and this is no different.

Some things to be avoided because they discourage the right atmosphere include:

- Having a room set up with a formal podium and stationary microphone. A table in front for notes and a clip-on microphones are preferred
- Using any visual device that requires dimming the lights to be seen. Neither power point screens nor overhead transparencies are good for a variety of reasons. Flip charts with paper and marker pens and tape to put up pages on the walls should be mandatory for your classes.
- Not starting on time or not stopping on time. It just throws up distracting frustrations for the learners. You should start on time even if you have to throw in a little introductory material while the late comers are filing in.

- Failing to emphasize during the progress of the course, the practical applications that this learning has to their jobs

In short the preferred methodology is not a review of law or abstract theory. It is *applied* knowledge that is helpful to the learner's job competencies. After all that is what they want to do with the knowledge when they get back to their jobs. In this form of professional education, the seminar room is the start of the transfer of knowledge *per se*, to useful practices that help the learner achieve their potential in their careers. In this context, the learning process shifts from being solely on the faculty, to a mutual responsibility of everyone in the room with the balance existing between the knowledge and efforts of the faculty and that of the learners.

Diverse Delivery Systems for CLE

The U of L's delivery must be flexible enough to meet the challenges it faces which are summarized in the following points

- It is a four hour drive to Chisinau from the farthest member's office, frequently over decaying road conditions that are challenging enough to disrupt at least the driver's frame of mind, before arrival. In addition to the CLE fees, each such long distance member has to pay for gas, meals and in some case lodging over and above the loss of billable time that Chisinau attendance entails. When attendance becomes mandatory, consideration to these factors becomes an issue.
- There will be always conflicts between the seminars offered in the U of L training schedule, and the ability of those members most interested in them to be available to participate in the course, due to distance or their schedules, or both.
- Serving even 1500 members with courses satisfying the Amendments' required 40 hours per year could only be satisfied with on-site group trainings in Chisinau every working day of the year and then there would have to be multiples of training sessions going on every day. This is beyond the budgetary and staff capacities of the U of L or any other professional education facility existing in the world.

So an ideal U of L training system to meet such challenges would be one that promotes accessibility, lets the members have greater flexibility on when and where to take the training, recognizes that because of specialization there will be only parts of general training that will be germane to the needs of various parts of the constituent legal education learners, is economical for all concerned, and allows for incorporation of modern principles of professional education.

Fortunately for Moldova these challenges are not unique and solutions are in process in many other legal and judicial educational systems in the world. They are encapsulated under the general term-Distance Learning. In essence this means a movement to transport the learning experience to the locale where the learner works or lives, location instead of bringing all learners to one central location. The benefit in time and money for lawyers for whom time *is* money, is only the most obvious advantage. Scheduling becomes easier if the training is nearby and the ability to offer repetitions of the courses at different dates are also advantages.

There are multiple types of Distance Learning that form a spectrum of increased sophistication. With each movement up the spectrum the benefits increase. Since this is a recommendation for a U of L long term plan, the suggestion is that the U of L start with the simpler forms of carrying education out to the country. Then the U of L can build on each such experience to progress up to the level that involves more technology in the delivery mechanism.

Also it is important to note that these suggestions are not to discount or replace the in- person, on-site, training programs that remain a fixture of professional education. These suggestions are simply methods of supplementing such training for the benefit of the persons in the legal system that can't get to such trainings because of funding, distance or scheduling. The expansion of the training opportunities also helps meet the challenge of 40 hours of required training per year, per person.

1. Satellite programs

This is simply taking the course materials, training methods, and faculty after the live presentation in Chisinau, and transporting all of them to regional training locations. If the faculty can't or won't go out to these locations, then you can mail out the materials and have the faculty reach the distant site via the telephone program mentioned next. In that event you would need to recruit a local U of L volunteer to facilitate the discussion and problem solving incorporated in the course agenda.

2. Telephone Continuing Legal Education- known as "tele-cle's"

This can be done in a regional setting as mentioned above or directed to the specific telephone designated for each person who registers. The faculty is doing the presentation at the actual live seminar site or if need be at a separate time from a conference room. The registrants can call a designated toll-free number 5-10 minutes before the session starts and reach a live person who signs them in by phone, confirms the course topic, tells them how to phone in comments or

questions for the faculty and whether the faculty wants to address such input as it comes in or at specified breaks in their presentations and gives the registrant an estimate of how many minutes until the course starts. As the course gets underway the learner on the phone gets all the faculty presentations as they occur and in addition, by pushing a designated number on the telephone can call in a comment or suggestion to the faculty for which they want a response. The telephone person with the faculty gets their call, writes down the message and hands it to the faculty for response. The service also records who called in and how long they are on the phone, for MCLE reporting purposes. The equipment and all the described features of the service are provided by telephone conference services that exist independent of the telephone company. The present cost of this service in the U.S. at present is 2-3 lei per minute per learner and that includes any fees that the telephone company charges for use of their telephone lines. Similarly the Internet can be used for these audio transmissions at no cost per minute and learners questions could be directed to a e-mail address provided by the Bar.

3. Direct Webcast from the Live Seminar Site

This alternative takes advantage of the fact that internet transmission is free and that the technology has advanced enough so that Moldova's bandwidths are sufficient to produce a transmitted picture and sound that is as smooth as the live event. The advantage of this system versus the tele-cle's is the extra learning stimulation that flows from using two senses to learn and the fact that charts, graphs, diagrams and lists can be viewed as they are used in the presentation. This program could be done for a group of registrants with a volunteer faculty coordinator to lead the local discussion using discussion aids prepared by the faculty, or it can be sent directly to the office or home of the U of L member. Most lawyers (or at least their children) have a computer hooked up to the Internet that can be used. Connecting is a simple as going to the correct website as a registered participant and following the simple steps listed. Again the course registration, web site, the broadcast and equipment needed for it and the recording of registrants that actually signed on for the course, is almost always done by an independent provider rather than by U of L training staff. Questions or comments from the learners can be transmitted back to the faculty at the seminar site for response via telephone or e-mails.

Another advantage to this alternative is that the whole program can be recorded and "archived". For this feature the U of L would store the recorded seminar on their website and provide the means by which any member who registered and gets downloadable course materials, could take the course wherever they wanted, and whenever they wanted.

When this Internet driven methodology got started in the universities in the United States, there were many who said either the professors or students or both, would resist this method. But after a brief adjustment period, both groups have embraced this learning method with enthusiasm.

4. Internet Self Study

This choice is the most challenging choice from a technology standpoint but probably the most educationally rewarding of the electronic choices. Here the whole course is either produced or the recorded seminar is re-produced on a web site for access by the individual learner. In its simplest form it is the recorded archived repeat of a past live seminar with the course materials that was described in #3 above. But over time technology has enabled educators to transform either the simple voice and/or the video presentation into a truly interactive experience. The value of this improvement is that it engages the learner like no other form of distance learning. So in addition to the flow of information, all sorts of interactive features can be added. These include multiple choice exercises with further information on the subject for those who give incorrect answers, quizzes (instantly graded and reported back) a final exam on the whole course, also graded and reported, links to written aids (e.g. checklists or forms) that can be downloaded and saved for future reference, and links to other websites (e.g. the ECtHR site) that contain search engines for case holdings and/or further information if the learner wants to explore some subject in greater depth. Again with playback features included on the screen during the course picture, similar to the buttons found on a tape or cassette recorder, the learner can pause the presentation, save it and check in later and get back to where the learner left, rewind it to check some information again or skip a section that is not germane to the learner's needs.

In fact once a course is recorded and ready to place on the internet in the archived seminar or self study mode, the course can be presented as a whole and also be broken down into segments, topic by topic. In this way the learner can self-select not just courses but specific topics in courses and take only that part. For example in a course on Criminal Procedures, assume one topic in the course is the conduct of Investigative Hearings, and the lawyer is just interested in that topic alone. By registering for the topic the learner gets only the materials for that topic and is led to that part of a course where that just topic is located.

Again the level of technical equipment and expertise to do this internet based training is almost always left to independent providers that produce such training. However all the agenda, course materials and the quizzes, links, graphs, etc., all come from the choices made by the CLE educator and faculty.

5. Deskbooks

Another form of useful education can occur in the form of Deskbooks. These carry this title because they are designed to be useful enough that any lawyer involved in the field of practice, will want them close at hand. These are usually devoted to one subject area, are usually published in a 3 ring binder so they can be updated and supplemented with changes in the legal field regularly. Some sample subjects that have been published by Bar Associations include: the Appellate Practice Deskbook, the Civil Procedure Deskbook, the Family Law Deskbook, the Legal Ethics Deskbook, the Motor Vehicle Accident Litigation Deskbook, the Probate Deskbook, and the Real Property Deskbook . They can include summaries of relevant laws and decisions, practice guides and tips, sample forms, and checklists. The authors come from the ranks of volunteer lawyers, but the editors usually come from the Bar staff or paid consultants. An example of such a Deskbook has been delivered to the Bar along with this report.

Acknowledgements

This report benefitted from the input and advice of Moldovan lawyers Vladislav Gribincea and Alexei Ghertescu; Judge Dag Brathole head of mission of the NOR-LAM project in Moldova; ABA ROLI Staff Attorneys Olimpia Iovu and Mihaela Vidaiacu; Washington State Bar Association CLE Director Mark Sideman; and Joseph Sawyer, Distance Learning and Technology Manager/Program Manager at the National Judicial College at Reno, Nevada. They, as well as President Gheorghe Amihalachioaie and the Council, of the Moldovan Union of Lawyers and the many Moldovan lawyers I interviewed around the country, have my appreciation.



The statements and analysis contained herein are the work of the American Bar Association's Rule of Law Initiative. The statements and analysis expressed are solely those of the author, and have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and do not represent the position or policy of the American Bar Association. Furthermore, nothing in this report is to be considered rendering legal advice for specific cases.

Copyright © 2010 by the American Bar Association
740 15th Street, Washington, D.C. 20005

Chisinau, 2010