# Problem-Based Learning Methods in Remedies Classes

Jaanika Erne

University of Tartu, 29 May 2010

## STRUCTURE

- 1. What is Problem Based Learning (PBL)?
- 2. What are PBL-methods?
- 3. What PBL-methods have I used in Remedies classes?
- 3.1. Case-study
- 3.2. Case presentations
- 3.3. Case-patterns
- 4. Why have I used PBL-methods in Remedies classes?
- 5. Questions for discussion

# 1. What is Problem-Based Learning (PBL)?

- J. S. Savery defines PBL as "An instructional (and curricular) learner-cantered approach that empowers learners to conduct research, integrate theory and practice, and apply knowledge and skills to develop a viable solution to a defined problem" (See J. R. Savery (2006) "Overview of Problem-based Learning: Definitions and Distinctions" The Interdisciplinary Journal of Problem-based Learning 1, 9-20).
- O'Rourke and Kahn define PBL as "A broad umbrella term used to describe approaches to learning that are driven by a process of enquiry" (See K. O'Rourke and P. Kahn (2005) "Understanding Enquiry-based Learning," in T. Barrett, I. Mac Labhrainn, and H. Fallon (eds.) Handbook of Enquiry and Problem-based Learning; Irish Case Studies and International perspectives").

- **Barrows** defines PBL as "The learning that results from the process of working towards the understanding of a resolution of a problem. The problem is encountered first in the learning process (referred in T. Barrett, "Understanding Problem-based learning" at 14).
- Margeston and Bligh consider that the most essential elements of PBL are "The initiating trigger, the learning that students undertake by researching the learning issues identified in the first tutorial, and the use of knowledge in furthering their understanding of the trigger situation particularly in the final tutorial" (referred in T. Barrett, "Understanding Problem-based learning", ibid.).

- From those definitions, the starting-point could be:
- **O'Rourke's** and **Kahn's** definition: "A broad umbrella term used to describe approaches to learning that are driven by a process of enquiry".
- The definitions allow the conclusion that PBL should somehow oppose the method of declarative lecturing (although one could ask, whether there exists university level lecturing that does not rise problems at all).

## One Source of the Definitions

J. Biggs, C. Tang.

2007. Teaching For Quality Learning at University. Open University Press



## 2. What are PBL-methods?

- Case-study in law;
- Case-study in environment;
- Composing inquiries in sociology;
- "Let's practice it together" in maths and physics;
- Methods in arts,
- etc.

Problems and study methods differ in different disciplines.

# 3. What PBL-Methods Have I Used in Remedies Classes?

- 1. Case-study
- 2. Case presentations
- 3. Case-patterns

## My Remedies Class in e-Learning Environment moodle

OIAO.07.033 ÕIGUSKAITSEVAHENDID EUROOPAS

TEEMAD JA ÕPIJUHIS

**ŐPIVÄLJUNDID** 

- 1. SISSEJUHATUS ÕPPEAINESSE
- 2. HAGID EUROOPA KOHTUS
- 3. MUUD NÕUDED EUROOPA KOHTUS
- 4. LIIKMESRIIGI KOHTUD KUI EUROOPA ÜHENDUSE KOHTUD
- 5. MENETLUS EUROOPA KOHTUS
- 6. LEPINGULISTE KOHUSTUSTE RIKKUMISE MENETLUS
- 7. KOHTUASJA ETTEKANDED. Lepinguliste kohustuste rikkumise menetlus

8. KONKURENTSIMENETLUS. KEELATUD KOKKULEPPED

9. KOHTUASJA VÕI KOMISJONI ASJA ETTEKANDED. Konkurentsimenetlus. Keelatud kokkulepped

10. KONKURENTSIMENETLUS. RIIGIABI

11. KOHTUASJA ETTEKANDED. Konkurentsimenetlus. Riigiabi

#### **OIAO.07.033 ÕIGUSKAITSEVAHENDID EUROOPAS**



E-kursuse autor on Tartu Ülikooli õigusteaduskonna doktorant ja õppeülesande täitja Jaanika Erne



#### ÜLDEESMÄRGID

Anda eriteadmised õiguskaitsevahenditest EL-s ja nende kasutamisest, EL õiguse rakendamisest kohtute ja kohtueelsete menetlejate poolt, kaebevõimalustest EL akti ja selle kohaldamata jätmise peale, hagidest Euroopa Kohtusse ning Euroopa Kohtu ja Euroopa Komisjoni koostööst Eesti kohtute ja kohtueelsete menetlejatega, kehtivast menetluskorrast Euroopa Kohtus ja komisjonis.



#### **ERIEESMÄRGID**

Üliõpilane teab, kuidas koostada ja esitada erinevaid hagisid, taotlusi ja kaebusi EL kohtutesse ja kohtueelsetele menetlejatele.

#### SIHTGRUPP

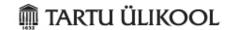
E-kursuse aluseks on Tartu Ülikooli õigusteaduskonna õppekava.

E-kursust saab kasutada nii statsionaarses õppes kui Avatud Ülikoolis.









# 4. Why Have I Used PBL-Methods in Remedies Classes? I

## **Case-Study**

### Method:

The students are reading selected judgments, regulations, and opinions of Advocate Generals of the CJEU. When reading those materials, the students have to organize their thoughts, answering pre-determined questions, and identifying the problems.

The students also read and analyse the European Commission's decisions in competition cases.

### The Aim:

To get the idea of the cases, the procedural documents, their elements and structure.

## **How Does It Technically Look Like?**

OIAO.07.033 ÕIGUSKAITSEVAHENDID EUROOPAS

TEEMAD JA ÕPIJUHIS

ŐPIVÄLJUNDID

1. SISSEJUHATUS ÕPPEAINESSE

2. HAGID EUROOPA KOHTUS

Loengukonspekt 123

Loengukonspekt 4

Euroopa Kohtu kohtupraktika

Euroopa Kohtu kohtulahendite andmebaas

Seminari őppekaasused

Hagide tabel I

Hagide tabel II

3. MUUD NÕUDED EUROOPA KOHTUS

4. LIIKMESRIIGI KOHTUD KUI EUROOPA ÜHENDUSE KOHTUD

5. MENETLUS EUROOPA KOHTUS

6. LEPINGULISTE KOHUSTUSTE RIKKUMISE MENETLUS

7. KOHTUASJA ETTEKANDED. Lepinguliste kohustuste rikkumise menetlus

8. KONKURENTSIMENETLUS. KEELATUD KOKKULEPPED

9. KOHTUASJA VÕI KOMISJONI ASJA ETTEKANDED. Konkurentsimenetlus. Keelatud kokkulepped

#### Euroopa Kohtu kohtulahendite andmebaas



EUROPA > EUR-Lex > Kohtupraktika

#### Kohtupraktika

#### Euroopa Kohus - Uusimad kättesaadavad dokumendid

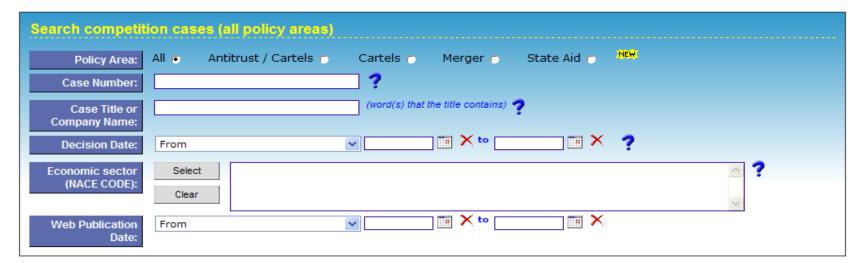
Kuupäev	Kohtuotsus	Osapooled	Dokumendi tüüp	Tekst	
2009/10/29	C-22/09	komisjon vs. Luksemburg	Euroopa Kohtu otsus		Bibliograafiline teade
2009/10/29	C-29/08	AB SKF	Euroopa Kohtu otsus	html	Bibliograafiline teade
2009/10/29	C-63/08	Pontin	Euroopa Kohtu otsus	html	Bibliograafiline teade
2009/10/29	C-140/08	Rakvere Lihakombinaat	Euroopa Kohtu otsus	html	Bibliograafiline teade
2009/10/29	C-145/08	Club Hotel Loutraki jt	Kohtujuristi ettepanek		Bibliograafiline teade
2009/10/29	C-174/08	NCC Construction Danmark	Euroopa Kohtu otsus	html	Bibliograafiline teade
2009/10/29	C-188/08	komisjon vs. Iirimaa	Euroopa Kohtu otsus		Bibliograafiline teade
2009/10/29	C-246/08	komisjon vs. Soome	Euroopa Kohtu otsus	html	Bibliograafiline teade
2009/10/29	C-249/08	komisjon vs. Itaalia	Euroopa Kohtu otsus		Bibliograafiline teade
2009/10/29	C-274/08	komisjon vs. Rootsi	Euroopa Kohtu otsus	html	Bibliograafiline teade
2009/10/29	C-386/08	Brita	Kohtujuristi ettepanek		Bibliograafiline teade
2009/10/29	C-405/08	Holst	Kohtujuristi ettepanek		Bibliograafiline teade
2009/10/29	C-406/08	Uniplex (UK)	Kohtujuristi ettepanek		Bibliograafiline teade
2009/10/29	C-414/08	Sviluppo Italia Basilicata vs. komisjon	Kohtujuristi ettepanek		Bibliograafiline teade
2009/10/29	C-419/08	Trubowest Handel ja Makarov vs. nõukogu ja komisjon	Kohtujuristi ettepanek		Bibliograafiline teade
2009/10/29	C-456/08	komisjon vs. Iirimaa	Kohtujuristi ettepanek		Bibliograafiline teade

10

# Search Competition Cases (all policy areas)



#### What's new? | Manuals | Contact



Clear Search

# 4. Why Have I Used PBL-Methods in Remedies Classes? II

### **Case Presentations**

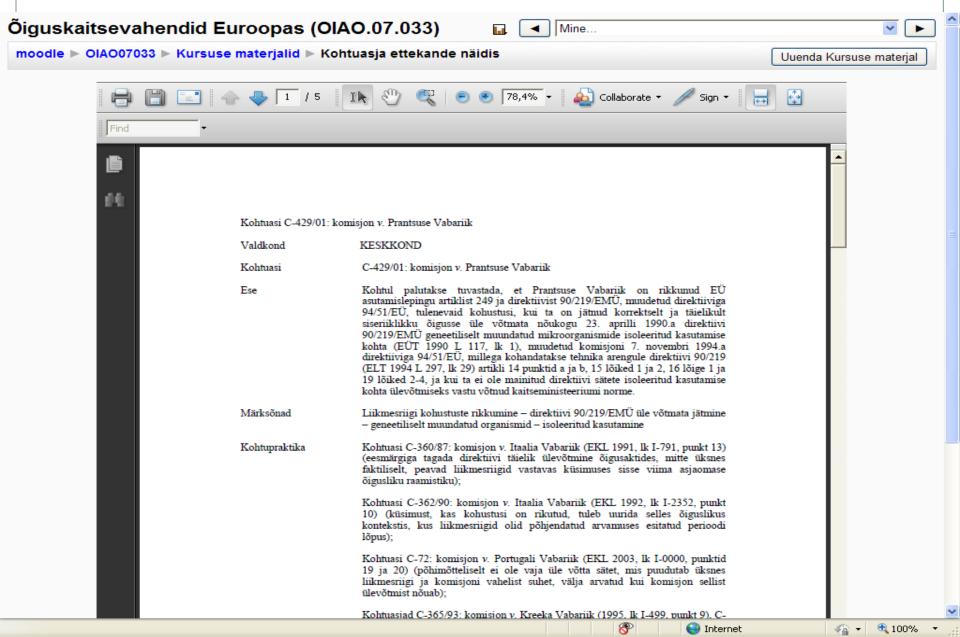
### Method:

The students select from a pre-determined list a judgment, decision, regulation, or opinion that they wish to present. The presentations will then be expected both in the written, as well as oral form. The written presentation must follow a structure (See the next slide!) The oral presentation has time-limits. Oral presentations are followed by discussions.

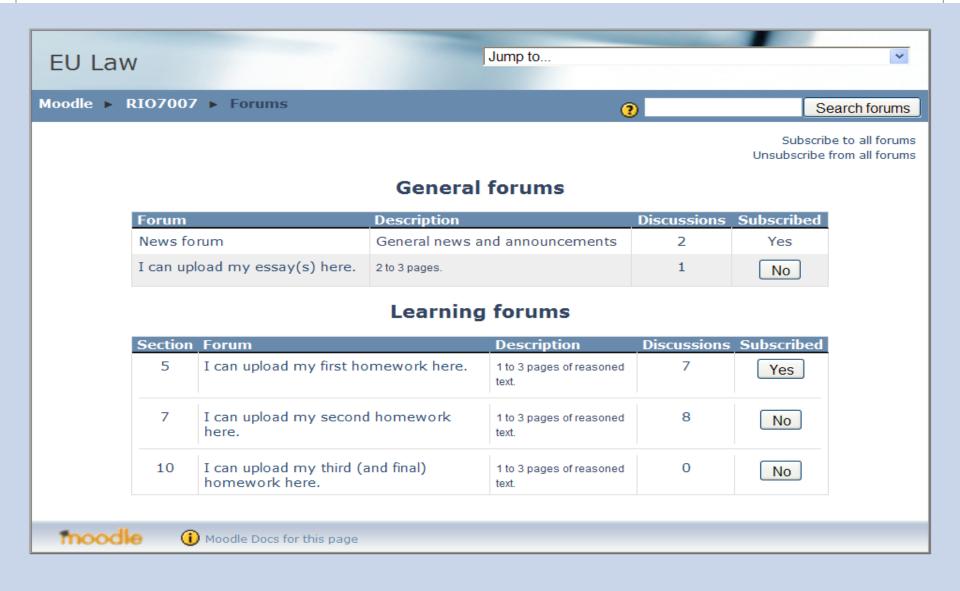
### The Aim:

To deconstruct the named procedural documents.

## **Case Presentations – Written Sample**



#### **Submission of Written Works I**



Internet

### **Submission of Written Works II**

Moodle ▶ RIO7007 ▶ Forums ▶ I can upload my second homework here.

Update this Forum

This forum allows everyone to choose whether to subscribe or not Force everyone to be subscribed

Show/edit current subscribers Subscribe to this forum

1 to 3 pages of reasoned text.

#### Add a new discussion topic

Discussion	Started by	Replies	Last post
case 2	giorgi meladze	0	giorgi meladze Sun, 9 May 2010, 01:12 AM
II case	Zurab Tsurtsumia	0	Zurab Tsurtsumia Sat, 8 May 2010, 08:10 PM
case study no 2	Joanna Slawuta	0	Joanna Slawuta Fri, 7 May 2010, 10:13 PM
Case 2	Inka Granqvist	0	Inka Granqvist Fri, 7 May 2010, 08:00 PM
Justyna Szachnowska	Justyna Szachnowska	0	Justyna Szachnowska Fri, 7 May 2010, 02:09 PM
Case study II	Silja Sorgus	0	Silja Sorgus Fri, 7 May 2010, 11:28 AM
2nd Case study	Tinatin Genebashvili	0	Tinatin Genebashvili Fri, 7 May 2010, 12:48 AM
case No 2	anuki batiashvili	0	anuki batiashvili Fri, 7 May 2010, 12:47 AM

moodle

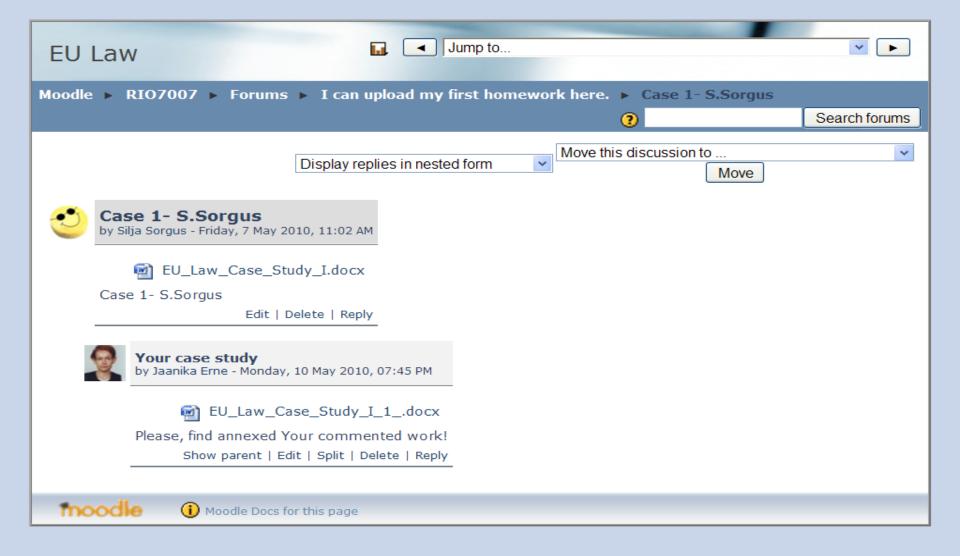


(i) Moodle Docs for this page





### **Feedback on Written Works**



# 4. Why Have I Used PBL-Methods in Remedies Classes? III

### **Case-Patterns**

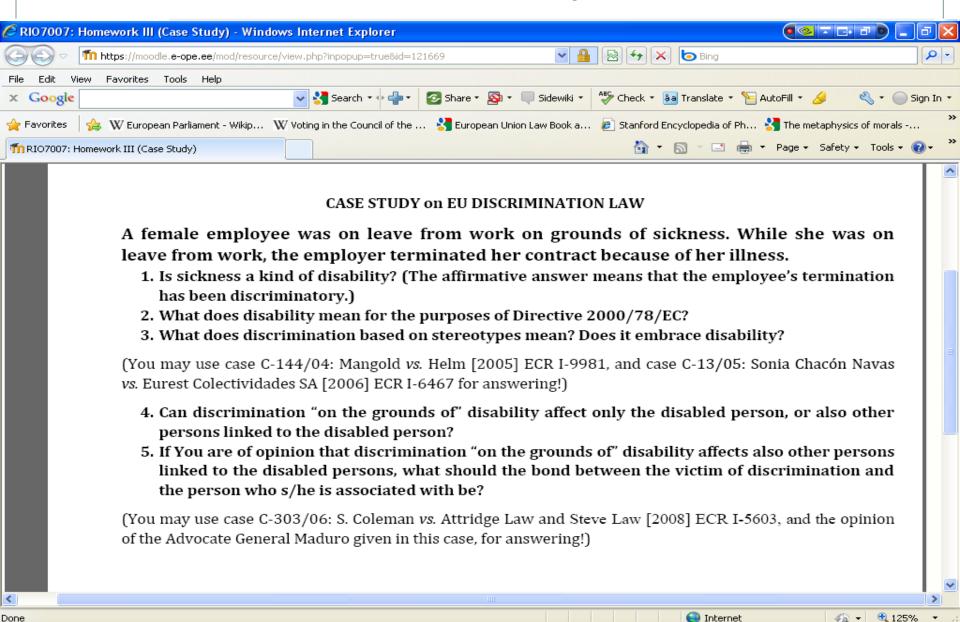
### **Method:**

The students receive short case-patterns for solving. The case-patterns have been composed based on real case-law.

### The Aim:

By that method, the students are expected to better connect a case with its name, and generally better orient in judicial and non-judicial procedural documents and remedies given in procedural documents.

## **How Does It Technically Look Like?**



Microsoft PowerPoi...

RIO 7007 EU Law

RIE 6005

w 4 Microsoft Office...

🎁 start

🏉 8 Internet Explorer

ET ( ) 2:19

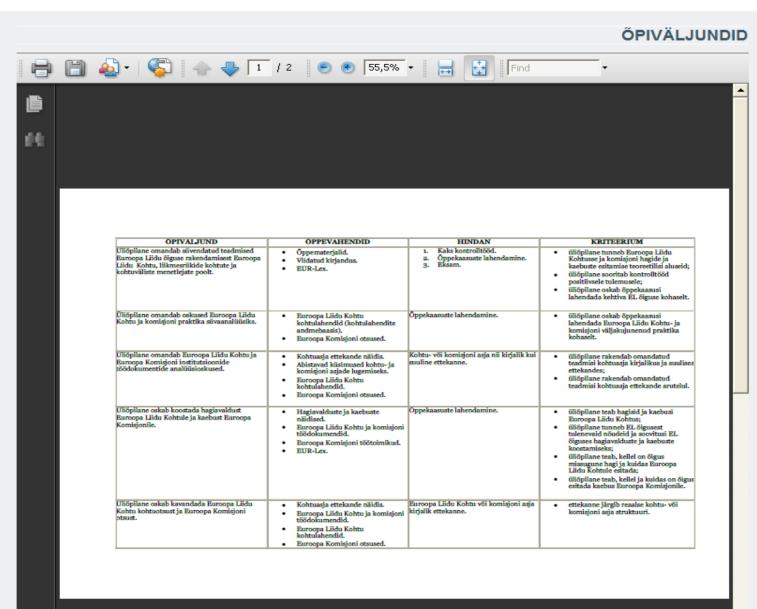
# **Determining Study Outcomes**

OIAO 07 033 ÖIGUSKAITSEVAHENDID **EUROOPAS** 

TEEMAD JA ÕPIJUHIS

#### ÕPIVÄLJUNDID

- 1. SISSEJUHATUS **ÖPPEAINESSE**
- 2. HAGID EUROOPA KOHTUS
- 3. MUUD NÕUDED FUROOPA KOHTUS
- 4. LIIKMESRIIGI KOHTUD KUI EUROOPA ÜHENDUSE KOHTUD
- 5. MENETLUS EUROOPA KOHTUS
- 6. LEPINGULISTE KOHUSTUSTE RIKKUMISE MENETLUS
- KOHTUASJA ETTEKANDED. Lepinguliste kohustuste rikkumise menetlus
- KONKURENTSIMENETLUS. KEELATUD KOKKULEPPED
- KOHTUASJA JA KOMISJONI ASJA ETTEKANDED. Konkurentsimenetlus. Keelatud kokkulepped
- KONKURENTSIMENETLUS RIIGIABI
- 11. KOHTUASJA FTTFKANDED Konkurentsimenetlus. Riigiabi



## **General Aims of Using Case-Study in Remedies Classes I**

- Preparing the students for drafting legal documents (such as actions, complaints, judicial opinions, draft judgments, decisions, etc., belongs to the Legal Writing classes, whereas case-study in other classes could already prepare the students for such drafting).
- Therefore, case-study could already include certain rules used in Legal Writing classes, such as methodology for legal analysis (for example: the IRAC-formula: Issue Rule Application Conclusion in legal texts, around which structure the reasoning builds, *i.e.* it reduces legal reasoning to the application of a formula that helps organize the legal analysis.

# General Aims of Using Case-Study in Remedies Classes II

- There exist also parallel systems, such as CRuPACformula that consists of Conclusion - Rule Proof - Application - Conclusion.
- An argument for is that "an organized legal analysis is easier to follow and reduces errors in reasoning". The opponents of the IRAC system say that the system is too artificial.

# General Aims of Using Case-Study in Remedies Classes III

• From here, one could move inside the drafting issues, such as the correct use of linguistic rules, the rules of syllogistic reasoning, and the canons of interpretation (- because already drafting a text, one should be aware that the others start interpreting those texts, and presume that the texts correspond to certain rules, such as consistency, constitutionality, rationality, and purpose). – But this again is already area of Legal Writing.

# **General Aims of Using Case-Study in Remedies Classes IV**

 Follows a border area example concerning both casestudy and Legal Writing: decisionmakers have to decide, whether to put first a plain argument, or a legal history argument - such arguments may not be alternatives, but one may be only "even if" argument towards another. This means that usually one argument has the potential to undermine the other – yet the advocate wants to make both. The decisions, which argument to choose are actually strategic decisions and the risk accompanies them.

<u>See Helen A. Anderson (University of Washington – School of Law) "Insights from Clinical Teaching: Learning About Teaching Legal Writing from Working on Real Cases" SSRN</u>

# Why in Remedies Classes?

• In modern Legal Writing classes, an advocate's starting point is determining the **remedy** s/he is willing to obtain from the court. S/he constructs the rest of the action or complaint after having determined the remedy, and around that remedy.

• Case-study helps to see the remedies given, and the way (arguments) towards the remedies.

# **Questions for Discussion I**

- Is Problem-Based learning (PBL) a mere reflection (of, for example, the case law), or a deep analysis? And what should the lecturer do in order to achieve the analytical level?
- If the students have the responsibility for their own learning, should there exist strong guidance /controlling mechanisms/, because the students may make mistakes, especially in the beginning of their study-process?

# **Questions for Discussion II**

- If Problem-based learning (PBL) bases on casestudy, for example on case law, then the students must be aware of the decisionmakers being only humans who may err, and therefore, at some point, the students should get a strong overview of the theoretical background of the problems. That would enable them to critically analyse the case law.
- The cognitive effects of a study-process may show only after 3 to 4 years, but the lecturers have to expect the results much earlier.

"When only the teacher plays, it is often just entertainment, or cleverness, or showing off. When only the students are asked to play, the exercise may be infantilizing or humiliating". Mary R. Falk.

## **Thank You!**