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Deregulation of the Legal Professions in Poland: A Trade-off between Market Growth and Professionalism? in **Grease or Grit?: International Case Studies of Occupational Licensing and Its Effects on Efficiency and Quality**

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Grease or Grit?

International Case Studies of Occupational Licensing and Its Effects on Efficiency and Quality

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Editors

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Deregulation of the Legal Professions in Poland

A Trade-off between Market Growth and Professionalism?

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INSTITUTIONAL CONTEXT

In 2004 and 2005, Poland deregulated access to the legal professions. This provides an interesting case study of the effect of reforms that aim to lower the barriers to entry to the legal market. Professional conduct and adequate qualification are often the product of institutional incentives. Regulation of legal services, such as representation before court or a counsel, hinges on lawyers as service providers and their group representation, such as bar associations. Lowering barriers to entry to the profession naturally raises questions about whether that affects the quality of legal service; therefore, a key question we seek to answer is whether such reforms negatively affected service quality.

Public interest in the regulation of legal services rests on the idea that the work of legal professionals is inexorably linked to the effectiveness of the administration of justice, administrative procedures, quality of law, social ties, and general trust toward the state and the law (Boon 2014). Smooth functioning of the market for legal services can be hampered by the asymmetry of information, negative externalities, and the collective action problem (Decker and Yarrow 2010). State regulation

has traditionally counterbalanced the promotion of the collective interests of lawyers as put forth by their bar associations.

REGULATORY CONTEXT

The regulatory regime for any occupational group consists of rules that define entry to the profession and are complemented by rules of conduct, both of which have an economic impact. For instance, the scope of exclusive rights or legal protection of a professional title determines the value of economic rents the practitioners can extract.

In Poland, legal trainees are required to obtain a law degree, which takes five years to complete. Because most trainees graduate from public universities, the cost of their higher education is covered by the state. Subsequently, they decide whether they want to pursue a career as a qualified lawyer. If they decide to follow such a path, they are required to enroll in a bar training course organized by one of the two major legal professions in the country: advocates (*adwokaci*) or legal advisors (*radcowie prawni*) (both professions suggest that their professional titles are translated into English as *attorney-at-law*). Until 2009, bar training took three and a half years; after the reform, it was three years. Upon completion of the bar training, candidates are expected to take the bar exam, which, upon passing, entitles them to the professional title of an advocate or a legal advisor. Following the completion of the mandatory education, training, and examinations, freshman lawyers must purchase membership to the bar association and civil liability insurance, and they have to participate in continuous professional development. Since 2004, when the legal professions lost monopoly on legal services, the law graduates can also become so-called legal counselors (*doradcy prawni*), that is, lawyers who render legal services without formal bar training or having passed the bar exam.

Before 2004, only advocates were eligible to provide all types of legal services (including legal counsel), and any violations might have resulted in criminal charges. Legal advisors were not allowed to assume any family, custody, and delinquency cases. These and other similar market constraints were partially lifted during the economic and political transition in Poland in the 1990s and early 2000s. Exclusive rights

of advocates and legal advisors to provide legal counsel were abolished, while exclusive rights of advocates to provide representation in court were significantly reduced. As a result, starting in 2004 all members of the general public are allowed to provide some forms of legal counsel, such as draft legal documents, give legal advice, or represent a party in front of a first-instance civil court. This change attracted new entrants, mostly legal counselors, who are lawyers without a professional title.

Other amendments soon followed suit. After the transition to a market economy, legal education in the 1990s started to attract many students. However, despite completing a law degree, restrictions on the number of bar trainee positions, nepotism, and difficulty in attending examinations in various local bar locations prevented many graduates from becoming qualified lawyers. To illustrate this, between 1999 and 2003, each year the number of law graduates exceeded 7,000, whereas the number of accepted trainees to advocate and legal advisor bar remained below 1,000. Consequently, a vast majority of law graduates became disconnected from their profession. This situation created political pressure for a change. The conditions became favorable when in 2004 the Polish Constitutional Tribunal pronounced a judgment requesting a change in the rules of entry to the profession (prerequisites and selection criteria), and the provisions limiting the number of trainees were deemed unconstitutional. In response, a new law in 2005 required the Ministry of Justice and the bar associations to jointly organize standardized annual exams to the bar training and to guarantee access to the profession for all applicants scoring above a predefined passing threshold. Starting in 2010, trainees had to take a state exam to verify that they acquired sufficient knowledge and skills to deal with most common legal tasks, such as preparing an appeal to a court ruling or drafting a contract or a legal opinion. Minor amendments to these so-called advocate and legal advisor exams were introduced in 2013.

Another development was the delineation of new paths to legal professions. These paths allowed for circumventing bar training for those lawyers who were able to gain enough professional experience without bar training. Additionally, PhD degree holders in law and some other groups of legal professionals such as judges or prosecutors, who had sufficient, four-year legal experience, became eligible to enlist as advocates or legal advisors without the requirement to pass the final exam. These new paths to the profession deprived the bar associations of full control over the process of admission.

All amendments that came along with new regulations raised doubts about the level of professionalism of advocates and legal advisors admitted under the new rules. Additionally, questions were raised regarding unfair competition between qualified and nonqualified legal service practitioners. Licensing was practically abolished for most of the legal services in the market, and it was not substituted by certification or registration. The monolith group of lawyers rendering their services to the market began to be composed of at least four subgroups: 1) older advocates and legal advisors who made it to the profession before the reforms; 2) a younger generation of lawyers who underwent the bar training having passed the state exams instead of bar exams; 3) advocates and legal advisors who did not attend a bar training at all, working previously as, for instance, prosecutors or legal academics; and 4) practitioners who entered the market but not the profession (usually holding just a law degree). In practice, the fourth subgroup turned out to be relatively small and entered only some profitable segments of the market such as debt collection or injury compensation. The academics and other legal professionals who gained the right to provide legal services entered in modest numbers. Overall, the reform raised the question of whether a constantly growing number of new practitioners (group 2) acts more professionally than the group of lawyers who gained their credentials before the reform (group 1). Evidence from Japan shows that the liberalization of rules of entry to the profession led to a deterioration in the quality of legal services and subsequent loss of public trust in lawyers, but the effect was shown to come from the conduct of the elder members of the profession and the new entrants (Ishida 2017; Ota 2014). To this end, this chapter investigates the effects of the reforms on various service quality indicators and analyzes the functioning of the market for legal services at the onset of reforms.

IMPACT OF REFORMS ON PRACTITIONERS IN THE MARKET

Prior to the reforms, only advocates had full rights to representation before the courts. After the reforms, those rights were gradually shared with legal advisors, and the entry of external lawyers (with their creden-

tials not verified by bars) became easier. The main focus of the reforms, however, was the bar training. They abolished quotas and introduced nationally standardized examinations, the same for both professions, which aimed at guaranteeing that fulfilment of objective criteria was sufficient to enter the profession. As shown in Tables 5.1–5.3, these changes alone caused a significant inflow of trainees to professional training and subsequently translated into a higher number of advocates and legal advisors. More candidates passed a predefined, standardized threshold on the exam and were accepted to the respective bars, as either advocates or legal advisor trainees.

Overall, the average pass rates increased when the state took over the supervision over the entrance exams (Table 5.1). The number of candidates increased, as did the number of law graduates entering the bar training.

Table 5.1 Pass Rates and the Number of Successful Candidates before and after the Introduction of the New Entrance Examinations to the Bar Training in 2005

	2000–2004	2005–2017
Average pass rate (%), entrance exam for advocate training	31.6	49.1
Average pass rate (%), entrance exam for legal advisor training	26.9	41.3
Average number of candidates who passed the examinations for advocate trainee	293	1,583
Average number of candidates who passed the examinations for legal advisor trainee	760	2,307

SOURCE: Polish Ministry of Justice.

Data from the Polish Ministry of Justice show the number of candidates for an advocate trainee or a legal advisor trainee who passed their entrance exams under the new regulations in December 2005 (1,822 out of 4,526—40 percent on average). These candidates began their training in 2006 and subsequently sat new professional examinations in mid-2010. A total of 1,423 out of 2,086 (68 percent) passed these exams and enlisted as advocates or legal advisors by the end of 2010. Other cohorts followed. Thus, after 2011 the full effects of the 2005 reform could have been observed.

Table 5.2 Number of Lawyers Who Passed the Professional Examinations with or without Prior Bar Training in 2009–2015

Number of candidates taking:	With prior bar training	Without prior bar training	Total
Advocate examination	6,953	354	7,307
Legal advisor examination	12,383	925	13,308
Total	19,336	1,279	20,615

NOTE: In December 2009 only lawyers without prior bar training could seat professional examinations.

SOURCE: Polish Ministry of Justice.

Average pass rates for both the advocate and legal advisor exams stood at 71 percent (data for 2009–2017). Multiplied by the pass rates for the new entrance exams to the bar training, they provide approximate chances for a law graduate to become (four years later) an advocate or legal advisor: 35 percent for the candidates for advocates and 29 percent for the candidates for legal advisors.¹

Furthermore, as a result of the reform, some candidates were exempted from the bar training and some from the professional examinations. The exemption from the bar training opened a path to both professions for 1,279 nontrainees who passed the professional examinations (from the first professional examinations in 2009 to 2015). They account for 6 percent of the total number of lawyers who passed the professional examinations.

An even larger number of lawyers (4,559) benefited from the second exemption, namely being exempted from both the bar training and the professional examinations. They account for 15 percent of the total registered advocates and legal advisors between 2009 and 2015 (Table 5.3).

Table 5.3 Number of Entries into the Registries of Advocates and Legal Advisors with and without a Prior Professional Examination in 2007–2015

Number of entries into the registry of:	With prior professional exam	Without prior professional exam	Total
Advocates	8,623	2,208	10,831
Legal advisors	16,538	2,351	18,889
Total	25,161	4,559	29,720

SOURCE: Polish Ministry of Justice.

In 2020, lawyers who obtained their professional title according to the amended, more transparent rules constituted around half of the total number of advocates and legal advisors in Poland (35,200 out of around 70,000). The total number of legal professionals (advocates and legal advisors) rose by 140 percent between 2005 and 2020. The number of practicing advocates increased from 6,191 to around 20,400, and that of legal advisors rose from 17,501 to 35,200. At the same time the number of advocates and legal advisors who had the professional title but did not practice increased substantially—from 6,600 by the end of 2004 to around 12,000 by the end of 2017. It is a heterogeneous group, comprised mostly of retired legal professionals, advocates who choose inactivity (such as parents on maternity/paternity leave; advocates cannot provide their services under an employment contract), or those who are not satisfied with their income and decide to follow a different professional path.

To this number one should add at least 5,000 unqualified lawyers (legal counselors) who opened up their businesses since 2004, when the monopoly of advocates and legal advisors in legal services was relaxed. Additionally, it should include an unspecified number of law graduates and other employees who managed to find a job in newly forming law firms. Widening the supply of legal services (measured by the number of practitioners) threefold—from 23,000 in 2004 to at least 60,000 in 2020—within the 15-year period is a significant achievement of the reforms. Its main social value lies in ensuring broader access to law for the society. More transparent exams as well as the exemptions stimulated higher interest in legal professions. Regulatory reforms allowed for a more efficient use of qualified labor.

DIMENSIONS AND MEASUREMENT OF QUALITY IN LEGAL SERVICES

Services in general, and legal services in particular, have three defining attributes: they are relatively intangible, they tend to be produced and consumed simultaneously, and they tend to involve the consumer in the production process (Stewart, Hope, and Muhlemann 2000). Service quality is multidimensional. These dimensions, according to Para-

suraman et al. (1988), are reliability, responsiveness, assurance, and empathy. The same applies to legal services. Empirical studies show importance of professional skills, marketing skills, reputation, and ethics for the success of legal professionals (Bialowolski and Weziak-Bialowolska 2021). Good quality legal service encompasses, among other things, availability of a lawyer (e.g., having offices open at hours convenient to clients or communicating with the customer on the telephone, email, and SMS), using clear and understandable language in the communication with a client, and setting out and adhering to clear pricing rules. Professional legal service is correlated with a greater likelihood of recovering disputed amounts of money and increasing the amount recovered (Ross 1980), a higher probability of winning a case in a trial (Hirshleifer and Osborne 2001), and better ability to collect information that matters, especially in common law jurisdictions where courts have less inquisitorial power than in civil law systems (Dewatripont and Tirole 1999).

Quality of legal services is inherently linked to the professionalism of the legal service providers (Boon 2010). This is demonstrated by the mere size of the codes of ethics in the *Model Rules of Professional Conduct* published by the American Bar Association (2018), which is hundreds of pages. Professional codes of conduct and deontology specify the principles and sometimes precise rules lawyers are required to follow. Qualified lawyers and members of the bar are expected to be competent, conscientious, diligent, honest, and prompt, and to respect rules of confidentiality or to act in an efficient manner. The codes govern four types of relations of a lawyer: with a client, with court and offices, with other lawyers, and with the bar or law society authorities (Boon 2014).

Lawyers usually tend to imply that “high quality” is an absolute that requires a service provider to be professionally qualified (Mayson 2016). However, high-quality service usually entails higher price, which excludes lower-income groups from consumption and lowers the value of service for the customers. A more comprehensive and commonly used approach consists then in defining quality in services as the “perceived service quality” by consumers, conceptualized as the gap between customer expectations and their evaluations of the performance of a particular service provider (Brady and Cronin 2001; Buttle 1996; Parasuraman, Zeithaml, and Berry 1985, 1988).

Consequently, measuring the quality of legal services may be conducted with the use of various instruments, including the opinions of customers, opinions of the peers and judges, indicators of substitution effects (e.g., replacing legal service with self-help), or indicators of the objective effects of the legal work (outcome). Other measurement tools include civil liability insurance premia (supposedly lower with high-quality legal services), results of negligence suits against lawyers and peer inspections in law firms (the bar verifies compliance of legal practices with some pre-defined standards), opinions of recruitment specialists (capable of identifying patterns in training and experience), or comparison of the technical requirements for lawyer candidates they have to face during bar exams (Masior 2017).

In this chapter, we use the following measures of quality: opinions of customers as expressed in the complaints they file, and opinions of the peers under the form of the procedural decisions they take in the administration of disciplinary matters in the bar associations. We find these measures to be particularly suitable for capturing low-quality legal services as complaints are filed, and the disciplinary proceedings are usually initiated as a reaction to perceived low-quality service.² Thus, we aim to take into account both the perspective of consumers, who usually focus on the soft skills of a lawyer—the facet of service easy for them to perceive—and technical knowledgeability of lawyers and their overall professionalism, as assessed by their peers, who usually check whether they adhered to law and to the rules of professional conduct.

DATA AND METHODS

Following the approach proposed by Ishida (2017), we investigate the number of reported complaints and disciplinary cases. To this end, we use the data gathered by the Polish Bar Council and the National Chamber of Legal Advisors, supreme bodies of the Polish bar associations. The Polish Bar Council has been providing summary reports since 1992 containing the relevant quality measures assessed over three-year periods corresponding to the term in office of advocates' representatives.³ Because of the lack of earlier data, the analysis was limited to 2010–2016.

Authorized and obliged by law, self-governing bodies (such as the bar associations) control professional conduct of their members (advocates, legal advisors, and trainees); examine complaints filed against their members; and, if necessary, hold them accountable for any violation of the rules of conduct. Rules of ethics are specified in the resolutions of the respective authorities of the bar associations. Codes of ethics regulate legal practice and relations with clients, courts, colleagues, and legal authorities. As such, we proxy the quality of legal services using the frequency and structure of wrongdoings committed by legal professionals. The data include reported breaches of rules of conduct as defined by the lawyers themselves.

Both the district bar councils of advocates and the district chambers of legal advisors handle the cases filed against their members. The cases are investigated by district disciplinary prosecutors and their deputies. Disciplinary prosecutors can file charges to a district disciplinary court (specifically, a request to initiate a disciplinary proceeding) against a member of the bar. If a peer advocate, legal advisor, or a trainee is found guilty, she can appeal to the Higher Disciplinary Court. All disciplinary courts are administered solely by lawyers who are members of the respective bar association.

The data on disciplinary cases describe the consecutive steps of the procedure. We interpret them as follows: should the number of cases exhibit a downward or stable trend as the effects of the reforms were unfolding after 2005 and particularly after 2010 (when newly selected advocates and legal advisors started to obtain the professional title), it would support the hypothesis that lowering the entry requirements did not negatively affect the quality of legal services.

Comparing complaint rates is a common method used to assess the quality of professional services under a number of regulatory regimes. The number of complaints depends on the extent to which a given population is litigious (Kleiner 2006) and on the awareness of legal rights to file complaints with the regulatory body. Filing a complaint is usually a first step in initiating a negligence suit against a member of the profession. It is also the only practical mechanism that allows customers to express their dissatisfaction with the service, even if a practitioner did his work diligently in technical legal terms.

In Poland, clients dissatisfied with the service they received have a right to complain to the bar about their legal representative. In the

advocates' bar association, the complaints are addressed in the so-called bureaus of complaints, which decide whether there is any sign of a violation of the professional conduct, and if so, pass the pending cases to a disciplinary prosecutor for investigation. In the legal advisors' bar association, a complaint is handled directly by a disciplinary prosecutor who decides whether to initiate a disciplinary investigation.

IMPACT OF THE REGULATIONS ON THE PROFESSIONALISM OF LAWYERS

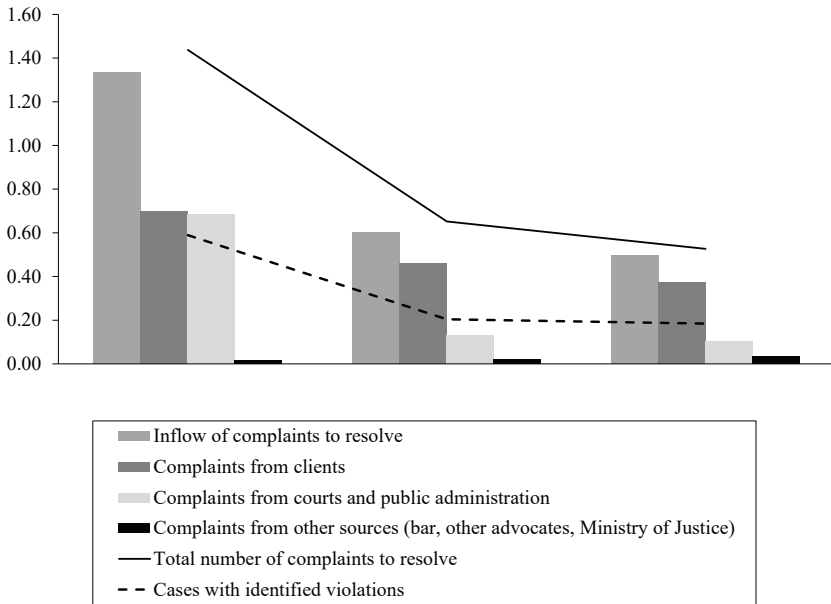
Advocates

Complaints or notifications of improper professional conduct are filed by both the lawyers' clients and also the courts, public administration, authorities of the bar, the Ministry of Justice, or other members of the bar (often an opposing party in a legal dispute).⁴

The number of complaints filed against practicing advocates (calculated relative to their number) and the number of cases with identified breaches of the rules of professional conduct show that the discontent about the advocates' performance gradually declined between 2004 and 2016 across all sorts of complainants (Figure 5.1). Judges and clerks in the public administration were less likely to complain against advocates, and this trend was also observed among clients. During 2013–2016, the last reporting period, 7,100 complaints were filed to 24 district bar councils, which translates to 0.5 complaints per practicing advocate over the three-year period (or 0.16 per advocate per year). Overall, the complaints are rarely filed against advocates.

Figure 5.2 shows that the frequency of the most common allegation, a breach of professional duties, fell by two-thirds following the reforms that opened the profession to newcomers. Although the distinction between the categories of allegations is decided subjectively by the bar associations and may not be rigorously respected, the professional duties usually describe the procedural obligations, such as meeting deadlines or participating in hearings. They can relate also to the conduct of the legal business, such as office equipment and signboard, records of cases and financial information, cases assigned by courts,

Figure 5.1 Complaints against Advocates Filed in All District Bar Councils of Advocates (per practicing advocate)



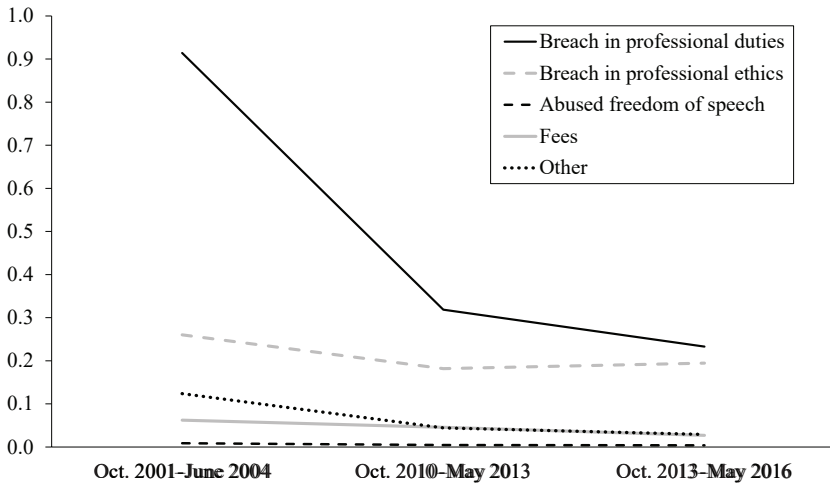
NOTE: The denominator is a three-year average of the number of practicing advocates.

The Polish Bar Council reports national data only once in 3 years for the full intervals; data for October 2004–June 2007 and October 2007–June 2010 were not gathered.

SOURCE: Polish Bar Council.

permitted cooperation with other lawyers and professionals, and other related issues. Duties in professional ethics on their part, as mentioned above, describe desired behavior of a lawyer (confidentiality, good manners, honesty, loyalty), and thus can possibly impact clients more directly than breaches in professional duties, which are meant to safeguard clients' interests usually more indirectly. For this reason, fewer allegations related to professional ethics than to professional duties is as positive of a message as the declining rate of breaches in the latter. The frequencies of other types of reported breaches in complaints, including unjust financial settlements with clients (fees) or abuses in the freedom of speech (insults or similar), remained stable at low levels or even slightly declined.

Figure 5.2 Complaints on Advocates by Type of Allegation
(per practicing advocate)

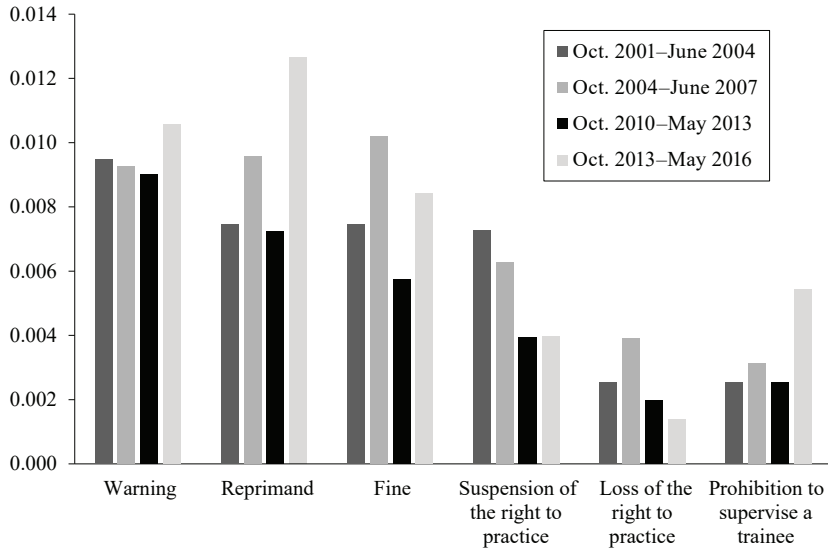


SOURCE: Polish Bar Council.

Despite increased inflow of cases for investigation to the disciplinary prosecutors in the bar councils of advocates between 2004 and 2013, the number of indictments remained relatively stable (Figure 5.1). It may point to relatively little substance in the charges filed.

The relative number of penalties imposed on advocates changed little over the 2001–2016 period (Figure 5.3). Their structure also remained quite similar, although the least severe penalties (warnings and reprimands) were imposed slightly more frequently. The harshest penalty, loss of the right to practice, has been imposed in only about 100 cases. In absolute terms the number of warnings increased from 52 in 2001–2004 to 152 in 2013–2016 (threefold), that of reprimands from 41 to 182 (more than fourfold), and the number of fines from 41 to 121 (threefold). However, given a threefold increase in the number of practicing advocates over that period (from 5,000 in 2001 to 16,000 in 2016), the frequency of penalties per practitioner remained at a very low level (4.2 percent in 2013–2016 for all penalties combined). These statistics are even lower if we consider only legally valid penalties (advocates may challenge the decisions of the first-instance disciplinary courts)—then the frequency of all penalties per practitioner in

Figure 5.3 Penalties Imposed by the First-Instance Disciplinary Courts, Both Legally Valid and Challenged (per practicing advocate)



SOURCE: Polish Bar Council.

2013–2016 drops to 2.8 percent (their structure remains similar to that observed for all the penalties).

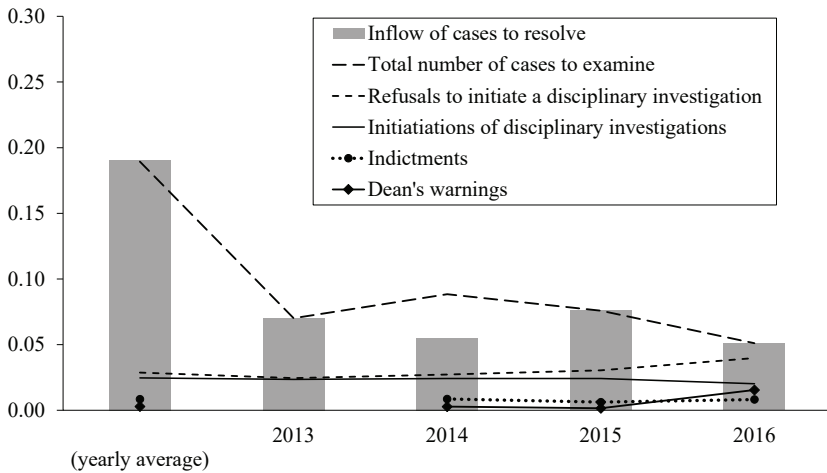
Notwithstanding their relative minor importance, one can expect that increases in the number of verdicts pointing to breaches in professional ethics—as well as in the number of issued warnings, reprimands, and prohibitions to supervise a trainee—can also be attributable to the more rigorous approach the disciplinary courts have adopted since 2013–2016 as compared to the previous periods.

Legal Advisors

The complaints against legal advisors are resolved by disciplinary prosecutors in the district chambers of legal advisors. Their validity is examined, and the prosecutor assigned to the case decides whether to initiate an investigation, refuse to do so, pass the case to the dean of chamber (in less severe instances) or to a different chamber, try to reach an amicable settlement, or drop the case. Once the prosecutors decide to investigate a case, they can also suspend it or quash an enquiry. Should

they find enough evidence against a legal advisor, they file an indictment to a disciplinary court. Similarly, should the dean conclude that a legal advisor committed wrongdoing, he or she can issue a warning. A comparison of the numbers of incoming cases between advocates (0.52 per practicing advocate in the period, mid-2013 to mid-2016) and legal advisors (yearly inflow multiplied by three—0.15 for the three-year period 2014–2016) shows that the frequency of misconduct claims against legal advisors is much lower (Figure 5.4); one reason may be their limited activity in litigation. Despite a short span of the time series, it is noticeable that there has been a decline in the number of cases filed to the chambers between 2010–2013 and 2013–2016 per practicing legal advisor, which may stem from a better conduct of legal advisors.

Figure 5.4 Number of Cases to Investigate by the District Disciplinary Prosecutors (per practicing legal advisor)

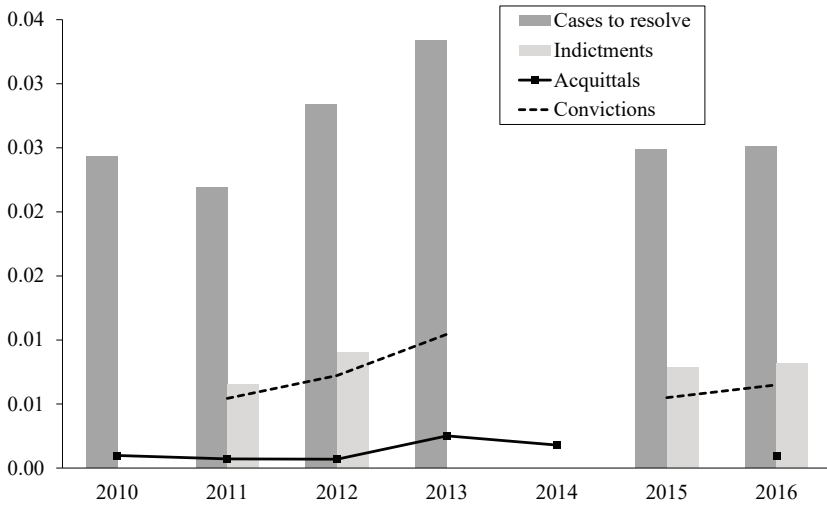


SOURCE: National Chamber of Legal Advisors.

Other indicators of the lack of professionalism, such as indictments and warnings, did not exhibit any significant time trend.⁵

District disciplinary courts of legal advisors received 500–900 cases yearly during the period 2010–2016 (Figure 5.5). The inflow remained steady at the level of 2.2–3.3 percent relative to the population of active

Figure 5.5 Inflow of Cases to District Disciplinary Courts of Legal Advisors (per practicing legal advisor)



SOURCE: National Chamber of Legal Advisors.

legal advisors. Most of the inflow can be attributed to the appeals from their refusals to file an indictment (1.2–1.6 percent).

Neither the dynamics of cases for investigation by the district disciplinary prosecutors in 2013–2016 nor the dynamics of cases registered in the district disciplinary courts in 2010–2016 exhibit any upward or downward trend. The share of acquittals and convictions in the rulings of the district disciplinary courts between 2010 and 2016 remained relatively stable, suggesting no deterioration in service quality.

The analysis of time series for rulings of the Higher Disciplinary Court of legal advisors in 2005–2016 allows for an identification of a stable upward trend in the number of penalties issued during the period 2005–2010. However, because the effects of the reforms became more apparent around 2011, the number of penalties has been fluctuating since, not exhibiting any particular trend.

Overall, our results show that a rapid increase in the number of legal professionals (that followed the deregulation) did not coincide with an increased number of reported misconducts. A declining num-

ber of complaints per practicing advocate, especially those originating from courts, also marks a significant professional improvement that accompanied the reforms. Performance of legal advisors matched that of advocates. Only a very low number of complaints on advocates and legal advisors led to subsequent charges and a conviction by a disciplinary court, a penalty, or a dean's warning.

CONCLUSION AND POLICY IMPLICATIONS

The Polish reforms present an interesting case study on reforming the entry criteria to the legal profession. Several waves of reforms brought about complex changes in the regime of rules of entry that, according to its proponents, aimed to strike the right balance between the private interests of the profession and the common good (public interest). Some of the changes included delicensing the legal counsel, which is the most important part of legal services, while implementing alternative and more transparent sets of requirements for aspiring lawyers. Maintaining a legal protection for their professional titles (*advocate*, *legal advisor*) reduced the need for delicensing some of the legal professions, while easier access to these professions contributed to an expansion in their availability. The data presented in this chapter do not point to a deterioration in the quality of service provided, at least in the sector served by the qualified lawyers. At the same time, they show an increase in the availability of the service as evidenced by the significant growth in the number of practitioners, a clear sign of the value added to the market. Some of this growth can be attributed to the emergence of a group of lawyers with lower levels of education (legal counselors), which would coincide with evidence from the existing literature (Timmons and Thornton 2017, 2019).

The partial deregulation of the market for legal services that occurred in Poland in 2004–2005 changed the institutional setting for legal work, advancing the logic of the market while limiting some of the most alarming examples of self-interested behavior of the bar associations. Leaving most of the rules of conduct unchanged and keeping intact the power of the self-regulatory bar associations helped to maintain the standards of professionalism on the market as defined by the

Polish Bar Council and the National Chamber of Legal Advisors. Also potentially contributing to the outcome are the ties the qualified lawyers, authorized to stand before a court, have with the unregulated law firms that guarantee the retention of the prereform licensing standards for courtroom representation (where the possible negative externalities of the low-quality legal services are likely to be the highest). It is worth mentioning that following the reforms, the bar training improved and the bars professionalized their operations (also because of more anonymous relationships among their members), communicating online and providing more workshops and support for their members, among others. The reforms produced a higher demand for legal education before the exams, which helped to create new preparatory courses, while the officials from the Ministry and the bar associations became more skilled in setting adequate requirements for the exams.

As Mayson (2020) put it, “No regulatory approach can ever be perfect nor can it eradicate all risks to the public” (p. ix). The burden and cost of regulation should be proportionate to the risks involved. It seems that, at least in Poland, there is still some room for improvement. Fair competition may require, for instance, that all practitioners and other providers of legal services are registered and, possibly, also subject to disciplinary liability or ombudsman investigation (Mayson 2020). At the same time, the requirements to obtain the professional title of *advocate* or *legal advisor* and to practice in these professions could be decreased or at least re-evaluated (Devlin 2017; Gordon, Shackel, and Mark 2012; Semple 2013). In Britain, Mayson (2020) finds that competences and ethics of qualified lawyers are not necessarily better than that of the unregulated lawyers. The rules of conduct relating to marketing practices or office premises could be relaxed to allow more space for competition that would help new entrants establish and expand their law firms. Such a reform can be justified on the basis that the junior lawyers are at an inherent disadvantage compared to their older peers as they usually have to build their own client base, and some of the standards imposed by the bar disproportionately constrain their entrepreneurial endeavors. This has become particularly apparent recently in Poland in an increasingly saturated market for legal services.

The Polish case also demonstrates that education, training, and assessment can be used as policy instruments to better meet consumers’ needs (Boud and Falchikov 2007). Instead of serving mainly law-

yers' needs, the exams were originally suited to meet the expectations of candidates and those of the general public. Since the relative number of disciplinary cases and complaints did not increase after 2009, when an ever larger group of legal professionals originated from those who joined the profession after the reforms, it is likely that the new requirements at the entry to the profession were adequately set without compromising professionalism. It is noteworthy that of the 39 jurisdictions surveyed by the Organisation for Economic Co-operation and Development (2018), 9 had professional examinations administered by the state jointly with a professional body.

Since disciplinary actions are taken only in cases where no other options remain and the functioning of legal professions rests predominantly on individual self-regulation, group identification, and peer pressure (Boon and Whyte 2019), it seems that additional changes, if any, in regulation of the legal services market should focus on the importance of acquiring ethical skills (professionalization).

Notes

1. Unfortunately, there are no data available on the pass rates at the professional exams administered until 2009 by the bar associations (each of 19 district chambers of legal advisors and 24 district bar councils of advocates separately) to conduct comparisons with the chances of becoming a lawyer immediately after the reform, 2005–2008.
2. See Białowolski and Masior for other approaches (2021).
3. To our knowledge, the National Chamber of Legal Advisors does not write or publish such comprehensive reports. However, the yearly statistics we were interested in are gathered on a local level by the district bar chambers, so the National Chamber of Legal Advisors gathered and aggregated them at our request. We are thankful both to the Polish Bar Council and the National Chamber of Legal Advisors for their valuable input.
4. There are reasonable grounds to assume that the propensity to complain in the Polish society did not change in the period under investigation (from 2000 to 2015). For example, the proportion of Poles who signed a petition in previous year remained constant and stood at 7–9 percent (Czapiński and Panek 2015).
5. Unfortunately, we were not able to obtain data for earlier periods.

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