

Collegio Carlo Alberto



Occupational Regulation in the European Legal
Market

Mario Pagliero

Edward Timmons

No. 284

December 2012

Carlo Alberto Notebooks

www.carloalberto.org/research/working-papers

Occupational Regulation in the European Legal Market

Mario Pagliero¹ and Edward Timmons²

Abstract

In this paper we provide a cross-country comparison of occupational regulation in the European legal market. Although EU growth and assimilation has resulted in some degree of unity in regulation, significant differences remain in licensing restrictions and in the characteristics of the labor force in the legal market of each country. We discuss the potential policy implications of these differences.

¹ Università di Torino and Collegio Carlo Alberto.

² School of Business, Saint Francis University.

1. Introduction

Occupational regulation is an increasingly important feature of modern labor markets (Kleiner 2006). The main rationale for occupational regulation is that it can decrease consumer uncertainty regarding the quality of professionals and provide incentives for investing in occupation-specific human capital. Occupational regulation takes three broad forms: registration, certification and licensing. Registration requires simply that the names of professionals operating in a professional market be recorded and accessible to the public. Certification implies that an independent agency (public or private), typically nonprofit, certifies the quality of professionals through examinations. Individuals without certification can still practice the profession, but only certified practitioners are allowed to use a particular title (e.g., “certified lawyer”), thus distinguishing them from uncertified practitioners. The strictest form of regulation is licensing, which requires all practitioners to have obtained the appropriate educational requirements and/or to have passed a specific licensing examination.

The case for occupational regulation is based on the existence of asymmetric information between professionals and consumers. When asymmetric information is sufficiently large, occupational regulation may be efficient: a social planner may design policies to increase the amount of information available to the public and/or to screen potential entrants, thus guaranteeing a minimum quality standard (Akerlof 1970, Leland 1979, Shapiro 1986). Because of asymmetric information, the government typically cannot directly perform the screening of potential entrants and delegates the enforcement of minimum standards to professional associations, educational institutions, or specific government agencies.³

³ Regulation of the legal market may also be justified by the existence of positive externalities. High quality lawyers may in fact improve the efficiency of the legal system (Rubin and Bailey 1994, Grajzl and Murrell 2006). This second justification of occupational regulation is somewhat secondary in the literature.

However, occupational licensing may bring costs as well as benefits. A second view of licensing is that regulation is acquired by the industry and is designed and operated primarily for its benefit. This view can be traced back to Adam Smith (1776, I.x.c.5) and has been later developed by Stigler (1971). Based on this view early opponents of occupational licensing argued that certification could reduce asymmetric information without imposing the same cost on consumers (Friedman 1962). It is argued that certification (which restricts the use of professional title) provides consumers with information without restricting the supply of practitioners in a field.

Despite its commitment to achieving a common labor market, the European Union is still characterized by a highly fragmented legal market. The first objective of this paper is to describe entry requirements for admission to the legal profession. There are three main sources of heterogeneity across member states: a) member states differ in their basic approach to regulation: of the 27 member states, four require certification, whereas the others require licensing. Registration is not currently in use. b) states differ in the requirements to become a lawyer (certified or licensed, depending on the type of regulation). c) states differ in their requirements for the transfer of lawyers (and many other professions) across member states. This is still true in spite of a number of attempts to harmonize procedures for mutual recognition of professional titles, for example the Directive 2005/36/EC on the recognition of professional qualifications, which came into force in 2007 and it has since been amended several times, and the creation of a regulated professions database⁴.

A second objective of this paper is to shed light on the different roles that educational institutions, professional associations and government agencies play in implementing occupational regulation.

Occupational regulation can be implemented through educational standards, professional exams, or both.

When involved in occupational regulation, educational institutions typically certify the competence of

⁴ http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?action=homepage

candidates attaining minimum educational standards, such as a law school degree, granting them use of a title or access to a profession. Professional associations instead are typically involved in the organization of licensing examinations, such as the bar exam. When state regulatory agencies are involved in occupational regulation, they also tend to oversee professional examinations.

Research on occupational regulation generally ignores the identity of gate keepers, focusing instead on the impact of licensing requirements on various market outcomes, such as salaries and quality of the service provided (Kleiner and Kudrle 2000, Timmons and Thornton 2008, Pagliero 2010 and 2011a), the characteristics of new entrants in the market (Federman, Harrington and Krynski 2006), representation of minority workers (Law and Marks 2009), and the demand for professional services (Harrington and Krynski 2002). Pagliero (2011b) studies the determinants of entry requirements in the US market for lawyers. Law and Marks (2012) study the impact of the introduction of licensing into the nursing professions in the US, which, in the 1950s, were subject to certification.

The role of the gatekeepers is important for the current academic and policy debate on occupational regulation. Professional associations, for example, are likely to have better knowledge of the specific issues related to practicing a profession. Hence, according to the public interest theory, they seem to be the appropriate institution for setting entry standards. However, professional associations are also more likely to be captured by the private interests of incumbent professionals. In fact, in licensed occupations, workers typically vote for their representatives in the boards of the professional associations, but not in the boards of educational institutions or in government agencies. Hence, one may argue that licensing standards should be set by independent educational institutions, or government agencies, in order to avoid capture.

The tension between these two opposing views is particularly relevant for economic policy at the EU level, as the different institutions may respond differently to attempts to change the overall regulatory

framework. The distinction between educational institutions and government agencies may be less apparent in states such as France, Belgium, and Italy, where the educational institutions are typically public. Still, the influence of the incumbents and the amount of profession specific knowledge may be quite different between the two types of institutions. Finally, the identity of the gatekeepers is highly relevant for the applicability of competition rules in professional markets (Andrews 2002; Paterson, Fink and Ogus 2003; European Commission 2004).

This paper uses information from the European Labor Force Survey to describe several characteristics of the legal profession in the EU member states. The number of lawyers per capita is very different across states, and the gender composition of the profession is also quite different. The states are similar, however, in that mobility of lawyers across states is extremely limited virtually everywhere in the union. Moreover, despite significant differences in entry regulations, the educational attainment of individuals working in the legal profession is quite similar throughout Europe. The European Labor Force Survey does not provide reliable data on lawyers' salaries. However, the Structural Business Statistics provide evidence on added value per employed person, which varies greatly across EU member states.

The paper is organized as follows. Section 2 describes the differences in regulation of the legal market in the 27 EU member states and highlights the role of educational institutions and professional associations. Using European Labor Force Survey and Structural Business Statistics data, Section 3 provides a snapshot of legal professionals in the EU. Section 4 discusses the implications of our findings within the broader policy debate.

2. Occupational regulation in the European legal market

This paper focuses on the 27 current member states of the EU. We also include specific information for each member of the UK (England, Gibraltar, Northern Ireland, Scotland, and Wales). Information on

state-specific regulation comes mainly from Nascimbene (2009). Our data is supplemented with information from the European Judicial Network and also, in some cases, by examining the statute or law governing the profession in the member state. Most of our analysis is concerned with differences across states in regulation, as implemented in December 2010. However, we sometimes discuss interesting changes in regulation and briefly comment on the general trends in regulation over the past 10 years.

Regulation in the legal market is pervasive. We do not attempt to describe all the important issues related to regulation of the legal market and lawyers' conduct. In this paper, we focus on three aspects of regulation: the overall type of regulation, entry requirements, and requirements for transfer across states. We focus on these aspects because the existing literature suggests that they will greatly affect important economic variables such as the number of lawyers operating in the market, their salaries and the quality of the services provided.

2.1. Registration, certification or licensing?

As shown in Table 1, legal practitioners are required to have a professional license in almost all European states. The exceptions are Denmark, Finland, The Netherlands, and Sweden, where a system of certification is used instead. In some states different tasks are assigned to different groups of professionals. For example, historically in England, Ireland, Northern Ireland, and Wales, barristers typically represent individuals in court (particularly in the higher courts in the UK). Solicitors act as the intermediary between a client and a barrister. Scotland has a similar system with advocates in the place of barristers. In addition, solicitor-advocates are permitted to perform both functions. This distinction is gradually disappearing, however, and has disappeared completely in Gibraltar.

Spain distinguishes between professional tasks related to the client relationship (e.g., advising clients and court representation) and those involving purely procedural aspects (e.g., filing paperwork and checking on

the status of the case). The client relationship is tended to by *abogados* and the procedural matters are conducted by *procuradores*. In most cases, clients in Spain will need to hire both an *abogado* and a *procurador*.

The last two states with two distinct professions are Portugal and Malta. *Solicitadores* can represent clients in the lower courts in Portugal, but are not permitted to offer legal advice or appeal a court's decision. Only *advogados* are permitted to perform the latter. The distinction is very similar in Malta with legal procurators performing the role of *solicitadores* and advocates in the place of *advogados*. As in Spain, clients in Portugal and Malta will also typically need to obtain the services of both legal professionals.

2.2. Entry requirements in the legal market

Requirements for entry into the profession or for using a legal professional's title vary significantly across member states. They typically include

- 1) a university law degree
- 2) an academic or preliminary exam
- 3) a period of training or apprenticeship
- 4) an entry exam (e.g., the bar exam)

We also attempt to identify which institution plays the largest role in establishing entry barriers into the profession (e.g., writing and grading exams, setting the length of training periods). In many cases, the national legal professional association (or bar) is autonomous and sets the requirements. In other cases, another institution (the government, universities, or both) is in charge. In yet other cases, the responsibility for setting the entry requirements seems to be shared between professional associations and another institution. We identify these countries as "mixed."

The length of required university study varies widely. Solicitors in the UK and Ireland need only 3 years of university study and can also typically bypass obtaining a formal degree in law by passing an examination. In Malta, on the other hand, advocates are required to have a doctoral degree in law (6 years) to practice. The mean length of required university study across all countries and legal professions is 4.3 years.

Roughly half (12) of the 27 EU members require potential entrants into at least one of the legal professions to pass a qualifying exam or preliminary exam. This exam is typically academic in nature and might focus on legal theory, legal history, or other legal subjects. As stated previously, solicitors in the UK and Ireland can forgo formal legal study by passing a qualifying exam. Some entrants in Poland can bypass an academic exam if they document sufficient legal experience.

Nearly all EU members require a period of training or apprenticeship prior to practicing (or using the formal title of) the legal profession. Spain is the lone exception and does not require *abogados* or *procuradores* to complete a period of vocational training. In fact, until 2010, *abogados* and *procuradores* were free to practice in Spain immediately after completing University study.⁵ For all other members, training periods vary from as little as 1 year (Cyprus, Malta, and Gibraltar) to as long as 5 years (Austria and Sweden). The mean length of required training across all EU countries and professions requiring a period of training is approximately 2.3 years.

Most EU members also require potential legal professionals to pass an entrance exam. Bulgaria, France, Slovenia, and Spain are the only 4 members to not require an entrance examination. Northern Ireland and Ireland require solicitors to pass an entrance exam, but not barristers.⁶ The subjects tested on this second exam are typically more applied than the preliminary exam and might cover topics including professional ethics, elements of professional practice, etc.

⁵ A new law taking effect in 2011 requires both legal professionals in Spain to pass a vocational test.

⁶ Although barristers in Northern Ireland and Ireland do not have to pass an entrance exam, the process of becoming a barrister is much more onerous than that of solicitor. For example, the number of apprenticeships in Northern Ireland is fixed each year by the bar.

In the final column of Table 2 we identify (using our classification scheme described above) who is largely responsible for setting and enforcing the requirements for entry into or obtaining the ability to use a title of the legal profession. For nearly two-thirds of the EU members (17 states), the bar or professional association plays the largest and most significant role. In the Netherlands and France universities are largely responsible for grading and preparing the examinations. In Germany the government mostly sets the standards, administers the exam, and determines the major topics that will be included on the test. In Malta, the responsibility is shared between the government and the University of Malta. Some of the requirements are set by the University, but each applicant also must apply for a special warrant from the President of Malta. For each remaining state, the power is shared by some combination of the professional associations and either universities or the government.

After observing differences across the EU members a few observations are in order. First, there is some overlap in regulation for countries with similar languages. For example, both the UK and Ireland have a similar set-up with two separate professionals in the legal profession. Barristers, in particular, have a large degree of autonomy in setting standards. In both countries, the professional associations play a major role in setting entry requirements. Overall, however, there is significant variation in the degree of autonomy and the power of the bars across EU members. Germany and Austria share a language, but have very different entry standards for lawyers. In Austria, the professional legal associations (the bar and Academy of Lawyers) have more autonomy and authority in setting standards than in Germany where the state organizes, sets, and coordinates the entry standards for the profession. Although the legal systems and language are similar, Austria requires a vocational training period that is 3 years longer. Trainees in Germany are also entitled to more attractive pay and benefits working as civil servants during their apprenticeship.

2.3. Requirements for transfer from other member states

One of the goals of the European Commission (Article 3) is to allow free movement of people and services. This has led to a trend toward a common European labor market and the unification of the legal professions. However, the assimilation of the legal professions has proceeded very slowly due to the differences in organization (e.g., barristers and solicitors in the UK and Ireland), legal systems, and historical precedent.

As part of directive 89/48/EEC of the European Commission, law degrees from EU members that require at least 3 years of schooling should be recognized by all EU members. Member states are also allowed to require “aptitude tests” or an “adaptation period” of a specified length before allowing the EU lawyer to practice. States may also require additional paperwork and/or language requirements as long as they are not deemed to be too onerous.

In Table 3 we note whether each member state required an “adaptation period” or experience requirement or sometimes requires an “aptitude test” of EU qualified lawyers entering and practicing within the country. We do not specify these requirements for the professions that are unique to the home country (legal procurators in Malta, solicidores in Portugal, and procuradores in Spain). Eight of the EU members in some cases might require EU lawyers to undergo an “adaptation period” prior to obtaining a license or title. These periods are typically 3 years, however, Ireland specifies only 1 year for EU lawyers looking to practice as barristers.

Aptitude tests are much more commonly required for potential lawyers (17 members). In 5 states (Czech Republic, Ireland, Italy, the Netherlands, and some of the UK) potential lawyers are given the option of meeting the experience requirement or passing the test. The test is either written, oral, or sometimes both

(potential barristers in England, Wales, and Ireland may have to pass a written and oral aptitude test prior to obtaining a license).

Some states clearly specify specific professions, or even specific countries, that a lawyer can obtain a license or title and then freely practice. For example, Portugal clearly states that it recognizes titles and licenses from Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Spain, Sweden, and the UK. Lawyers from these countries can practice as *advogados* after registering with the Portuguese Bar Association. For other lawyers practicing in other EU countries, the process of practicing in Portugal is more difficult.

3. Some evidence on economic outcomes

We now compare countries using data from the European Labor Force Survey, which is a repeated cross section of the labor force in EU member states. We use information for 2008 only because before that year the description of occupations is too coarse. We extract observations for individuals classified as legal professionals based on the ISCO classification of occupations (ISCO 3 digit code 242 for “legal professionals”) and working in the “professional, scientific and technical services industry” (NACE code "M" for the economic activity of the local unit in which the individual works). We further restrict the sample to individuals with a university degree or higher to capture the qualifications typically required to those practicing the legal profession.⁷ Note that our selection excludes judges and lawyers who work for the public sector. Overall, we have 5,906 individual level observations from 23 countries.

Certification puts less restrictions on the supply of legal professionals than licensing. Hence, one may expect the legal profession to be larger in states with certification than in states with licensing. We estimate the number of legal professionals in each country (using the appropriate sampling weights). The size of the

⁷We also include in the sample apprentices with a university degree in legal studies (who may or may not be working for a salary).

legal profession is hugely different across countries (Table 4). However, the average size of the legal profession is not larger in countries with certification. (If anything, the legal profession seems to be smaller in those countries).

This also holds if we look at the number of licensed or certified lawyers, as reported by the country's bar association (Table 5). The number of licensed or certified lawyers may be different from the number of legal professionals for three reasons. First, there may be a number of licensed lawyers who do not work as lawyers but keep their license (e.g., in Italy over 50,000 licensed lawyers were reported to be inactive in 2006). Second, there may be legal professionals who work in the legal industry under the supervision of licensed or certified lawyers without being licensed or certified themselves. Hence, they are covered by the labor force survey but they are not affiliated with the bar association. Third, in countries where the profession is certified, some professionals may in principle work independently without being part of the bar association.⁸

Why are countries with certification not flooded by (possibly unqualified) lawyers, since there is no bar exam? This is a simple, yet puzzling, descriptive result. One possibility is that more powerful professional associations obtain favorable entry regulation and also policies that increase demand for lawyers. This must have a positive effect on salaries, but the effect on the size of the profession is ambiguous. For example, Winston, Crandall and Maheshri (2011) argue that the American Bar Association has been particularly successful in restricting the number of entrants in the legal market and also in lobbying for policies that increase the demand of legal services. A second explanation may be based on differences in selectivity of

⁸ When comparing the ratio of certified or licensed lawyers in Table 5 to legal professionals in Table 4, one may expect the ratio to be smaller in certified states than in licensed states. In certification states, however, survey respondents may be reluctant to use the title of legal professional in fear of violating certification law. This may result in licensing and certification having similar effects on reported numbers (but not actual numbers) of professionals.

law schools. In Italy, for example, there are little restrictions on entry into law schools and relatively low university fees. This may increase the size of the profession in spite of strict bar exam requirements.

Educational attainment

Our sample includes only individuals with a university degree or higher. However, in states with certification, regulation does not prevent individuals with less than a university degree from working in the profession. Hence, certification may lead to a race to entry of low quality competitors. If the quality of practitioners is unobservable, this may even lead to the collapse of the market (Akerlof 1970). In the policy debate, the fear of entry of unqualified practitioners is also often mentioned as a reason to implement licensing regulations. To explore this possibility, we select a larger sample of individuals from the 2008 European Union Labor Force Survey. As before, we select individuals working as legal professionals in the service industry, but now we keep in the sample individuals with any educational attainment.

Surprisingly, the sample size increases by only 2.8 percent. Table 6 shows that the majority of individuals working in the European legal services industry have a university degree. Differences across countries are small, and there are no significant differences between countries with certification and licensing. This suggests that licensing regulation may not be binding in terms of educational requirements. A university degree seems to be the common requirement for working in the industry, no matter how the profession is regulated. (However, university degrees can have different length, as described in Table 2.) This level of educational attainment is likely to be directly required by consumers in each country, or indirectly through the hiring decisions of law firms. Convergence towards common educational standards is unlikely to be the result of lawyers' mobility across countries, since foreign practitioners are still rare in most countries (Table 8).

Added value statistics

Structural business statistics (SBS), published by Eurostat, are based on a representative sample of enterprises or part of enterprises (local units) and cover industry, construction, trade and services. Results are reported according to a detailed activity classification, which includes “legal activities”. We extract figures on the number of persons employed and the added value in this sector, and compute the added value per person employed (Table 7). Differences in added value per person are large. Luxembourg stands out with a value that is more than three times the average. Overall, states with certification do not seem to have systematically lower added value per person, as one may expect given the absence of significant barriers to entry, which may be expected to lead to lower profits and wages in the industry.

However, comparing added value statistics across states is difficult. The two components of added value (operating surplus and personnel costs) are affected by the overall level of prices in the state, and the second component is likely to depend on the overall regulation of the labor market in the state. While the impact of the overall level of prices can be accounted for using price level indices (Table 7, column 4), the impact of differences in labor markets is more difficult to account for. A second problem is that structural business statistics aggregate individuals performing different tasks. In Table 7, the number of persons employed includes lawyers (partners and employees of law firms), apprentices, and other workers of the local unit (e.g., secretaries). Comparison with figures in Table 4 shows that the number of non-legal professionals is often substantial. Third, differences in added value per capita may be the result of differences in productivity. In fact, the proportion of employees among legal professionals varies substantially (Table 8), suggesting that law firms are organized very differently across states.

Regulation, discrimination and the structure of law firms

Licensing may affect the representation of minorities (e.g., women and foreigners) into the profession. This can be for two main reasons. First, licensing regulations and examinations may disadvantage minorities, as

meeting the mandatory standards may be more costly for them. Second, mandatory entry requirements may be explicitly targeted at excluding minorities. In both cases, although for different reasons, licensing laws may decrease the proportion of minorities in the regulated profession. The actual effect of licensing on minorities has been the subject of debate for many years (for two recent contributions, see Federman, Harrington and Krynski 2006, and Law and Marks 2009).

Are entry requirements in the legal profession discriminating against women? Table 6 reports the proportion of women in the legal profession in EU countries. There are fairly large differences across countries in the proportion of women in the profession, but there is no evidence that the licensing requirements discriminate against women. The proportion of women is on average 11 percent higher in countries with licensing. Are entry requirements discriminating against foreigners? Table 6 shows that the proportion of foreign born professionals is tiny (with the notable exception of Luxembourg).⁹ There are no significant differences between countries with certification and licensing. Our measure of entry requirements in Table 3 is not significantly correlated with the number of foreign born lawyers. We should point out though that the proportion of foreigners in this industry is so small that our statistical tests have little power and should be taken with caution.

Finally, we look for any discrepancies in the structure of law firms across regulatory regimes in the EU. If lawyers are working for a firm, the firm will screen job applicants based on observable characteristics (e.g., education). If the requirements of employment are similar to the requirements for licensing it is possible that the effects of licensing may be small, or at the very least, similar to the effects of certification. On the other hand, certification does not restrict the labor supply in the legal market. Hence, law firms may hire

⁹ Although Luxembourg has the highest proportion of foreign lawyers, it is interesting to note that Luxembourg also once had very strict language requirements for foreign lawyers. Prospective lawyers could practice only after demonstrating fluency in *all three* languages of Luxembourg (French, German, and Letzeburgish). Luxembourg was found to be in violation of directive 89/48/EEC by the European Court of Justice. Whether or not the Luxembourg Bar Council was seeking rents or the public interest cannot be precisely determined.

more legal professional when certification is in place, relative to stricter licensing regulation. This may generate larger law firms and a higher proportion of legal professional working as employees.

Table 8 shows that there are large differences in the proportion of employees in the industry, relative to the total number of professionals. There are 18 percent more employees in countries with certification. This highlights differences in how law firms are organized, with more uncertified lawyers working under the supervision of one certified professional. Although the evidence is not conclusive, the results in Table 8 suggest that occupational regulation may affect the internal organization of law firms. This is an interesting topic for future research.

4. Conclusions

This paper shows the large differences that still exist across member states in terms of occupational regulation, in spite of strong efforts toward harmonization of regulation in the legal industry. First, the identity of gatekeepers varies across countries. Not only professional associations, but also educational institutions and government agencies are directly involved in setting entry requirements in legal markets. Each institution may have different incentives when setting entry standards. Hence, this type of heterogeneity should be taken into account in future work on the legal profession.

From the point of view of competition law there is a “potential tension between, on the one hand, the need for a certain level of regulation in these professions and, on the other, the competition rules of the Treaty” (Paterson, Fink, Ogus 2003). The identity of the gatekeepers is important, as there is a significant difference between the potential liability of professional bodies and that of the Member States. Regulations adopted by professional bodies are decisions of associations of undertakings capable of infringing the prohibition contained in Article 81 EC. State regulation which imposes or favors anti-competitive conduct or reinforces its effects, infringes Articles 3(1)(g), 10(2) and 81 EC.

A second source of variability in regulation across countries is the overall regulatory framework. The legal profession is not universally licensed, as in the US. The existing economics literature suggests that lawyer licensing boards in the US seek to increase rents at the expense of consumers (Pagliero 2011a) and that the potential supply of practitioners may lead to stricter licensing standards (Pagliero 2011b). Certification is used in Denmark, Sweden, the Netherlands and Finland. A recent study by Timmons and Thornton (forthcoming) suggests that certification has a much smaller effect on wages than licensing in the massage therapist profession. The main justification for occupational licensing is to protect the public from unqualified practitioners: if allowed, low quality practitioners would increase the supply, decrease prices and quality, and reduce incentives to invest in quality. However, states with certification do not seem to have experienced massive entry of new lawyers or to have less qualified legal professionals. Their legal professions, though, seem to be organized differently, with a higher number of employees relative to self-employed (probably caused by larger law firms). These observations seem to be consistent with the existing literature discussed above.

From the economic point of view, certification discloses private information without the disadvantage of restricting entry into the profession. The existence of such fundamental heterogeneity in regulation in the EU is evidence in favor of the feasibility of market regulation based on certification rather than licensing. We believe this variability in regulation across countries may prove useful in future work on occupational licensing in the EU. In fact, we are not aware of any systematic empirical study that exploits differences between certified and licensed legal markets. However, the availability of comparable data for EU member states remains a major challenge for researchers in this area.

Overall, the policy debate in the EU has mainly focused on the issue of harmonization of state regulation. While increased harmonization may certainly help the creation of a common labor market, more effort should be devoted to understanding the advantages and disadvantages of licensing versus certification, an

option that has some theoretical advantages and has been shown to be viable in some European countries. Certification severs the link between the provision of information and entry regulation without necessarily affecting the specific form of screening and organization chosen by member states. If professional associations, law schools, and government agencies provide useful information to consumers, a change from licensing to certification may not affect at all their role in screening candidates and setting entry requirements.

Such a policy change may lead to the formation of a second group of non-certified lawyers, not part of the existing Bar Association, which may serve new segments of the market and/or actively compete with certified lawyers for existing business. In principle, competing minimum quality standards (corresponding to different bar associations) may emerge within a state, although this does not seem to have happened in practice in the countries that have adopted certification.¹⁰ Certification would also bypass the need of mutual recognition of professional titles, which has proven to be difficult to implement in practice. Current requirements could be maintained as requirements for certification, as opposed to requirements for legally practicing within a member state.

¹⁰ The introduction of solicitor advocates in the UK created competing groups of licensed professionals. However, this was not the result of the introduction of certification instead of licensing.

References

- Andrews, P. (2002). Self regulation by professions - the approach under EU and US competition rules. *European Competition Law Review* 23.
- Akerlof, G., 1970. The market for lemons: quality uncertainty and the market mechanism. *Quarterly Journal of Economics* 89, 488–500.
- European Commission (2004). Report on Competition in Professional Services.
- Federman, M., D. Harrington, and K. Krynski (2006, May). The Impact of State Licensing Regulations on Low-Skilled Immigrants: The Case of Vietnamese Manicurists. *American Economic Review* 96 (2), 237-241.
- Friedman, M. and S. Kuznets (1945). Income from independent professional practice, NBER.
- Friedman, M. (1962). *Capitalism and Freedom*. University of Chicago Press, Chicago.
- Grajzl, P. and Murrell, P. (2006), *Lawyers and Politicians: The Impact of Organized Legal Professions on Institutional Reforms*, *Constitutional Political Economy*, 17, 251-276.
- Harrington, D. and K. Krynski (2002). The effect of state funeral regulations on cremation rates: Testing for demand inducement in funeral markets. *Journal of Law and Economics* XLV, 199–225.
- Kleiner, M. M. (2006). *Licensing Occupations: Ensuring Quality or Restricting Competition?* Upjohn Institute.
- Kleiner, M. M. and R. T. Kudrle (2000). Does regulation affect economic outcomes? The case of dentistry. *Journal of Law and Economics* 43, 547-582.
- Federman, M. N. , D. E. Harrington and K. J. Krynski (2006). The Impact of State Licensing Regulations on Low-Skilled Immigrants: The Case of Vietnamese Manicurists. *The American Economic Review*, 96 (2), 237-241.
- Law, M. and M. Marks (2009). Effects of occupational licensing laws on minorities: Evidence from the progressive era. *The Journal of Law and Economics* 52 (2), 351-366.
- Leland, H.E., 1979. Quacks, lemons and licensing: a theory of minimum quality standards. *Journal of Political Economy* 87, 1328–1346.
- Nascimbene, B. (2009). *The Legal Profession in the European Union*. Kluwer Law International BV, The Netherlands.
- Pagliari, M. (2010). Licensing Exam Difficulty and Entry Salaries in the US Market for Lawyers. *British Journal of Industrial Relations* 48, 4, 726-739.

- Pagliari, M. (2011a). What is the Objective of Professional Licensing? Evidence from the US Market for Lawyers. *International Journal of Industrial Organization* 29 (4), 473-483.
- Pagliari, M. (2011b). The Impact of Potential Labor Supply on Licensing Exam Difficulty in the US Market for Lawyers. Working paper no. 53, Collegio Carlo Alberto.
- Paterson, I., M. Fink, and A. Ogus (2003). Economic Impact of Regulation in the Field of Liberal Professions in Different Member States. Institute for Advanced Studies, Vienna.
- Rubin, P. H. and Bailey, M. J. (1994), The Role of Lawyers in Changing the Law, *Journal of Legal Studies* 23, 807-831.
- Shapiro, C. (1986). Investment, moral hazard and occupational licensing. *The Review of Economic Studies* 53, 843-862.
- Smith, A., 1776. An inquiry into the nature and causes of the wealth of nations. Methuen and Co., Ltd, London.
- Stigler, G., 1971. The theory of economic regulation. *Bell Journal of Economics* 2, 3–21.
- Timmons, E. J. and R. J. Thornton (2008). The effects of licensing on the wages of radiologic technologists. *Journal of Labor Research* (29), 333–346.
- Timmons, E. J. and R. J. Thornton (forthcoming). Licensing one of the world's oldest professions: massage. *The Journal of Law and Economics*.
- Winston, C, R. W. Crandall and V. Maheshri (2011). First Thing we do, let's deregulate all the lawyers, The Brookings Institution, Washington, DC.

Table 1. Occupational Regulation in the European Legal Market ("certification" or "licensing")

Country	C or L	Country	C or L	Country	C or L
Austria	L	Lithuania	L	United Kingdom	
Belgium	L	Luxembourg	L	England/Wales	
Bulgaria	L	Malta		<i>barrister</i>	L
Cyprus	L	<i>advocates</i>	L	<i>solicitor</i>	L
Czech Republic	L	<i>legal procurators</i>	L	Gibraltar	
Denmark	C	The Netherlands	C	<i>barrister</i>	L
Estonia	L	Poland	L	<i>solicitor</i>	L
Finland	C	Portugal		Northern Ireland	
France	L	<i>advogados</i>	L	<i>barrister</i>	L
Germany	L	<i>solicitatores</i>	L	<i>solicitor</i>	L
Greece	L	Romania	L	Scotland	
Hungary	L	Slovakia	L	<i>advocate</i>	L
Ireland		Slovenia	L	<i>solicitor</i>	L
<i>barrister</i>	L	Spain		<i>solicitor-advocates</i>	L
<i>solicitor</i>	L	<i>abogados</i>	L		
Italy	L	<i>procuradores</i>	L		
Latvia	L	Sweden	C		

Source: Nascimbene (2009) and the European Judicial Network

Table 2. Entry (or title) requirements in the legal market.

Country	University (years)	Academic Exam	Vocational (years)	Vocational Exam	Bar, schools, government
Austria	4-5	yes	5	yes	Bar
Belgium	5	yes	3	yes	Bar
Bulgaria	5	yes	2	no	Bar
Cyprus	3-4	no	1	yes	Bar
Czech Republic	5	no	3	yes	Bar
Denmark	5	no	3	yes	Mixed
Estonia	N/A**	no	1 --2	yes	Mixed
Finland	5	no	4	yes	Mixed
France	4	yes	1.5	yes	Mixed
Germany	4	yes	2	yes	Government
Greece	4	no	1.5	yes	Bar
Hungary	4	yes	3	yes	Bar
Ireland					
<i>barrister</i>	3-4	yes	1-2	no	Bar
<i>solicitor</i>	3*	no	2	yes	Bar
Italy	5	no	2	yes	Mixed
Latvia	4	no	2-5	yes	Bar
Lithuania	5	no	2	yes****	Bar
Luxembourg	4.5	no	2	yes	Bar
Malta					
<i>advocates</i>	6	no	1	yes	Government and Universities
<i>legal procurator</i>	3	no	1	yes	Government and Universities
The Netherlands	4	yes	3	yes	Universities
Poland	5	yes***	3-8	yes	Mixed

Country	University (years)	Academic Exam	Vocational (years)	Vocational Exam	Bar, schools, government
Portugal					
<i>advogados</i>	5	no	1.5	yes	Bar
<i>solicidatores</i>	3	no	1-1.5	yes	Bar
Romania	4	yes	2	yes	Bar
Slovakia	5-6	no	3	yes	Bar
Slovenia	3-4	yes	4	no	Bar
Spain					
<i>abogados</i>	4-5	no	0	no	Mixed
<i>procuradores</i>	4-5	no	0	no	Mixed
Sweden	4.5	no	5	yes	Bar
United Kingdom					
England/Wales					
<i>barrister</i>	3	no	2	yes	Bar
<i>solicitor</i>	3*	no	3	yes	Bar
Gibraltar					
<i>barrister</i>	3	no	1	yes	Bar
<i>solicitor</i>	3*	no	3	yes	Bar
Northern Ireland					
<i>barrister</i>	3-5	yes	3	no	Mixed
<i>solicitor</i>	3-5 *	no	2	yes	Mixed
Scotland					
<i>advocate</i>	4	yes	2.5	yes	Mixed
<i>solicitor</i>	5*	no	2	yes	Mixed
<i>solicitor-advocates</i>	(same as above, but take additional seminars [10 days] and pass additional exams)				

Source: Nascimbene (2009) and the European Judicial Network.

*: University study may be bypassed by passing an examination

** : Estonia does not specify a required length for a law degree.

***: In Poland the academic exam can be bypassed if the candidate has sufficient legal experience

****: In Lithuania, the vocational exam can be bypassed if the candidate has sufficient legal or academic experience.

Table 3. Requirements for transfer from other member states

Country	"Adaptation period"	"Aptitude test"	Country	"Adaptation period"	"Aptitude test"
Austria	0	yes	Portugal		
Belgium	0	yes	<i>lawyers</i>	0	no
Bulgaria	0	no	<i>legal agents (solicidatores)</i>	N/A	N/A
Cyprus	3	no	Romania	0	yes
Czech Republic	3	yes	Slovakia	0	yes
Denmark	0	no	Slovenia	0	yes
Estonia	0	no	Spain		
Finland	0	no	<i>lawyers (abogados)</i>	0	yes
France	0	yes	<i>court lawyers (procuradores)</i>	N/A	N/A
Germany	0	yes	Sweden	0	yes
Greece	0	no	United Kingdom		
Hungary	3	no	England/Wales		
Ireland			<i>barrister</i>	3	yes
<i>barrister</i>	1	yes	<i>solicitor</i>	3	yes
<i>solicitor</i>	0	no	Gibraltar		
Italy	3	yes	<i>barrister</i>	3	yes
Latvia	3	no	<i>solicitor</i>	3	yes
Lithuania	3	no	Northern Ireland		
Luxembourg	0	yes	<i>barrister</i>	0	yes
Malta			<i>solicitor</i>	0	no
<i>advocates</i>	0	no	Scotland		
<i>legal procurator</i>	N/A	N/A	<i>advocate</i>	0	yes
The Netherlands	3	yes	<i>solicitor</i>	0	no
Poland	0	no	<i>solicitor-advocates</i>	N/A	N/A

Source: Nascimbene (2009) and the European Judicial Network.

Table 4. The estimated number of legal professionals.

Country	Number of legal professionals	Population	Legal professionals per 1,000 persons
Cyprus	2,133	4,436,401	0.481
Estonia	732	1,340,935	0.546
Finland	3,332	5,300,484	0.629
Latvia	1,949	2,270,894	0.858
Romania	18,539	21,528,627	0.861
Denmark	4,786	5,475,791	0.874
Slovak Republic	4,825	5,400,998	0.893
Lithuania	3,155	3,366,357	0.937
Czech Republic	10,204	10,381,130	0.983
Sweden	9,186	9,182,927	1.000
France	66,364	64,007,193	1.037
Austria	9,901	8,318,592	1.190
Hungary	12,506	10,045,401	1.245
Portugal	14,113	10,617,575	1.329
Germany	127,781	82,217,837	1.554
The Netherlands	27,800	16,405,399	1.695
United Kingdom	105,380	61,191,951	1.722
Belgium	18,686	10,666,866	1.752
Ireland	9,386	4,401,335	2.133
Spain	123,114	45,283,259	2.719
Italy	179,479	59,619,290	3.010
Luxemburg	1,629	483,799	3.367
Greece	42,179	11,213,785	3.761
EU	797,160	453,156,826	1.759

Note: A legal professional is an individual classified as “legal professional” according to the ISCO classification of occupations (ISCO 3 digit code 242), working in the “professional, scientific and technical services industry” (NACE code "M" for the economic activity of the local unit), and with a university degree or higher. The mean number of professionals per 1,000 persons is 1.05 in countries with certification, 1.60 in countries with licensing, but the difference is not statistically significant (p-value 0.3).

Source: The number of professionals comes from our own calculations based on the 2008 EULFS micro data. Population is from Eurostat (2008 data).

Table 5. The number of licensed or certified lawyers.

Country	Number of lawyers	Population	Lawyers per 1,000 persons
Finland	1,810	5,300,484	0.341
Cyprus	1,781	4,436,401	0.401
Lithuania	1,590	3,366,357	0.472
Latvia	1,091	2,270,894	0.480
Sweden	4,503	9,182,927	0.490
Estonia	676	1,340,935	0.504
Austria	5,129	8,318,592	0.617
France	47,765	64,007,193	0.746
Czech Republic	8,020	10,381,130	0.773
Romania	16,998	21,528,627	0.790
Slovak Republic	4,595	5,400,998	0.851
The Netherlands	14,882	16,405,399	0.907
Denmark	5,246	5,475,791	0.958
Hungary	9,934	10,045,401	0.989
Belgium	15,363	10,666,866	1.440
Germany	146,910	82,217,837	1.787
Portugal	25,695	10,617,575	2.420
United Kingdom	155,323	61,191,951	2.538
Luxemburg	1,318	483,799	2.724
Greece	38,000	11,213,785	3.389
Spain	154,953	45,283,259	3.422
Italy	213,081	59,619,290	3.574
EU	876,671	453,156,826	1.935

Note: The mean number of licensed/certified lawyers per 1,000 persons is 0.67 in countries with certification, 1.58 in countries with licensing, but the difference is not statistically significant (p-value 0.18).

Source: The number of licensed or certified lawyers is obtained from the Council of Bars and Law Societies of Europe, 2008 data. Population is from Eurostat (2008 data).

Table 6. Estimated number of legal professionals by educational attainment.

Country	Educational attainment						
	Lower secondary	Upper secondary	Third level	Total	Lower secondary	Upper secondary	Third level
Austria			9,901	9,901	0.000	0.000	1.000
Belgium		227	18,686	18,914	0.000	0.012	0.988
Cyprus			2,133	2,133	0.000	0.000	1.000
Czech Republic		21	10,204	10,225	0.000	0.002	0.998
Denmark		25	4,786	4,811	0.000	0.005	0.995
Estonia			732	732	0.000	0.000	1.000
Finland	145	138	3,332	3,616	0.040	0.038	0.922
France	726	3,412	66,364	70,502	0.010	0.048	0.941
Germany		5,523	127,781	133,304	0.000	0.041	0.959
Greece			42,179	42,179	0.000	0.000	1.000
Hungary		184	12,506	12,690	0.000	0.015	0.985
Ireland			9,386	9,386	0.000	0.000	1.000
Italy	38	766	179,479	180,283	0.0002	0.004	0.996
Latvia		60	1,949	2,009	0.000	0.030	0.970
Lithuania		182	3,155	3,337	0.000	0.055	0.945
Luxemburg	23		1,629	1,652	0.014	0.000	0.986
Portugal		199	14,113	14,313	0.000	0.014	0.986
Romania			18,539	18,539	0.000	0.000	1.000
Slovak Republic			4,825	4,825	0.000	0.000	1.000
Spain			123,114	123,114	0.000	0.000	1.000
Sweden		74	9,186	9,260	0.000	0.008	0.992
The Netherlands	153	1,729	27,800	29,681	0.005	0.058	0.937
United Kingdom	1,856	7,918	105,380	115,154	0.016	0.069	0.915
Total	2,941	20,460	797,160	820,560	0.004	0.025	0.971

Note: Differences in educational attainment across states with certification and licensing are not statistically significant. For the definition of a legal professional see the note to Table 4.

Source: our own calculations based on the 2008 EULFS micro data.

Table 7. Added value and number of persons employed in the legal industry.

GEO/TIME	Number of persons employed	Value added (million €)	Value added per person (€)	Value added per person/ price index	price level index (EU 27=100)
Austria	20,895	1,337	63,977	58,695	109.0
Belgium	20,803	1,881	90,429	80,957	111.7
Cyprus	2,914	133	45,642	52,102	87.6
Czech Republic		711			73.1
Denmark	16,903	1,122	66,373	48,306	137.4
Estonia	1,649	42	25,591	36,455	70.2
Finland	4,796	391	81,505	69,425	117.4
France		13,089			112.8
Germany	240,734	13,127	54,529	52,533	103.8
Greece					89.7
Hungary	14,931	300	20,066	30,495	65.8
Ireland	20,977	1,933	92,158	75,726	121.7
Italy	214,808	10,284	47,877	47,450	100.9
Latvia	3,220	60	18,665	25,959	71.9
Lithuania	6,229	143	22,909	36,421	62.9
Luxembourg	3,270	578	176,697	152,457	115.9
Netherlands	54,952	3,134	57,032	52,954	107.7
Poland	36,936	790	21,375	31,620	67.6
Portugal	31,824	674	21,192	25,532	83.0
Spain	181,336	7,243	39,940	43,366	92.1
Sweden	12,594	1,336	106,106	90,922	116.7
United Kingdom	323,444	23,817	73,636	70,465	104.5
	1,213,215	82,124	59,247		

Note: Differences in added value per person across states with certification and licensing are not statistically significant.
 Source: Eurostat, 2008 annual detailed enterprise statistics for “legal activities” and price level indices.

Table 8. Gender, country of origin, and working status of legal professionals.

Country	Female ratio	foreign ratio*100	Proportion of employees
Austria	0.20	0.16	0.32
Belgium	0.46	1.65	0.25
Cyprus	0.41	0.63	0.60
Czech Republic	0.50	0.00	0.27
Denmark	0.24	0.72	0.58
Estonia	0.58	3.21	0.54
Finland	0.18	0.00	0.47
France	0.55	0.85	0.20
Germany	0.33	0.34	0.24
Greece	0.53	0.01	0.15
Hungary	0.49	0.01	0.30
Ireland	0.47	1.31	0.56
Italy	0.42	0.01	0.03
Latvia	0.74	0.80	0.77
Lithuania	0.45	0.17	0.67
Luxemburg	0.40	59.67	0.39
Portugal	0.54	0.92	0.20
Romania	0.55	0.00	0.82
Slovak Republic	0.37	0.04	0.32
Spain	0.41	0.08	0.23
Sweden	0.35	1.07	0.65
The Netherlands	0.41	0.39	0.57
United Kingdom	0.45	1.34	0.62
EU	0.44	4.4	0.25

Note: The (weighted) average female ratio is 0.11 smaller and the (weighted) average employee ratio is 0.18 higher in countries with certification. The (weighted) average foreign ratio is not statistically different in countries with certification or licensing. Similarly, the foreign ratio is not statistically different for countries using the different admission criteria described in Table 3. For the definition of a legal professional see the note to Table 4.

Source: our own calculations based on the 2008 EULFS micro data.

Table 9. Cross country variability in economic outcomes.

	N states	mean	sd	p25	p50	p75	Coefficient of variation
Educational attainment (proportion third level)	23	0.98	0.03	0.96	0.99	1.00	0.03
Female ratio	23	0.44	0.13	0.37	0.45	0.53	0.29
Proportion of employees	23	0.42	0.22	0.24	0.39	0.60	0.51
Value added per employed person	19	56,939	29,893	36,421	52,102	70,465	0.53
Legal professionals per 1,000 persons	23	1.50	0.92	0.87	1.19	1.75	0.61