

INDEPENDENCE OF LEGAL PROFESSIONS AND THE BAR AS A CONDITION OF QUALITY OF LEGAL SERVICES – POLISH EXPERIENCE

Lisbon, 25 October 2019

Joint CCBE-FBE Conference

Self-regulation and Quality in the
Legal Profession



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Warsaw Bar Association of Advocates

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Self-governance of legal professions in Poland

- Legal professions devoted to provide legal assistance and considered as of public trust:
 - advocates (adwokaci)
 - attorneys-at-law (radcowie prawni)
- Self-governance → provided for in the Polish Constitution (art. 17)

By means of statutes – self-governing bodies may be created to:

 - represent persons practicing professions of public trust
 - supervise the proper practice of such professions within the limits of, and for the purpose of protecting, the public interest

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Self-governance of legal professions

- Self-governance and the independence of legal professions bar associations
 - a *conditio sine qua non* of the independence of lawyers and of a proper execution of their missions (procedural justice, justified criticism toward the State)
 - a guarantee of the quality of services rendered
 - protection and support against the State interference
- Self-governance is not to protect the interests of a *corporation* but the public ones
- Without the lawyers independence within their practice and without the independence of the bar associations → [Risk] of intimidation, risk of educating State servants and labelling them „advocates”

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Self- governance of legal professions

- **Independence of the self-governing body, organised on a democratic basis**
- **Code of Ethics**
- **Development of professional capacities**
 - Initial training at the Bar school → a competence to organise admission and professional exams shared with the Ministry of Justice since 2005
 - Continued training → commissions and sections focused on specific areas of law
- **Disciplinary proceedings**
 - Unlawful or unethical conduct or a conduct contrary to the dignity of the profession or breach of professional duties
 - Investigation and I and II instance disciplinary proceedings – the competence of Bar Association bodies
 - Possibility of a recourse before the Supreme Court – Disciplinary Chamber

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Quality of legal professions

- What does the quality stand for? From which perspective should it be measured?
 - Quality as a result of meeting all requirements to be fulfilled by the lawyers
 - Quality of services
- Lawyers have the obligation to:
 - Pursue their mission with courage and integrity and in line with the law and ethics
 - Respect and protect the client-attorney legal privilege
 - Observe the principles of dignity, honesty, equity and social justice
 - Act in the best interest of their clients

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Impact on quality of legal services

- Influx of trainee lawyers and qualified lawyers
- Effective mentorship weakened
- Increasing competition on the market
- The offer of legal services does not correspond to the demand
- Mistrust generated by the governing majority in 2005
- Dean's competence to issue warnings or reminders
- Political interference into disciplinary proceedings distorts the very essence of such proceedings (→ not a proportionate measure in practice)

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Thank you for your
attention

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