

HIGHER EDUCATION OF LAWYERS: THE CENTRALIZED QUALIFICATION EXAM

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Abstract. *The research analyses the current situation of legal education in Latvia, Germany and United Kingdom. The current changes in the Latvian higher legal education system are mainly related to the introduction of the centralized lawyer qualification exam. The research aim is to find out the strengths and weaknesses of the centralized lawyer qualification exam, to offer practical solutions for improving the quality of higher education. The following primary methods have been used in the study: in order to assess the applicability of the new solutions in Latvia, the study analyzed the materials for the development of normative legal acts, opinions of lawyers and scientific literature. A summative content analysis was performed. In addition, the study is based on an analysis of the historical and contemporary experiences of United Kingdom and Germany. As a result of the analysis, it has been concluded that it is necessary to transform legal education programs not only at the master's level, but also at the bachelor's level. The future work will include the implementation of empirical studies in the field of analysis of training programs in Latvia. The research novelty: the research covers the challenges of implementing new measures and assesses the role of different actors in the transformation process.*

Keywords: *centralized qualification exam, competences, exam, lawyers, transformations in the Higher Education, quality assurance.*

Introduction

According to the World Economic Forum, the profession of lawyer is included in the list of the 10 most respected professions in the world. Doctors topped the global list of most respected professions, followed by lawyers and then engineers (WEC, 2019).

The basic tasks and duties of a lawyer's professional activity both in the European Union (including Latvia and Germany) and in United Kingdom are conceptually consistent. Namely, according to the position, a lawyer finds, analyzes, interprets and applies legal norms, develops, analyzes and certifies legal documents, provides legal opinions and legal assistance, provides legal advice and represents or defends the subject of rights, performs legal activities in civil proceedings, administrative proceedings, administrative in infringement proceedings, constitutional court proceedings and criminal proceedings and develops studies with scientific value in jurisprudence. A lawyer performs the work of a judge, prosecutor, sworn advocate, sworn notary, sworn bailiff and insolvency administrator and work in other professions that require the

professional qualification of a lawyer. A lawyer works in direct administration institutions, intermediate administration institutions, commercial companies, as an individual merchant or as a self-employed person, as well as in other organizations or institutions (CMRL, 2017).

The work of a lawyer affects important economic aspects, not only in the context of civil law and commercial law, but also in the context of criminal law. For instance, criminal offenses in the area of commercial relationships, especially in recent years, pose a number of problems for public security and the efficient development of the economy (Teivāns-Treinovskis, Jefimovs, Velika, & Krivins, 2022). Compared to other crimes, corruption (Krivins, 2018) has the greatest weight when examining the relationship between economic development and crime (Remeikiene, Gaspareniene, Fedajev, Raistenskis, & Krivins, 2022). Environmental crime causes irreplaceable and sometimes irreversible damage to the interests of society, the economy and the individual, violates the guaranteed right to a favourable environment, and lowers the level of public and national security (Vilks & Kipāne, 2022).

Taking into account the nature and public importance of the legal profession, each country, before granting the qualification of a lawyer, determines relevant requirements for the level of knowledge and skills, as well as determines the procedure by which this level can be checked. The aim of the research is to find out the strengths and weaknesses of the centralized lawyer qualification exam, to offer practical solutions for improving the quality of higher education in Latvia. This research is based on a rigorous scientific methodology that allows us to consider the problem from a neutral point of view. The novelty of the study: it is the first study that simultaneously compares the approaches of Latvia, Germany and the United Kingdom to the organization of the lawyer qualification exam. The new knowledge of this study: the research covers the challenges of implementing new measures and assesses the role of different actors in the transformation process, thus contributing to the existing field of research in law.

Methodology

The methodology of the article is grounded mainly upon the comparative method, which is used for the analysis and comparative of the institute of Lawyer qualification exam in Germany, United Kingdom, and the Republic of Latvia. The research process and the procedure were as follows. Firstly, setting up of a unit of comparison (the legal examination system) was performed. These three specific countries were chosen to be compared for the following reasons: Germany and the United Kingdom are countries that best represent two different legal systems - The Romano-Germanic Legal System and The common law. At the same time, lawyers in all three countries perform similar duties.

Secondly, Grounds of comparison were selected. Three basic aspects were compared in the legal examination system of United Kingdom, Germany and Latvia: 1) what considerations determined the introduction of the unified qualification examination for lawyers; 2) what grades must be obtained in order to successfully pass the exam; 3) what common problems have arisen after the introduction of the unified qualification exam for lawyers. Thirdly, Report (Research results - conclusions, fields of risk) was created.

At the same time other methods is also used in the work, namely: he method of legal hermeneutics, which is used for clarifying the content of the legal norms; method of legal case practice is used for illustrating the topic. The formal-legal method is used to provide a complex characteristics of the legal regulation of the institute of Lawyer qualification exam. Not only regulatory legislation and court practice, but also public discourse and expert opinions - previously approved (Krivins, 2014) research method, were used as research material. A historical method was used to analyze the process development in dynamics.

Research material and situation description

In the United Kingdom there is a distinction between Solicitor, Barrister and specialist lawyer. To become a Solicitor, you need to earn a qualifying degree in law (LLB) in university. This must be done before passing the Solicitors Qualifying Examination (SQE), which since 2021 replaces the previously standard Graduate Diploma in Law (GDL) and Legal Practice Course (LPC). The next step is to complete two years of qualifying legal work experience, which may include a training contract, before passing the Solicitors Regulation Authority (SRA) merit and aptitude assessment. You can then apply to be listed as a solicitor. To become a Barrister in England or Scotland, you need to go through 3 stages or training components. These include an academic component (obtaining a law degree) and a professional component - the Bar Professional Training Course (BPTC) and legal practice (pupillage). After passing all the stages of training, you can apply for the status of a barrister. (Kings, 2021). The general timescale therefore to become fully qualified after entering Law School can range between 6–7 years (Smith, 2022). To become a specialist lawyer, you don't have to go to university. By taking the CILEX Professional Qualification (CPQ) route, you could be a practising specialist lawyer in as little as three years. (CILEX, 2023).

According to information that is publicly available, to become a lawyer in Germany, one has to study law at university for four or five years. Then, one has to pass the First Examination in Law (Erste Juristische Prüfung), which is administered in parts by the Oberlandesgericht (Higher State Court) of the respective state and in parts by the university the person attends; the state part accounts for two thirds of the final grade, the university part for one third. The

First Examination is recognised as equivalent to an integrated Master's degree. However, it only provides a limited qualification and does not itself permit access to regulated careers in the legal field without further training. After the First Examination in Law, candidates that wish to fully qualify must participate in a two-year practical training period (Referendariat) including placements at a court of law, a public prosecutor's office, a public sector in-house legal team and a law firm (private practice) or private sector in-house legal team. At the end of this training, candidates must take and pass the Second State Examination in Law (Zweites Staatsexamen). Successful candidates of the Second Examination are called fully qualified lawyer (Volljurist). Classic legal training is two-stage: it includes studying law at a university and two-year practical training in various legal fields. The lawyer (Der Jurist) is broadly trained in the three major legal areas of criminal law, civil law and public law. In the course of the reform of legal education, university examinations have been integrated into the examination since 2003, which are taken in the focus areas chosen by the students. The state compulsory subject examination is still not conducted by the training provider itself, but by a state authority - Justizprüfungsamt (Wikipedia, 2023). The state examination part counts for 70% and the university part for 30% of the overall grade. The examinations to be performed in the state compulsory subject examination differ depending on the federal state. In the law studies and in both state examinations, the grading is based on an 18-point system (OAI, 2023).

Table 1 The content of Uniform State Professional Qualification Examination of a Lawyer in Latvia (according CMRL, 2019)

Nr.	Considering the uniformity and internal coordination of the legal system, the qualification examination shall test the knowledge, skills, and competences of a candidate in the following fields:
1.	criminal law and rights of criminal procedure
2.	civil law, rights of civil procedure, and commercial law
3.	constitutional law, administrative law, and rights of administrative procedure;
4.	international law and law of the European Union;
5.	law, philosophy of law, and history of the law of Latvia

In modern Latvia, the lawyer's qualification exam (Uniform State Professional Qualification Examination of a Lawyer) is organized in the following parts: the theoretical part, in which detailed answers to 15 questions are given in written form; the practical part, in which five practical tasks (cases) are solved in writing. The theoretical part in each field is successfully passed if the grade for each of the three questions in the relevant field is at least 4. Each solution to the assignment (case) in the practical part of the field of the qualification examination shall be evaluated on a 10-point scale. The practical part in each field is successfully passed if the grade for the assignment (case) is at least 4. The overall

grade for the qualification examination shall be determined by calculating the average grade from the total sum of the grades for the theoretical and practical part in each field (CMRL, 2019).

Uniform State Professional Qualification Examination of a Lawyer is a relatively new phenomenon - the exam is held twice a year from the summer of 2021.

Research Results

The analysis of sources, using the comparative method, method of legal hermeneutics, the formal-legal method, the historical method and public discourse, shows, that Latvia should pay attention to five risk groups that were also identified in Germany and the United Kingdom:

1. Creating the content of the exam. There is no doubt that the exam should test the theoretical knowledge necessary for a lawyer. However, what exactly - elementary basic knowledge or in-depth knowledge? In case the questions asked are very easy, the main objective of the exam will not be achieved. On the other hand, if the questions are too difficult, the proportion of students who pass the exam will be extremely low. Therefore, the question makers of the exam have to balance the difficulty of the questions. It should be taken into account that the questions must be adequate not only in terms of complexity, but also in terms of topicality - formulating questions that are rarely encountered in practice or specific are not supported. However, the question of what every lawyer should know and to what extent remains open and debatable.

2. Answer evaluation system. A prerequisite for a well-organized exam is a clear and understandable evaluation system. This allows us to provide an equal approach to the assessment of all works and obtain mutually comparable results. On the other hand, it is impossible to formulate strict and precise evaluation elements, because the same correct answer can be formulated in different ways. If the purpose of the exam is to check how well prepared the future lawyer is, then the primary question should be answered, what does quality in legal education mean and how to measure it? Currently, in Latvia, it is expected that the grade in all exam questions must be at least 4 (almost satisfactory) - the approximate ECTS grade - E/FX. Rhetorical questions, whether this level of knowledge guarantees the quality of legal services in any of the branches of law where the future lawyer plans to work. Wouldn't it be more useful to require all lawyers to have really good knowledge in the most important courses - legal theory and legal methodology, rather than almost satisfactory knowledge in various study courses.

3. The problem of duplicate checks. If the goal of the Uniform State Professional Qualification Examination of a Lawyer was to prevent graduates with mediocre knowledge from working in courts, the prosecutor's office, the bar and the notary, but excellent people could work in these institutions without additional bureaucratic obstacles, then it must be concluded that none of these

goals have been achieved. In Latvia, a lawyer's diploma by itself does not give the right to become a prosecutor, judge, lawyer, notary and other professions of a similar level without taking additional exams. Each "regulated" profession has its own exam where specific, specialized knowledge is tested. In addition, the labour market also requires lawyers who will work in state institutions and municipalities, as well as in the private sector. In these workplaces, lawyers are selected through competition, after demonstrating the applicability of their knowledge and skills to the specific specialization. In addition, the highest legal education is just one of the criteria for the person to prove its suitability for holding the corresponding office (Judgment of the Constitutional Court of the Republic of Latvia, 2002).

4. The problem of specialization. Practice shows that there is specialization in legal sciences and that all lawyers do not have to be the same. The unifying basis of all lawyers is not civil law or criminal law, but knowledge and skills in working with legal norms - searching for, interpreting and developing legal norms. Namely, the core of every lawyer's activity is Legal Philosophy, Legal Theory and Legal Methodology. On the other hand, in the current version of the exam, all students must demonstrate almost satisfactory knowledge of both law, philosophy of law, and history of the law of Latvia; both international law and law of the European Union; both criminal law and rights of criminal procedure; also constitutional law, administrative law, and rights of administrative procedure; but also civil law, rights of civil procedure, and commercial law. Respectively, it is expected that all universities teach the same subject. This significantly reduces competition between universities and significantly limits the freedom of students to specialize.

5. The problem of shortage of lawyers. In Latvia, a relatively small proportion of students can pass the unified qualification exam for lawyers in its current form. 33% of the students passed the first unified national legal professional qualification exam (in the summer of 2021). 32% of the students successfully passed the second unified national legal professional qualification exam (in the winter of 2022). According to the results of the qualification exam, 21% of students successfully passed the third exam (in the summer of 2022). It should be noted that among the students who received a successful assessment, there are both students who took the exam again because they failed to pass one of the areas of the exam in the 2021 summer and 2022 winter sessions, as well as students who took the exam for the first time. 46 students re-took the exam and 33% of these students received a successful assessment and thus the professional qualification of a lawyer. On the other hand, for the first time in the summer of 2022, 134 students took the exam and only 14% of these students got a successful assessment.

In Germany and United Kingdom, these percentages have been and are traditionally higher in terms of the scope and content of the exam. For instance,

in Prussia from 1849 to 1852, the number of failures (failures) in the first state examination (Das Auskultatorexamen) was 5.78%. From 1865 to 1874, it rose to about 15%, then to about 30% in the mid-1890s (Ebert, 1995). The number of failures in the second exam was slightly less than 11% - reference period from 1849 to 1852 (Conrad, 1884). In the third exam, the number of candidates who did not pass in the individual exam areas reached two thirds (Goldschmidt, 1887; Schäfer, 2013). In Great Britain the failure rate was well above the former level, stabilizing at around 30 per cent from 1908 until a sharp rise to over 40 per cent in 1913 (Cornish, Anderson, Cocks, Lobban, Polden & Smith, 2010).

In today's Germany, the percentage of successful candidates for the first legal exam (Erfolgreiche Kandidaten) ranged from 46.2% in Saarland to 66.0% in Bremen (BFJ, 2020):

*Table 1 Overview of the results of the first legal examination in 2020
(according BFJ, 2020)*

Land	Successful candidates (Erfolgreiche Kandidaten) %	Distribution of marks among successful candidates				
		very good (sehr gut)	Good (gut)	fully satisfying (voll befriedigend)	Satisfying (befriedigend)	Sufficient (ausreichend)
Baden-Württemberg	56,1	0,0	6,3	32,5	47,8	13,4
Bayern	58,2	0,6	9,2	26,5	45,6	18,2
Berlin	55,6	0,2	13,6	35,1	41,7	9,3
Brandenburg	61,6	0,0	3,4	22,6	53,1	20,9
Bremen	66,0	0,0	5,9	19,0	53,6	21,6
Hamburg	54,7	0,0	8,5	31,0	48,0	12,5
Hessen	59,3	0,1	5,9	32,8	45,2	15,9
Mecklenburg-Vorpommern	48,5	1,5	0,0	20,6	48,5	29,4
Niedersachsen	60,5	0,0	6,6	34,5	47,3	11,6
Nordrhein-Westfalen	59,9	0,6	7,8	29,1	41,4	21,1
Rheinland-Pfalz	57,3	0,2	4,9	27,8	48,2	19,0
Saarland	46,2	0,0	7,7	20,9	41,8	29,7
Sachsen	55,3	0,0	8,0	21,8	47,3	22,9
Sachsen-Anhalt	47,7	2,1	7,3	36,8	45,6	8,3
Schleswig-Holstein	57,3	0,0	2,6	24,0	52,6	20,8
Thüringen	56,0	0,0	9,0	31,3	50,7	9,0
TOTAL	57,7	0,3	7,6	29,5	45,8	16,8

Despite much more successful results than in Latvia, both Germany and United Kingdom have faced one significant problem - a shortage of lawyers. The risk of a shortage of lawyers as an effect of strict legal exams is a long-known problem. For example in Great Britain, during the 1880s the Law Society faced a particular difficulty in meeting the needs of articled clerks both in London and the provinces (Cornish, Anderson, Cocks, Lobban, Polden & Smith, 2010).

It is known that one of the main aspects of learning is students' readiness to acquire knowledge, active learning and motivation (Jankovska, 2022). On the other hand, the low probability of successfully passing the exam significantly reduces the motivation of future students to learn the legal profession even today. The monopoly of the narrow group of successful graduates cannot ensure sufficient competition in the labour market. In modern Latvia, especially in the regions, this problem is extremely urgent. Possible solutions are related to the correction of the exam content and the restructuring of the examination process.

Conclusions

In Latvia, the idea of the national unified lawyer qualification exam was borrowed from Germany. Accordingly, one should carefully analyze not only the positive sides of the idea, but also the disadvantages of the idea. The mentioned analysis would allow not to repeat individual solutions that were recognized as erroneous over time. Due to the problems of specialization of lawyers and the threat of a shortage of lawyers, two separate exams are currently held in Germany: the First Examination in Law (Erste Juristische Prüfung) and Second State Examination in Law (Zweites Staatsexamen).

Also, analyzing the experience of United Kingdom, we see that nowadays there are different exams for work in different legal professions (Solicitor, Barrister and specialist lawyer). In this sense, Latvia's approach – one comprehensive exam after 5 years of studies in bachelor's and master's programs – is ineffective. This exam is integrated into the master's program, but goes beyond the master's program in terms of content, i.e. in terms of content, it is based on the entire study cycle of at least five years, designed according to the principles of the Bologna program from the bachelor's study program to the master's program. Exams should take place as close as possible to the time when the study material has been mastered. Namely, the important field of the exam "law, philosophy of law, and history of the law of Latvia" should be taken immediately after completing the bachelor's program.

The grades in the exam do not guarantee that all the graduates who passed the exam have learned the learning material with the same quality. For example, in Latvia, the qualification of a lawyer can be awarded not only with the ratings "with distinction", "excellent", "very good" and "good", but also with the ratings "almost good", "satisfactory", "almost satisfactory". The situation is similar in

Germany and United Kingdom. In Germany, approximately half of those who successfully passed the exam received the "Satisfying" rating. If our goal is to achieve consistent high-quality achievements in taking the exam in Latvia, then everyone should pass the exam block (fields) "law, philosophy of law, and history of the law of Latvia" with at least a "good" rating.

At the stage of the master's degree program, students must be provided with the opportunity to obtain the qualification of a lawyer also by specializing in one of the directions - criminal law and rights of criminal procedure; civil law, rights of civil procedure, and commercial law; constitutional law, administrative law, and rights of administrative procedure; international law and law of the European Union. The turn from specialization to the general dimension currently implemented in Latvia. However, if absolutely identical programs are offered in all universities, the element of competition disappears, the opportunity to attract students who want to study specific, specific fields in depth - for example, medical law, international law, police law, etc., disappears.

Currently, no more than 1/3 of the previously usual number of graduates obtain the qualification of a lawyer. In the event that there is a shortage of officially recognized lawyers on the market, it is possible that employers (especially in the private sector) will not require the qualification of a lawyer to perform their duties. This certainly cannot improve the quality of legal services, because graduates-undergraduates will not have the motivation to study for a master's degree and get educated. On the other hand, professions where the qualification of a lawyer is vitally important (lawyers, prosecutors, judges, notaries, etc.) will not be affected by the Uniform State Professional Qualification Examination of a Lawyer, because holding such specific positions requires taking special, specific professional exams after obtaining the qualification of a lawyer.

The author of the article proposes to make amendments to the regulatory legal acts of Latvia, providing that the field of the exam "law, philosophy of law, and history of the law of Latvia" must be taken in the bachelor's study program with a grade no lower than "7" ("good"). The question of the usefulness of other fields of the exam remains open.

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