# THE INTERNATIONAL LEGAL SERVICES IN POLAND - PILOT STUDY RESULTS

Globalisation is a major challenge for lawyers who are required to work simultaneously locally and globally. Today, it is natural for an inhabitant of China, Brazil or Fiji to become a client of a Polish law firm. Foreigners committing crimes in foreign countries is an everyday occurrence. The borderless world means that a local company can start production in the most isolated regions of Australia and Oceania within a few months. If a lawyer from Poland, Germany or Brazil wants to take part in these changes, he or she needs to learn the law of other countries and learn other economic, cultural and social systems. He also needs to learn the mechanisms of legal service to local clients - foreigners or even consider undertaking a job as a lawyer on the other side of the world. He or she needs to start thinking about his profession globally to answer an important question: is he ready to handles foreigners' cases in his local practice, emigrate, work cross-border or internationally and is he able to use international mechanisms in his daily practice (Dezalay and Garth, 2011; Galloway et al., 2020).

Polish advocates and legal advisers are also experiencing the effects of these processes. More and more lawyers have foreign clients, work abroad, support foreign companies and apply transnational law. Globalisation is knocking on the door of most Polish law firms regardless of their profile, because Polish lawyers are the part of the European legal world and are subject to the same processes as other European, African or Asian jurists. Their situation is an example of the globalisation changes affecting European and global lawyers.

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The Polish legal services market is changing. A strong driver is globalisation - Europeanisation, under the influence of the European Union. Each year, Polish lawyers have more and more opportunities for international development and active participation in the globalised legal services market. Do they take advantage of these opportunities? Do they see their prospects, or do they see their limitations? How they work every day in a world of foreign clients and new international law and how they overcome barriers are very interesting questions.

The phenomena of globalisation concerning Polish lawyers and the entire legal services market have not yet been comprehensively investigated. Preliminary studies by Sjoerd Claessens (Claessens, 2008), Bruno Nascimbene (Nascimbene and Bergamini, 2009), Andrew Boon (Boon, 2017) and Ule Hammerslev (Drolshammer and Pfeifer, 2001) on the internationalisation of legal activities are conducted in the European perspective. The European Commission is also constantly working to improve the borderless and barrier-free provision of legal services in the European Union. However, in Poland there is little discussion of lawyers in the international and global context. The works of Małgorzata Kożuch (Kożuch, 2016), Zenon and Jędrzej Klatka (Klatka, 2003), Arkadiusz Bereza (Bereza, 2012), Marek Gnusowski (Gnusowski, 2014) and Robert Tabaszewski (Tabaszewski, 2017) only suggest the problem of the internationalisation of legal professionals.

We have attempted to describe and explain the internationalisation of Polish lawyers and legal services because of the noticeable globalisation changes among European and Polish lawyers, the extensive changes in the legal services market, and the research deficiencies. Obtaining information from legal market participants is the best way to look at the changes. Therefore, we decided to conduct empirical research engaging Polish lawyers. The results of this research should be compared to the legal status quo, to evaluate the impact of legal regulations and policies on the professional and business reality of Polish and European lawyers.

Sociological, anthropological and legal research is the only way to fully outline, diagnose and understand the reality of globalisation of lawyers and legal services. Therefore, the study must be multidisciplinary, while the different research methods must be triangulated. A pilot study was chosen because of the large size of the study, the broad topic, the many research questions and hypotheses. The objectives of the pilot study were primarily: preliminary identification of the topic, identification of research fields, verification of assumptions made on the basis of observations and literature review, verification

of hypotheses. Additionally, the preliminary study helped to: identify and revise previously planned research methods, research tools and techniques, research assumptions, and facilitated the development of technical elements of the study (Grzeszkiewicz-Radulska, 2012, pp. 113–141; Hunt et al., 1982, pp. 269–273).

### **RESEARCH METHODS**

The study explored the ways of working by Polish lawyers in Europe and around the world, cooperation with foreigners domestically, and the application of modern international law institutions in national and international legal transactions. Therefore, a pilot study was required to be designed to include all possible components of such a broadly outlined project. The identification of substantive, as well as technical and methodological fields for further empirical research was crucial. Therefore, the pilot study was used as a cognitive interview conducted of the opinion poll technique (intensive interview). Exactly this type of preliminary research facilitates verification of the future study on the substantive as well as methodological and technical grounds. Furthermore, this technique gives a picture of possible mistakes and respondents' reactions (Collins, 2003, pp. 229–238; Grzeszkiewicz-Radulska, 2012, pp. 116–127; Miński, 2017, pp. 35–44).

The pilot study was conducted on a targeted sample of five people. Special attention was paid to ensure that the selected population included persons with various statistical characteristics important for the study, distinguished by gender, age, legal profession, size of the law firm, membership of various bar associations and education. The study involved lawyers:

- Agnieszka Herda Kancelaria Adwokacka adwokat Agnieszka Herda ("Agnieszka Herda - adwokat");
- 2 Janusz Jabłoński Kancelaria Radcy Prawnego radca prawny Janusz Jabłoński ("Radca prawny Janusz Jabłoński");
- Piotr Bochenek Kancelarie Radców Prawnych Sabynicz & Bochenek ("Kancelarie radców prawnych Sabynicz & Bochenek");
- 4. Karol Lizak;
- 5. Łukasz Lechowicz.

The pilot study was conducted in field conditions, usually in law firms where the respondents worked. Interviews lasted between 40 and 180 minutes. They took place in July and August 2019; most were recorded. The interviews consisted of two main components: the substantive interview and the parallel cognitive interview (interview in the interview) (Miński, 2017, pp. 42–48). The substantive interview was conducted based on a pre-conceptualised scenario designed to proper guide the research (scenario draft). Second part was conducted based on the scenario for the specific cognitive intensive interview (Grzeszkiewicz-Radulska, 2012, pp. 116–127; Tourangeau, 1984, pp. 73–101).

The research participants were treated as if they were representatives of the regional bars of legal advisers (okręgowa izba radców prawnych, OIRP) and regional bars of advocates (okręgowa rada adwokacka, ORA) participating in the research. The researcher developed each issue in depth. The questions were asked about opinions on the topic, participants were encouraged to feel into the situation, as well as to imagine the situation and themselves in the future, to put themselves in a different position, etc. Additionally, the research participants were encouraged to share their opinions on their understanding of the issues, the design of the questions, the manner, form, sequence, attitude of the researcher and potential research errors. Concurrently, the interviewees' reactions, attitudes and body language were observed. Side topics, sometimes private, were often discussed, but this was deliberate and generally intended. Efforts were made to keep the conversations in an informal and friendly atmosphere.

Notes (reports) were made on the basis of each interview, including explicit statements (answers to the topics discussed and substantive explanations), as well as observations and opinions on the applied research techniques and respondents' attitudes. A detailed conversation transcription was made if the interview was recorded, including non-verbal elements (verbatim transcription). Research conclusions were prepared after each interview, regardless of the recording, later were modified and generalised in subsequent interviews. Interviews were not coded because of the strictly qualitative and experimental nature (Lofland et al., 2006, pp. 54–119; Miński, 2017, pp. 30–51).

The participants of the pilot study may be characterised as follows:

Table 1 Study participants' profile

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Sex	female- 1 male - 4
Age	over 60 years -1 25-35 years - 4
Workplace	Tomaszów Lubelski, Częstochowa, Dąbrowa Górnicza, Szczecin, Kraków
Graduate in law	Jagiellonian University - 3 University of Silesia - 2
Additional education	postgraduate studies for legal advisers - 1 economics, administration - 1 classical philology -1
Foreign languages ("European Language Portfolio (ELP)," n.d.)	English at B2 level or higher - 2 English at a lower level - 3 Additional: German, French, Spanish, Russian, Latin
Professional titles	advocate -1 legal adviser - 2 lawyer (without professional titles) -2
Specialization	general specialisation - 5
Legal form of the professional practice	sole practitioner - 2 partnership of a solicitor -1 employment in a law firm -2
Bar membership	ORA Lublin -1 OIRP Katowice -1 OIRP Opole -1 without membership -2

The interviewees represent different backgrounds, opinions, attitudes, problems and achievements, therefore the next stages of the study could be constructed on the basis of the conversations with them. The interviews with the pilot group were divided into the same thematic sections as the interviews in the full study. The meetings with the interviewees concerned:

- possessed competences, expectations, resources, opinions, opportunities, chances and fears related to a lawyer's work abroad, cooperation with foreign clients in Poland or use of international law instruments; also professional career development, gaining competences and professional life changes;
- 2. international work experience;
- 3. the activities of professional corporations, universities, governmental institutions, courts and international bodies;
- 4. constraints, difficulties and barriers to international legal activity in the country and abroad.

Furthermore, the interviews concerned the research assumptions, the method of research and other methodological issues:

- 1. construction of research questions and issues, their consistency, sequence, quality;
- 2. appropriate use of the research tool semi-structured in-depth interview (SSI) and other methods used in the research;
- 3. relevance of the research hypotheses and outlined research fields;
- 4. the population, research samples and research cohorts;
- 5. possible errors and weaknesses, interview methods, recording, transcription, confidentiality and personal data protection.

The preliminary interviews offered sufficient opportunity to test many different interview scenarios, types of questions and their sequence, accuracy, question forms, setting up interactions with the respondent, and sensitivity to the situation of the professional group. Some of the researcher's behaviour aimed to investigation the interlocutor's feedback to better preparation for the main study.

#### SUBSTANTIVE CONCLUSIONS

The pilot study participants put particular importance on competence and the educational process. They unanimously emphasise that university studies, lawyer's training and courses received upon legal practice are not designed to familiarise with the problems of international cooperation, working abroad, working with foreign clients, use of international legal instruments. Additionally, they emphasize that educational institutions do not shape soft and language skills. The process of education does not promote the acquisition of international experience through internships, apprenticeships, and the training. Although there are some individual examples of educational initiatives (foreign law schools, international teachers, Erasmus programme, European Union law courses), however these are only superficial activities. The situation is even worse in lawyer's training and in continuous legal training for advocates and legal advisers.

The interviewees indicate that they do not have the right competences to practice abroad or cooperate with foreign clients, particularly because of imperfect language skills, unfamiliarity with foreign law, mainly procedural, and lack of experience in foreign law cases. Educational institutions are blamed for this situation. Low educational engagement in foreign affairs is

more noticeable among lawyers practicing in smaller towns and among mature-aged lawyers. The interviewees believe that competence usually determines the transnational activity of Polish lawyers (Braun, 2018; Dziurnikowska, 1997; Łojko, 2011, 2005a; Pałecka et al., 1997; Stępień and Gaca, 2018; Wiktorska, 2016, pp. 498–515; Zych, 2016).

Almost all interviewees (4/5) emphasise that they do not, did not and do no intend to practice law abroad and do not want to work with foreign clients in Poland. They also intentionally do not use the international law institutions in the legal procedures, even when they are supposed to. They believe that have an enormous amount of work to do locally and do not see any benefits of expanding internationally. Furthermore, foreign clients in Poland are not numerous. If there are present, it is mainly in big cities, especially in Warsaw. Simultaneously, the lack of appropriate competences, high expenses and the day-to-day routine prevent them from such a decision consideration.

Although, all interlocutors have heard of cases where lawyers work with foreign clients in corporate law firms, other lawyers working abroad and international legal institutions used in domestic proceedings. However, this information is rare and not directly relevant. Everyone agrees that in Poland they "work on Polish law" and are not interested in foreign law. International law institutions, especially those introduced by European Union legislation, are very occasionally used, and are supervised by the courts, and lawyers do not participate in it. The actors have certainly heard about tools such as the European Arrest Warrant, extradition, the possibility to take evidence abroad, or the European Payment Order, but they have never actually had to use them and do not have a deeper knowledge of them. In most cases they also did not have contacts with foreign lawyers. The interviewees report that this is a common situation in the entire Polish lawyer's community (Balcerzak; Łojko, 2005b).

One respondent (a woman) emphasised that in her practice international elements appear and every year more and more Ukrainians appear both in criminal and business cases. Additionally, she has the opportunity to work with an Italian lawyer and consider the activity in the United Kingdom. However, all these elements are considered as additional, usually accidental or as a result of cooperation in larger cities, mainly in Warsaw. The cooperation with an Italian lawyer permanently based in Warsaw results in the idea of developing activity between Poland, England and Italy. However, a large number of local clients, time and competence limitations and distance significantly undermine these ideas (Lubicz-Miszewski, 2018; "Ukrainiec też klient").

Persons interviewed were very reserved about bar associations, public institutions, courts, government and the European Commission. They emphasised that the activities of these entities in the area of international cooperation of lawyers are very inadequate. These institutions do not establish real international cooperation, do not promote foreign cooperation of lawyers, do not provide training and do not facilitate the work of lawyers in a foreign environment. However, if any activity does take place, it is usually in the field of social relations. Alternatively, the activity is promoted by individual activists who do not have institutional support. When their activity disappears, the institutions' commitment also disappears. This problem affects both central and local government institutions (Antkowiak, 2011, pp. 79–94; Wiktorska, 2016, pp. 518–526).

Interviewees revolve around the difficulties encountered upon acquisition of new competences, provision of legal services on the market (competition), interaction with professional corporations and universities, financial, social and cultural difficulties, as well as the day-to-day struggle. These are the most significant problems limiting specialisation in the provision of international legal services (Borowska.; Dziurnikowska-Stefańska, 2005; Kośka, 2018; Pacocha, 2019).

Respondents do not see the impact of European Union legislation on their legal activity. They do not observe that EU activities facilitate them to work abroad or with foreign clients. The activities of Brussels or Warsaw are isolated and engage only lawyers and politicians at the top level, without much impact on routine work. A handful group of international law specialists exists, but they are usually associated with Warsaw corporate-type law firms (Balcerzak; Mika, 2015).

All lawyers participating in the preliminary research are proud of their foregoing achievements and satisfied with their current professional position. They have high hopes and plans for local activity, delivering a sufficient number of current cases. Alternatively, they would be ready to abandon the legal profession completely if there were not sufficient cases. Almost nobody (4/5) declares the necessity to be active in the field of provision of legal services to foreign markets or to specialise in legal work with foreigners or to use international legal institutions in national proceedings.

#### METHODOLOGICAL CONCLUSIONS

Discussions with lawyers helped to adapt and clarify the topics included in the previously prepared scenario. Hence, modifications were decided especially in several scopes:

- 1. The assumed population (members of OIRP and ORA councils) is a well-chosen research group, as the issues raised are not strictly related to the lawyer's age, experience, education, professional position and place of practice;
- 2. Much attention in the main study should be given to the process of competence acquisition by lawyers in international matters as the main determinant of non-national activity;
- 3. The diagnosis of barriers, difficulties and problems in access to the provision of international legal services must be a key element of the study
- 4. The aforementioned "Ukrainian problem" should be further explored in qualitative research;
- 5. The quantitative study should clearly distinguish between types, genera and sizes of legal practices spatially;
- 6. The survey scenario should be supplemented with questions on the application of international law institutions in domestic and cross-border proceedings, because these issues were omitted by the respondents;
- 7. It is necessary to verify the extent to which the research pilot study is applicable to the population of ORA and OIRP members and the general population of Polish lawyers.

The second part of the pilot research exploration concerned the course of the interviews as such, the research process and the technical elements. All participants actively commented on the research tool, gave advice and identified strengths and weaknesses of the pilot study. The scope of the study, the construction of the questions, their sequence were generally considered to be correct and understandable. Conversations were also considered to be conducted in a friendly atmosphere of openness and trust. Some doubts were expressed about the protection of sensitive information, personal data and the recording of interviews (Rutakumwa et al., 2019, pp. 1–16; Sztabiński et al., 2005, pp. 140–142, 391–401, 411–414).

Some methodological and technical elements were noticed during the preliminary survey, which were decided to improve or modify:

- 1. Semi-structured in-depth interviews is the best method to identify details and obtain qualitative information about legal practice;
- 2. Extensive research on a representative sample is necessary to check the general population represents similar characteristics as the members of ORA and OIRP councils;
- 3. Interviews should be conducted in a relatively open form (preferably semi-structured SSI interviews) because of the complexity of the research issue and the tendency of the respondents to reveal important themes when digging deeper. Therefore, questionnaire-type interviews would result in the disappearance of many important conversational plots (Horton et al., 2004; McIntosh and Morse, 2015);
- 4. The interviewees are quite distrustful at the beginning. The reason for this is a professional specificity where confidentiality is important. Therefore, confidentiality must be guaranteed and sensitive issues avoided at the beginning of the conversation. Therefore, it is important to deepen the interviewees' statements at later stages of the interview rather than to ask questions directly;
- 5. Interviews must remain formal and respect the dignity of the profession of advocate and legal adviser. However, the addition of personal topics can give a friendly conversation and only then can reliable information be obtained:
- 6. Interviews should be longer than 40 minutes because only after this time are interviewees inclined to talk about personal experiences. Before that, they often quote common opinions and assessments of their communities;
- 7. The structure of the topics is correct, they should not be tightened. However, it is necessary to be very flexible to raise or omit them, depending on the openness of the interviewee, his/her position and experience. Unfortunately, some issues should be skipped because they may arouse negative emotions;
- 8. Allow interlocutors to speak at length and freely, even on side topics, accepting the communication needs involved.

The pilot study proved to be essential for the appropriate design of the main study. The substantive and methodological information obtained

is valuable for the preparation of specific research tools and the choice of an appropriate methodological approach.

The pilot study appears to be an essential element for the projected large-scale research. It is impossible to properly design and conduct the final survey without it. Preliminary research conducted even on a small group of respondents proves to be an optimal solution. The cognitive pilot study method should be particularly appreciated here. The pilot study is the only way to estimate initially the substantive results of the main study and to examine the planned research methods and techniques, to better design the research objectives and hypotheses and to understand the research environment. Obviously, the difficulties associated with cognitive piloting may discourage its implementation, but its successful implementation results in desirable and significant outcomes. Also, the financial and organisational costs of cognitive preliminary survey are much lower than extended pilot studies performed with methods such as focus interviews.

All field research should be followed by pilot research. Among them, cognitive pilot studies should be preferred. Furthermore, they should be expanded to include a detailed study of respondents' non-verbal and emotional reactions. Video recording and subsequent analysis of the video footage could bring additional important results. Particularly, when conducting preliminary research in special social groups, e.g. prisoners, youth subcultures, professionals, a recorded cognitive pilot could produce spectacular results. Definitely, we recommended that every social empirical study should be preceded by a pilot study, preferably as a cognitive pilot study.

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