

## Research Article

# THE MODEL OF REGULATION OF THE LEGAL PROFESSION IN KAZAKHSTAN AND FOREIGN JURISDICTIONS: THE SEARCH FOR A BALANCE BETWEEN STATE MONOPOLY AND SELF-REGULATION

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## ABSTRACT

**Background:** The increasing demand for qualified legal assistance underscores the need for effective regulation of the legal profession. Depending on the distribution of regulatory functions, three models exist: state regulation, self-regulation and co-regulation. In Kazakhstan, legal assistance is provided by advocates and legal consultants, who operate under different frameworks. Advocates function within a co-regulation model, combining state licensing with professional autonomy, while legal consultants are governed by a self-regulatory system, in which professional bodies oversee admission and oversight. This divergence complicates the development of a coherent and effective legal assistance system, prompting debate on the unification of their legal status and governance.

Jurisdictions with well-developed legal systems, such as the UK and Germany, predominantly employ co-regulation, balancing professional autonomy with public oversight. Several post-Soviet countries, including Ukraine and partially Kazakhstan, transitioned from state-controlled administrative regulation to self-regulation. The effectiveness of self-regulation, however, depends on the maturity and stability of its institutional foundation. In Kazakhstan, the self-regulatory system for legal consultants has already revealed structural weaknesses and requires reform. This study examines the regulatory model of the legal profession in Kazakhstan and selected foreign jurisdictions, identifies shortcomings in the national framework, and proposes recommendations for its enhancement.

**Methods:** The study employs theoretical and specialised legal research methods. Analysis and synthesis, combined with a systematic approach, enabled the collection and systematisation of relevant materials (scientific literature and legal acts), classification of regulatory models, identification of differences, assessment of their efficiency, and the development of recommendations. The formal legal method facilitated the examination of legal norms in various jurisdictions, while the comparative legal method allowed for a cross-jurisdictional comparison, highlighting distinctive features and best practices.

**Results and Conclusion:** Regulation of the legal profession is governed by one of three models—public administration, self-regulation, or co-regulation—each differing in the degree of state and professional involvement. In jurisdictions with well-established legal institutions, co-regulation that combines state supervision with professional autonomy is the prevailing approach. In countries with developing legal systems, self-regulation is often introduced. In Kazakhstan, advocates operate under a co-regulatory model, whereas legal consultants are governed by a self-regulatory framework that exhibits notable institutional weaknesses. The question of unifying these two professional groups under a single regulatory authority remains pertinent. Comparative analysis of national and foreign experiences has revealed practices that can inform improvements to the Kazakh regulatory framework.

## 1 INTRODUCTION

The legal profession comprises various specialists who can broadly be divided into two categories: those providing comprehensive legal assistance, such as lawyers, in-house counsel, legal consultants, and those offering specialised legal services, including bailiffs, mediators, and notaries. The former category constitutes the core of the profession, as these practitioners perform essential functions in safeguarding the rights and lawful interests of individuals and organisations and in securing their access to justice. Consequently, the growing complexity of legal systems underscores the necessity of establishing effective regulatory frameworks for advocates and other legal professionals delivering qualified legal assistance.

The purpose of this study is to identify the specific features of the regulatory framework governing the activities of legal service providers in the Republic of Kazakhstan, as well as in selected foreign jurisdictions. The author has focused on countries with well-established regulatory frameworks for the legal profession—namely, the United Kingdom, and Germany—where a full regulatory cycle has developed, encompassing the introduction of entry requirements for the profession, rules of professional ethics, obligations for continuing legal education and liability insurance, as well as the implementation of internal oversight and disciplinary procedures. The study also considers the experience of Ukraine, a country undergoing post-Soviet legal transformation similar to Kazakhstan's, where the formation of the legal profession took place under similar conditions of predominant state-controlled legal governance.

This paper identifies the theoretical and legal features of regulatory models (state regulation, self-regulation, and co-regulation), and analyses the types of self-regulation, including voluntary, fully mandatory, and partially mandatory forms. It has been established that in the field of legal protection, the regulatory authority may be either a state body or a professional organisation. The regulator is vested with powers to set qualification requirements and decide on admission to the profession, adopt rules and standards governing professional activities, monitor compliance, and impose sanctions, including prohibiting further professional practice. The extent to which these powers are concentrated within state or non-state structures determines the type of regulatory model applied to the legal profession.

The structure of this article includes a review of the theoretical and legal foundations of the regulatory model in general, as well as an analysis of the legislative framework governing the activities of legal service providers in the Republic of Kazakhstan and selected foreign jurisdictions, including the United Kingdom, Germany, and Ukraine. The study identifies the key features of regulatory models in the legal services sector and proposes recommendations for enhancing the national regulatory framework, drawing on positive elements from foreign practices.

## 2 METHODOLOGY

The methodology of this study is grounded in the application of general theoretical and specialised legal research methods. Among the theoretical approaches, the method of analysis and synthesis, as well as the system method, were employed. The combined use of analysis and synthesis enabled the collection and systematisation of relevant research materials—including scientific literature and normative legal acts—the classification of regulatory models applied in various countries, the identification of differences in their implementation, and the formulation of appropriate recommendations. Through analysis, the distinctive features of each model (state regulation, self-regulation, and co-regulation) were identified, while synthesis contributed to the formation of a comprehensive understanding of both the Kazakhstani and foreign systems in the field of legal assistance. The systematic method was applied to examine the regulatory framework of the legal profession as a coordinated structure of interaction between governmental and professional structures, particularly in relation to admission procedures, oversight, and accountability within the profession.

In addition to theoretical methods, the study employed specialised legal methods, namely the formal legal method and the comparative legal method. The formal legal method was applied to examine the content of legal norms governing the activities of legal professionals in various jurisdictions. The comparative legal method enabled a cross-jurisdictional analysis of regulatory models, contrasting systems in countries with well-established legal traditions, such as the United Kingdom and Germany, against those in

post-Soviet states still undergoing institutional transformation following a history of strict state control, such as Ukraine. This comparison enabled the identification of key characteristics of the models, their advantages and limitations, and the development of recommendations for enhancing Kazakhstan's national system of regulating the legal profession. Collectively, these methods provided an integrated approach to analysing the research subject and substantiating the author's conclusions.

### 3 THEORETICAL AND LEGAL FOUNDATIONS OF REGULATION

Regulation represents a purposeful form of governance within a specific area of public affairs. In the context of professional activity, regulation is expressed through the establishment of entry requirements for market participants and the imposition of rules of conduct. Entry conditions include personal characteristics (such as citizenship and good behaviour), professional qualifications, mandatory registration, and licensing. The laws of conduct aim to regulate the behaviour of individuals engaged in the activity, and include, for example, price regulation or restrictions on the organisational form of the activity.<sup>1</sup>

Depending on the regulatory authority and the scope of its powers, two primary models of regulation are distinguished: state regulation and self-regulation. Self-regulation, in turn, may take one of three forms based on the degree of state involvement: voluntary, fully mandatory, and partially mandatory self-regulation. Each model varies in terms of the extent to which the state, the professional community, and other stakeholders are involved in the regulatory process.

Government oversight refers to the executive and administrative activities of state bodies endowed with authoritative powers aimed at the practical organisation of social processes in the development of society.<sup>2</sup> State regulation implies the authoritative establishment of mandatory requirements and rules governing professional activity. Within the regulatory competencies of the authorities, the use of permissive instruments is generally preferred.<sup>3</sup> However, the core responsibilities of any regulatory authority are to ensure compliance with and enforcement of regulatory requirements.<sup>4</sup> These functions are fulfilled through the exercise of state oversight mechanisms, which enable the detection and prevention of violations,<sup>5</sup> the protection of public interests and national security, the facilitation of

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1 Tine Heremans, 'Professional Services in the EU Internal Market: Quality Regulation and Self-Regulation' (PhD thesis, Katholieke Universiteit Leuven, Instituut voor Europees Recht 2010).

2 Kenzhebek Ospanov, *Fundamentals of Law: A Textbook* (5th edn, Jetti jargı 2017) 77.

3 Natalia Dubrova and Bolat Sarbasov, 'Legal Bases of State Regulation of Entrepreneurial Activity in the Republic of Kazakhstan' (2017) 3-2 Actual Problems of Humanities and Natural Sciences 47.

4 Neil Gunningham, 'Compliance, Enforcement and Regulatory Excellence' in Cary Coglianese (ed), *Achieving Regulatory Excellence* (Brookings Institution Press 2017) 188, doi:10.2139/ssrn.2929568.

5 Dubrova and Sarbasov (n 3).

legitimate business activity and the creation of a safe and competitive economic environment.<sup>6</sup> This model of governance constitutes a form of direct regulation.

An alternative to the traditional regulatory model is self-regulation, which involves the exclusion of government interference and implies the independent management of professional or business activities by members of a specific field. Self-regulation refers to the delegation of authority to develop and enforce rules to a private entity—self-regulatory organisations (hereinafter, SROs), which typically consist of regulated organisations and their representatives.<sup>7</sup> In the context of self-regulation, organisations independently manage the activities of their members, who voluntarily comply with internal codes of conduct. This method of regulation is indirect and is implemented through the adoption of internal rules and standards governing professional activity, as well as through oversight and the imposition of liability measures in cases of non-compliance with the organisation's internal acts. Additionally, the self-regulatory framework provides mechanisms to ensure financial liability for harm caused during the course of professional activity.

Depending on the actor involved, self-regulation may be implemented individually within an organisation or an industry group. Its objectives may vary, encompassing functions such as market oversight, the protection of the public, or the safeguarding of environmental interests.<sup>8</sup> Based on the degree of state involvement, three principal forms of self-regulation can be distinguished. Voluntary self-regulation refers to the arrangements in which rule-making and enforcement are carried out solely by an independent non-governmental organisation itself. Fully mandatory self-regulation arises where both legislative and enforcement functions concerning members are delegated to an institutionally autonomous organisation with state authorisation. Partially mandatory self-regulation denotes situations where only one of the regulatory functions is transferred to an independent institution. Importantly, mandatory self-regulation is accompanied by preservation of state oversight over the organisation, not over its members.<sup>9</sup>

Under the model of self-regulation with mandatory membership, the transfer of public functions is based on legal provisions. The organisation performing such functions is defined by law and endowed with institutional autonomy in decision-making concerning its members, while maintaining accountability to both the state and society. These features underscore its public-legal nature.

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6 Begzat Sarbasov, Leila Zhanuzakova and Ayan Toleubekov, 'Actual Problems of Legislative Provision of Protection of the Rights of Entrepreneurs in the Implementation of Statecontrol and Supervision in the Republic of Kazakhstan' (2024) 29(4) Bulletin of Karaganda University: Law Series 25, doi:10.31489/2024L4/25-37.

7 Douglas C Michael, 'The Use of Audited Self-Regulation as a Regulatory Technique' (1995) 47(2) Administrative Law Review 171.

8 Neil Gunningham and Joseph Rees, 'Industry Self-Regulation: An Institutional Perspective' (1997) 19(4) Law and Policy 363, doi:10.1111/1467-9930.t01-1-00033.

9 Joseph V Rees, *Reforming the Workplace: A Study of Self-Regulation in Occupational Safety* (Law in Social Context, University of Pennsylvania Press 1988).

The literature acknowledges that there is no clear-cut distinction between state regulation and self-regulation; regulatory systems typically operate along a spectrum between these two contrasting models with varying degrees of involvement from their instruments. The combination of the elements from both models constitutes co-regulation.<sup>10</sup> Self-regulation with a certain amount of government intervention is recognised as a more stable and effective regulatory mechanism.<sup>11</sup>

Within the framework of joint regulation, the state either develops a set of strict rules, guidelines, restrictions, and sanctions for private actors or intervenes in their activities when certain expectations from their independent management are not met.<sup>12</sup> Co-regulation, depending on the level of state involvement, is divided into three types: subcontracting (delegation of legislative and juridical components of state power to a private entity); concerted actions (the state establishes essential conditions for rulemaking); and incorporation (informal norms are formally integrated into the legislative framework).<sup>13</sup>

In the field of legal services, regulation may follow one of three models—state-, self- and co-regulation—each differing in the degree of distribution of regulatory functions between authorities and professional communities. These regulatory functions include setting admission requirements, approving professional standards, monitoring compliance, and imposing disciplinary sanctions.

Relying solely on either state or self-regulatory models entails risks: the former may undermine the independence of the legal profession, while the latter, without well-established professional traditions, can lead to insufficient oversight. Therefore, it is necessary to ensure a balance between professional autonomy and effective accountability mechanisms. Co-regulation, which combines limited state involvement with active professional self-governance, is considered the most balanced approach for jurisdictions with developed legal systems.

Regulatory legal acts of Kazakhstan incorporate features of both the state regulation model and the self-regulation model in governing public relations within the legal services sector. State regulation is implemented through the functioning of public authorities, whose legal status, powers, tasks, and functions are defined by legislation. These functions are categorised as strategic (development of sectoral policy documents), regulatory (rule-making), implementation (execution of statutory powers, including the issuance of permits, enforcement measures) and oversight (inspections to ensure

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10 *ibid.*

11 Gunningham and Rees (n 8).

12 Andreas Doelker, 'Self-Regulation and Co-Regulation: Prospects and Boundaries in an Online Environment' (LLM thesis, University of British Columbia 2010).

13 Luc Huyse and Stefaan Parmentier, 'Decoding Codes: The Dialogue between Consumers and Suppliers through Codes of Conduct in the European Community' (1990) 13(3) *Journal of Consumer Policy* 259, doi:10.1007/BF00411510.

compliance with regulatory requirements). State bodies are prohibited from exercising functions not expressly assigned to them by legal acts.<sup>14</sup>

Regarding the self-regulation model, both its concept and operational conditions are normatively defined in the Law of the Republic of Kazakhstan “On Self-Regulation” (hereinafter, the Law on Self-Regulation). Article 1 of this Law defines self-regulation as a set of measures aimed at the “independent regulation by individuals and legal entities of their entrepreneurial or professional activities, based on the adoption of rules and standards by a self-regulating organisation, oversight of their enforcement, as well as ensuring the financial liability for subjects of self-regulation.”<sup>15</sup>

Building on the analysis of these regulatory models, the study subsequently examines the functioning of the institutional mechanism governing legal professionals in Kazakhstan.

## 4 REGULATORY FRAMEWORK GOVERNING LEGAL ASSISTANCE IN KAZAKHSTAN

In the Republic of Kazakhstan, comprehensive and qualified legal assistance is provided by advocates and legal consultants. The legal status of these professionals and the framework for regulating their professional activities are established by the Law of the Republic of Kazakhstan “On Advocacy and Legal Assistance”<sup>16</sup> (hereinafter, the Law), as well as by-laws and regulations approved by orders of the Minister of Justice of the Republic of Kazakhstan. Despite the common nature of their activities, the legal status of both groups is characterised by significant differences.

A key requirement for advocates is obtaining a state license, which subjects their professional activity to additional regulation under the Law of the Republic of Kazakhstan “On Permissions and Notifications”<sup>17</sup> (hereinafter, the Law on Permissions). In turn, the distinctive feature of the regulation of legal consultants’ activities is the introduction of a legal regime of self-regulation, making the provisions of the Law on Self-Regulation mandatory for organising their professional operations.

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14 Administrative Procedural and Process-Related Code of the Republic of Kazakhstan no 235-V LRK of 29 June 2020 (amended 16 March 2025) art 41 <<https://adilet.zan.kz/eng/docs/K2000000350>> accessed 15 May 2025.

15 Law of the Republic of Kazakhstan no 390-IV LRK of 12 November 2015 ‘On Self-Regulation’ (amended 8 June 2024) <<https://adilet.zan.kz/eng/docs/Z1500000390>> accessed 15 May 2025.

16 Law of the Republic of Kazakhstan no 176-VI LRK of 5 July 2018 ‘On Advocate Practice and Legal Assistance’ (amended 8 June 2024) <<https://adilet.zan.kz/eng/docs/Z1800000176>> accessed 15 May 2025.

17 Law of the Republic of Kazakhstan no 202-V LRK of 16 May 2014 ‘On Permissions and Notifications’ (amended 9 April 2025) <<https://adilet.zan.kz/eng/docs/Z1400000202>> accessed 15 May 2025.



Both categories of legal professionals provide comprehensive legal information and consulting, as well as protection and representation of the interests of individuals and legal entities in civil and administrative courts, before public authorities, and in other relevant forums. However, participation in criminal proceedings is the exclusive domain of advocates. The practice of advocacy is not considered an entrepreneurial activity, whereas legal consultants may engage in private practice as individual entrepreneurs.<sup>18</sup>

It should be noted that in Kazakhstan, both the advocacy and the institution of legal consultants operate independently of state and judicial authorities, enjoying relative autonomy in adopting internal regulations and making organisational and disciplinary decisions. Such independence from government interference is essential to safeguarding citizens' right to qualified legal assistance and ensuring access to fair justice, thereby fostering public trust in the legal protection system. In this regard, maintaining the self-governing structure of these professions, with limited public oversight and minimal administrative influence, is crucial.

#### 4.1. Regulatory Framework for Advocates

Throughout its history, advocacy in Kazakhstan has been subject to oversight by both the state and an independent professional community. State regulation of advocates involves the exercise of regulatory (rule-making), implementation and oversight functions of the authorised body—the Ministry of Justice of the Republic of Kazakhstan (hereinafter, the Ministry).

The Ministry's rule-making function is exercised through the establishment of normative requirements for advocates in the Law and in departmental legal acts. Article 32 of the Law establishes the basic professional requirements for advocates: Kazakhstani citizenship, higher legal education, a license and membership in a Bar Association. To obtain a license, candidates must complete an internship and successfully pass an attestation conducted by a commission established under the justice authority.<sup>19</sup> This commission includes advocates, representatives of the Ministry and other designated individuals. Article 32 also establishes restrictions on obtaining the status of an advocate, including the presence of an unexpunged criminal record, legal incapacity, the commission of an administrative corruption offence, and other limitations. Article 36 of the Law sets forth an additional requirement: advocates must hold a professional liability insurance contract.<sup>20</sup>

The implementation function of the Ministry is expressed through the issuance of licenses and approval of internal regulatory documents developed by a professional organisation of

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18 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) arts 45, 75.

19 Order of the Acting Minister of Justice of the Republic of Kazakhstan no 20 of 20 January 2015 'On Some Issues of Licensing of Legal and Notary Activities' (amended 5 March 2015) <<https://adilet.zan.kz/kaz/docs/V15D0010270>> accessed 15 May 2025.

20 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) arts 32, 36.



advocates. The authorised body also carries out licensing control in accordance with the Law on Permissions.<sup>21</sup> Oversight is aimed at verifying whether license applicants meet the qualification requirements prior to license issuance, as well as monitoring advocates' compliance with legal requirements after the license has been granted. If violations are identified during state supervision, advocates may be subject to enforcement measures, including suspension or revocation of the license.

The suspension of an advocate's license may be affected by the authorised body or by a court. The Ministry may suspend a permit in cases prescribed by law, for example, the advocate's request, failure to complete required continuing education, or if the advocate becomes a defendant in a criminal case.<sup>22</sup> Courts may suspend licenses through administrative proceedings in cases involving administrative offences, such as violations of licensing regulations or non-compliance with qualification requirements.<sup>23</sup>

Revocation of an advocate's license is permitted exclusively through judicial proceedings, whether administrative or civil. Knowingly providing false information during the license process or failing to comply with the terms of a suspended license constitutes an administrative offence.<sup>24</sup> If other grounds exist, the authorised body may initiate civil proceedings to revoke a license, including violations of the Law, principles of legal assistance, ethical standards, or the establishment of insufficient qualifications.<sup>25</sup> In case of disagreement, advocates may appeal first-instance court decisions to a higher court in accordance with the applicable administrative or civil procedure.

Professional regulation of advocates is also carried out by the professional community, which is represented by multiple regional Bar Associations and the Republican Bar Association (hereinafter, the RBA). According to official data, Kazakhstan has recorded a steady increase in the number of advocates. As of 1 January 2025, there were 20 territorial bar associations nationwide, with a total membership of 6,344 advocates, compared to 5,474 in 2020 and 4,505 in 2015.<sup>26</sup>

A Bar Association is a non-profit, independent, professional, self-governing, and self-funded organisation. One Bar Association is established in each region, city of republican significance, and the capital; Kazakhstan comprises 17 regions and three cities of republican

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21 Law of the Republic of Kazakhstan no 202-V LRK (n 17).

22 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) art 32.

23 Code of the Republic of Kazakhstan no 235-V LRK of 5 July 2014 'On Administrative Infractions' (amended 9 April 2025) art 464 <<https://adilet.zan.kz/rus/docs/K1400000235>> accessed 15 May 2025.

24 *ibid*.

25 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) art 44.

26 National Bar Association of the Republic of Kazakhstan, *National Report on the State of the Bar and the Activities of Lawyers for the Protection of Rights and Freedoms of Citizens in 2024* (NBA 2025) 9 <<https://advokatura.kz/document/289>> accessed 16 May 2025.

significance, including the capital.<sup>27</sup> Membership in a Bar Association is a mandatory prerequisite for exercising the right to practice law. To join a Bar Association, a candidate must obtain the state-issued license and must not fall under any of the statutory restrictions that disqualify an individual from acquiring the status of an advocate. Upon admission, the advocate receives an Advocates certificate issued by the Bar Association, with a standardised format approved by the RBA.

Bar Associations exercise supervisory powers by reviewing complaints against advocates and organising regular attestation and professional development.<sup>28</sup> In case of violations, a Bar Association, through its disciplinary commission, may impose disciplinary measures, including expulsion from the Bar Association. Such violations may also serve as grounds for suspension or revocation of an advocate's license, with final decisions made by the Ministry or the court based on materials submitted by the Bar Association.<sup>29</sup>

The RBA unites regional Bar Associations on a mandatory basis and functions as a non-profit, independent, professional, self-governing, and self-financing organisation. Its normative functions include adopting the Code of Professional Ethics of Advocates and establishing the procedure for advocate attestation. In coordination with the Ministry, the RBA also approves standards and criteria for the quality of legal assistance, continuing legal education, and other internal documents.<sup>30</sup>

Therefore, the professional activity of advocates is regulated both at the state level and by independent professional organisations of advocates. Direct state regulation encompasses all aspects of governance, including licensing, qualification requirements, permissive control, and enforcement measures such as suspension or revocation of a license. Professional regulation is exercised through the RBA's adoption of internal rules and standards, the participation of advocates in the attestation of license applicants, and the Bar Associations' oversight and imposition of disciplinary measures.

Thus, the regulation of advocates' activities incorporates elements of both state control and professional autonomy, reflecting a co-regulation model. The professional community of advocates holds public legal status, being established by legislation and performing a socially significant function. At the same time, advocacy maintains its organisational and financial independence, free from government interference.

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27 'Administrative-Territorial Units of the Republic of Kazakhstan (as of January 1, 2025)' (*Bureau of National Statistics of Agency for Strategic Planning and Reforms of the Republic of Kazakhstan*, 19 February 2025) <<https://stat.gov.kz/ru/industries/social-statistics/demography/publications/281169/>> accessed 22 July 2025.

28 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) arts 50, 53.

29 *ibid*, art 73.

30 *ibid*, arts 67, 68.

## 4.2. Regulatory Framework for Legal Consultants

The legal status of legal consultants and the framework for organising their practice were first legally defined in Kazakhstan in 2018. Prior to this, their professional activity was largely unregulated, except for the period from 1997 to 2005, during which they were subject to mandatory licensing. Currently, the legal regime governing consultants' activities is based on a self-regulation model, with mandatory membership in one of several self-regulating organisations (SROs)—namely, the Chambers of Legal Consultants (hereinafter, the Chamber). Membership in a Chamber is mandatory for legal consultants. Their activities, unlike those of advocates, are not subject to licensing; nevertheless, the Law sets requirements for entry into the profession.

Legal consultants must hold a higher legal education degree, have at least two years of professional legal experience, successfully pass an attestation, be affiliated with Chambers, and ensure their professional liability. Individuals who are legally incapacitated or have an unexpunged criminal record are ineligible to acquire the status of a legal consultant. It is noteworthy that, unlike Bar Associations, Chambers are granted the legal right to establish additional requirements for their members.<sup>31</sup>

Attestation is conducted by the Chamber. Upon admission, the Chamber records the legal consultant in its Register of Legal Consultants, which is published on its official website, and issues a document confirming membership.<sup>32</sup> Notably, the form of this document may vary because there is no unified sample as provided for the Advocate's certificate. It is recommended that the Law be amended to establish a standardised form of document confirming membership in a Chamber.

The Chamber of Legal Consultants functions as a self-regulatory, membership-based organisation.<sup>33</sup> Their activities, as those of SROs, must comply with the Law on Self-Regulation, which sets requirements for rule-making authority, internal oversight, and the enforcement of financial liability for members. In practice, Chambers complies with these conditions. First, Chambers are empowered to adopt the rules of professional conduct, the Code of Professional Ethics, admission criteria, standards for legal assistance, quality benchmarks and other binding acts for legal consultants. Second, they exercise internal oversight to monitor members' compliance with these rules and verify the existence of compulsory professional liability insurance at the time of admission.<sup>34</sup>

If violations are identified as a result of internal inspections, Chambers is authorised to impose sanctions, including suspension of membership or expulsion from the Chamber. Such a measure of punishment carries elements of state coercion, as the loss of Chamber

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31 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) arts 75, 77, 83.

32 *ibid*, art 83.

33 *ibid*, art 78.

34 *ibid*, arts 80, 83.

membership results in a legal consultant being deprived of the right to provide legal assistance. In case of violation of the consultant's rights by the Chamber or its governing bodies, he may seek redress by appealing to the authorised body or the court.<sup>35</sup> Chambers also performs the implementation function by conducting the attestation of individuals applying for the status of a legal consultant.

Considering the above, the activities of legal consultants are primarily regulated through a self-regulatory mechanism. However, the authorised body retains limited regulatory powers—establishing statutory requirements—and implementation powers, including mandatory approval of certain internal documents adopted by Chambers.<sup>36</sup>

Self-regulation based on compulsory membership entails direct government oversight of SROs (in this case, Chambers). The authorised body performs regulatory (rule-making), implementation, and some control functions with respect to Chambers. The rule-making function involves establishing legislative requirements for Chambers and approving model charters.

The Law on Self-Regulation imposes specific obligations on SROs, including registration in the Register of SROs (a permissive requirement for carrying out activities),<sup>37</sup> adherence to a defined organisational structure, compliance with specified content of rules and standards, monitoring of members' activities, and other operational requirements.<sup>38</sup> The Ministry's implementation function encompasses approval of regulatory documents developed by Chambers and maintenance of the Register of SROs (Chambers).<sup>39</sup>

As of March 2025, 50 Chambers of Legal Consultants are recorded in the Register of SROs,<sup>40</sup> with a total of 17,190 consultants listed, including those whose membership has been suspended or revoked.<sup>41</sup> By comparison, in 2000, 87 Chambers operated in Kazakhstan, with a total membership of 9,410 consultants.<sup>42</sup> Over the past five years, the number of persons obtaining the status of legal consultants has more than doubled, while the number of Chambers has nearly halved. This reduction primarily resulted from a 2021 legislative amendment that raised the minimum membership requirement from 50 to 200, prompting numerous mergers. Unlike Bar Associations, the establishment of

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35 *ibid*, art 95.

36 *ibid*, art 23.

37 *ibid*, arts 23, 78.

38 Law of the Republic of Kazakhstan no 390-IV LRK (n 15).

39 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) art 90.

40 'List of Chambers of Legal Consultants' (*Ministry of Justice of the Republic of Kazakhstan*, 2025) <<https://www.gov.kz/memleket/entities/adilet-krs/documents/details/801423>> accessed 16 May 2025.

41 'List of Legal Consultants' (*Ministry of Justice of the Republic of Kazakhstan*, 2025) <<https://www.gov.kz/memleket/entities/adilet-krs/documents/details/815423>> accessed 16 May 2025.

42 Ministry of National Economy of the Republic of Kazakhstan, *Report on the State of Regulation of Entrepreneurial Activity in the Republic of Kazakhstan for 2020* (13 October 2021) <<https://www.gov.kz/memleket/entities/economy/documents/details/224363?lang=kk>> accessed 16 May 2025.

Chambers is not tied to administrative-territorial boundaries, and therefore, the number of Chambers exceeds the number of regions.

Within the scope of its oversight function, the Ministry verifies the Chambers' compliance with sectoral legislation, internal rules and standards, and the Code of Professional Ethics. Where violations are identified, sanctions may include removal of a Chamber from the Register of SROs. Such a measure, however, has an impact on the legal consultants affiliated with the Chamber, as they are prohibited from practising until they secure membership in another Chamber.<sup>43</sup> This highlights the need for legislative guarantees to preserve consultants' professional status in such circumstances.

The Law also provides for the existence of the Republican Chamber of Legal Consultants (hereinafter, the RCLC), intended as a voluntary association of Chambers. Its mandate is limited to coordination and representation, and it lacks authority over non-member Chambers or individual consultants. Given these limited functions, the legal status of the RCLC appears unnecessary, as its purposes could be achieved through civil-law mechanisms of association.<sup>44</sup>

Despite the existence of a self-regulatory model, Kazakhstan's Institute of Legal Consultants exhibits significant weaknesses. Oversight of consultants' qualifications and responsibilities remains inadequate; no unified electronic Register of Legal Consultants exists to track professional status or disciplinary actions; and the fragmentation of Chambers impedes the development of consistent standards, thereby undermining public trust in legal assistance.<sup>45</sup> These deficiencies manifest in divergent qualification requirements, unequal access to the profession across regions, inconsistent disciplinary practices, and ultimately, declining service quality.<sup>46</sup> These issues underscore the need for reform of the existing regulatory framework.

A further structural challenge in Kazakhstan's legal assistance system is the rationale behind maintaining two parallel professional tracks: advocates and legal consultants. While this separation allows for broader access to the legal services market, the absence of unified standards of admission, oversight, and accountability produces inconsistent qualification requirements and diminishes public confidence in both professions. Given the substantial overlap in functions, advocates' monopoly over criminal cases being the principal distinction, the creation of a unified profession under a single regulatory

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43 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) art 97.

44 Albina Kiyazova, 'Regulation of Professional Activity of Legal Consultants' (2024) 2 Bulletin of the Institute of Legislation and Legal Information of the Republic of Kazakhstan 132.

45 Sagidolla M Baimurat, 'Improving the Quality of Legal Assistance' (*Zakon.kz*, 20 February 2022) <[https://online.zakon.kz/Document/?doc\\_id=34236067](https://online.zakon.kz/Document/?doc_id=34236067)> accessed 27 July 2025.

46 Aigerim Dzhaldybaeva, 'Prospects for the Development of Self-Regulation of the Legal Profession in Kazakhstan: Problems and Solutions' [2025] *Kazakhstan Law Review* <<https://kazlawreview.kz/perspektivy-razvitiya-samoregulirovaniya-yuridicheskoy-professii-v-kazahstane-problemy-i-puti-resheniya/>> accessed 16 May 2025.

framework, with options for specialisation, would strengthen coherence and credibility. This may be considered as a long term objective. In the short term, the United Kingdom's experience provides a potential model: separate professional regulators with equal status and authority operating under the supervision of a central oversight body. This comparative framework is examined below.

## 5 REGULATION OF LEGAL ASSISTANCE IN FOREIGN JURISDICTIONS

### 5.1. Legal Services Regulation in the United Kingdom

In the UK, legal assistance to the public is provided by various legal professionals, including solicitors, barristers and other representatives of the legal profession. The main legislative act regulating the legal profession is the Legal Services Act 2007<sup>47</sup> (hereinafter, LSA). Strategic oversight is exercised by the Lord Chancellor, while the Legal Services Board (hereinafter, LSB) acts as the state regulator. The LSB is accountable to the Lord Chancellor in personnel and financial matters<sup>48</sup> but operates independently in its functions.

Direct regulation of legal professionals is carried out by separate primary “approved regulators” for each profession. These approved regulators operate within the LSB framework but are formally appointed by the Lord Chancellor.<sup>49</sup> All representatives of regulated legal professions must register with their designated regulatory authority to practice professionally.<sup>50</sup> The LSB serves as the oversight regulator for the primary regulators and approves the regulatory acts developed by them—such as requirements for admission, codes of conduct and professional standards, procedures for entry and supervision, and imposition of disciplinary penalties—<sup>51</sup> and verifies their compliance with the LSA and exercises other governing powers. In cases of non-compliance, the LSB may impose enforcement measures, including recommending to the Lord Chancellor the revocation of approved regulator status.<sup>52</sup>

The activities of solicitors are governed by the LSA 2007 and the Solicitors Act 1974.<sup>53</sup> The approved regulator for solicitors is the Law Society,<sup>54</sup> which performs a representative

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47 UK Legal Services Act 2007, c 29 (LSA) (amended 8 February 2024) <<https://www.legislation.gov.uk/ukpga/2007/29/contents>> accessed 16 May 2025.

48 *ibid*, schedule 1, s 1(1).

49 *ibid*, schedule 4, s 3(2).

50 *ibid*, schedule 4, s 14 (1).

51 *ibid*, schedule 4, s 2(1).

52 *ibid*, s 49.

53 UK Solicitors Act 1974, c 47 (SA) (amended 4 November 2024) <<https://www.legislation.gov.uk/ukpga/2007/29/contents>> accessed 16 May 2025.

54 LSA (n 48) schedule 4.

function. Regulatory authority is delegated to its independent arm,<sup>55</sup> the Solicitors Regulation Authority (hereinafter, SRA),<sup>56</sup> which is authorised to approve mandatory requirements, standards and regulations (for example, SRA Standards and Regulations),<sup>57</sup> oversee admission to the profession, and conduct disciplinary proceedings. The SRA is funded through compulsory contributions from its members.

To obtain the status of a solicitor, an individual must hold a legal education, pass the required examinations, complete two years of practical training, undergo a character and suitability assessment (including checks for criminal records or evidence of fraud),<sup>58</sup> and hold professional indemnity insurance.<sup>59</sup> Upon fulfilling all these conditions, the Law Society, through the SRA, issues a Practising certificate<sup>60</sup> and records the solicitor in the official list of all solicitors of the Supreme Court, known as "the Roll".<sup>61</sup> Upon obtaining the status of a Solicitor Advocate,<sup>62</sup> the individual is granted rights of audience in the higher courts.

Barristers, in turn, are regulated under the LSA and the Courts and Legal Services Act 1990. The Bar Council (General Council of the Bar) serves as the approved regulatory body,<sup>63</sup> while direct regulation is carried out by its autonomous arm, the Bar Standards Board (hereinafter, BSB). Similar to the SRA, the BSB operates independently without government funding, sustained through mandatory member contributions. The BSB develops regulatory instruments, including the BSB Handbook,<sup>64</sup> drafts regulatory instruments, oversees compliance, and conducts disciplinary investigations.<sup>65</sup>

To obtain the status of a barrister, a candidate must possess a legal education, provide certificates of good character with no impediments to practice (such as legal incapacity or a

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55 'Our Governance' (*The Law Society*, 24 June 2025) <<https://www.lawsociety.org.uk/about-us/our-governance/>> accessed 28 June 2025.

56 Articles of Association of Solicitors Regulation Authority Limited (Co no 1260859, adopted 2022) art 4.1 <<https://www.sra.org.uk/globalassets/documents/sra/board-meetings/2022/annex-1---solicitors-regulation-authority-limited-articles.pdf>> accessed 15 May 2025.

57 'SRA Standards and Regulations' (*Solicitors Regulation Authority*, 11 April 2025) <[https://www.sra.org.uk/solicitors/standards-regulations-resources/?utm\\_source=chatgpt.com](https://www.sra.org.uk/solicitors/standards-regulations-resources/?utm_source=chatgpt.com)> accessed 16 May 2025.

58 SRA Authorisation of Individuals Regulations (amended 11 April 2025) regulations 1–3 <<https://www.sra.org.uk/solicitors/standards-regulations/authorisation-individuals-regulations/>> accessed 16 May 2025.

59 SRA Indemnity Insurance Rules (amended 11 April 2025) rule 2.1 <<https://www.sra.org.uk/solicitors/standards-regulations/indemnity-insurance-rules/>> accessed 16 May 2025.

60 SA (n 54) s 10 (1).

61 *ibid*, s 6 (1).

62 SRA Authorisation of Individuals Regulations (n 59) regulation 9.10.

63 LSA (n 48) schedule 4.

64 Bar Standards Board, *BSB Handbook* (version 4.8, in force 12 May 2024) <<https://www.barstandardsboard.org.uk/the-bsb-handbook.html>> accessed 16 May 2025.

65 'The Work We Do' (*Bar Standards Board*, 27 February 2025) <<https://www.barstandardsboard.org.uk/about-us/what-we-do.html>> accessed 16 May 2025.



criminal record), complete training at one of the Inns of Court, and obtain a Certificate of Call to the Bar. Thereafter, the barrister must complete 12 months of work-based learning (pupillage) and obtain professional indemnity insurance against claims for professional negligence.<sup>66</sup> Upon fulfilment of these requirements, the Bar Council, through the BSB, may issue a Practising certificate.<sup>67</sup> Unlike solicitors, barristers are granted rights of audience in higher courts from the outset.

Complaints concerning the quality of legal services provided by solicitors and barristers are handled by the Office for the Consideration of Legal Complaints (Legal Ombudsman),<sup>68</sup> a public body accountable to the LSB. Complaints regarding violations of professional rules and standards are reviewed by the SRA for solicitors and the BSB for barristers. In cases of serious violations, matters may be referred to the independent adjudicatory bodies, such as the Bar Disciplinary Tribunal<sup>69</sup> or to the Bar Tribunals and Adjudication Service,<sup>70</sup> which may take measures such as imposing restrictions, suspending a solicitor or barrister, striking a solicitor's name off the Roll, disbandment for barristers, or issuing other corrective orders.

Thus, in the UK, the direct regulation of the legal profession is conducted by the SRA and BSB, both of which operate within the framework of "approved regulators" under the oversight of the LSB. Despite their public-law status and formal integration into the system of government supervision, these organisations maintain regulatory and financial independence in making decisions concerning their members. The UK's regulatory model, therefore, reflects a combination of government oversight and institutional autonomy, and can be characterised as co-regulation.

This model—managing multiple independent regulators with equal, comparable functions—offers valuable lessons for the Kazakhstani context. Despite existing differences in qualification requirements, a unified regulatory framework could govern both advocates and legal consultants. In particular, drawing on the UK bar model, a single professional organisation with regional branches and a comprehensive set of regulatory functions could be established for legal consultants, replacing the current fragmented chambers. If such a model does not meet the conditions for self-regulation, the resulting governance would qualify as co-regulation, analogous to the model applied to advocates.

The British experience of distinguishing appellate bodies based on the nature of the complaint is also noteworthy. In the UK, one body handles disputes concerning the quality of legal services, while another adjudicates violations of professional rules. A similar dual-track approach could be considered in Kazakhstan: a dedicated body within the Ministry could address service-quality complaints, while disciplinary matters related to compliance

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66 *BSB Handbook* (n 65) r C76–C78.

67 *ibid*, r Q3–Q5, r S60.

68 LSA (n 48) schedule 15.

69 SA (n 54) s 47.

70 *BSB Handbook* (n 65) r E101.

with internal rules remain under the jurisdiction of professional communities. Such functional separation would help ensure impartial complaint handling and foster a transparent mechanism for monitoring the quality and integrity of legal services.

## 5.2. The German Model of Legal Profession Regulation

In Germany, legal services may be provided by qualified legal professionals—advocates (*Rechtsanwalt* for men and *Rechtsanwältin* for women)—as well as by professional practice entities (*Berufsausübungsgesellschaft*). This section focuses exclusively on the regulatory regime applicable to advocates. The regulatory framework governing their activities is established by the Federal Lawyers' Act 1959 (*Bundesrechtsanwaltsordnung*, hereinafter, BRAO)<sup>71</sup> and the German Judicial Act (*Deutsches Richtergesetz*, hereinafter, DRiG).<sup>72</sup>

The principal regulatory authority is the regional Bar Association (*Rechtsanwaltskammer*), an independent, self-governing public organisation established at the level of the Higher Regional Courts within each federal state. Bar Associations are empowered to issue a Certificate of Admission to the Bar, maintain electronic Registers of Advocates practising within their districts, oversee the activities of their members, monitor compliance with the Professional Code of Conduct (*Berufsordnung für Rechtsanwälte*, hereinafter, BORA), conduct disciplinary proceedings and perform other functions.<sup>73</sup> Each Bar Association operates under the administrative supervision of the territorial Ministry of Justice (*Landesjustizverwaltung*).<sup>74</sup>

All regional Bar Associations are members of the Federal Bar Association (*Bundesrechtsanwaltskammer*, hereinafter, BRAK), which represents and promotes the interests of the legal profession at the national level. In coordination with the Ministry of Justice, BRAK maintains the Central Register of all advocates in Germany<sup>75</sup> and establishes a dedicated electronic mailbox (*besonderes elektronisches Anwaltspostfach*, hereinafter, beA) for each registered advocate.<sup>76</sup> BRAK also approves mandatory professional rules, including BORA, and establishes an independent body for out-of-court dispute resolution, the Arbitration Council (*Schlichtungsstelle*), which facilitates amicable resolution of disputes between advocates and clients.<sup>77</sup>

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71 Federal Code for Lawyers (*Bundesrechtsanwaltsordnung* - BRAO) (amended 23 October 2024) <[https://www.gesetze-im-internet.de/englisch\\_brao/index.html](https://www.gesetze-im-internet.de/englisch_brao/index.html)> accessed 17 May 2025.

72 German Judiciary Act (*Deutsches Richtergesetz* - DRiG) (amended 22 October 2024) <[https://www.gesetze-im-internet.de/englisch\\_drigh/englisch\\_drigh.html](https://www.gesetze-im-internet.de/englisch_drigh/englisch_drigh.html)> accessed 17 May 2025.

73 BRAO (n 72) §§ 6, 31, 60, 73.

74 *ibid.*, §§ 60, 62.

75 *ibid.*, § 31(1).

76 *ibid.*, § 31a (1).

77 *ibid.*, § 191(f).

Applicants for admission to the legal profession in Germany are subject to the same qualification requirements as judicial candidates.<sup>78</sup> This includes passing two state examinations and completing a two-year preparatory training (*Referendariat*) within judicial and government agencies.<sup>79</sup> The German legal education system is comprehensive and structured, contributing to high professional standards.<sup>80</sup> Career trajectories within the legal profession are largely determined by performance on the state examinations, with the final grade of the state exam regarded as a reliable indicator of a candidate's legal competence.<sup>81</sup> The highest score opens the door to a career in the judicial system or public service, and is also in demand by leading law firms; however, fewer than 15% of candidates receive it.<sup>82</sup> Almost 60-70% of young lawyers become advocates, drawn by the relative ease of joining law firms (no additional exams are required) and the limited number of positions in the civil service, prosecution and judiciary.<sup>83</sup>

To obtain the right to practice as an advocate, candidates must join a Bar Association. Admission requirements include passing two state exams, not being subject to conditions that would result in admission refusal, taking an oath, and providing evidence of professional liability insurance.<sup>84</sup> Upon meeting these requirements, the Bar Association issues a Certificate of Admission to the Bar (*Urkunde über die Zulassung*)<sup>85</sup> and records the individual in the Register of Advocates of a Bar Association. Advocates are obligated to actively use the beA email account, created by the BRAK, for legal correspondence, and must continuously maintain and improve their professional qualifications.<sup>86</sup>

In cases of professional misconduct, the Bar Association conducts disciplinary investigations, which may result in warnings. If the violation is serious, the case is referred to the Disciplinary Court (*Anwaltsgericht*), which is established by the Bar Association but operates independently in its decision-making. The Disciplinary Court may impose sanctions including warnings, a written reprimand, fines, temporary bans from practising in specific areas of law, or disbarment.<sup>87</sup>

78 *ibid*, § 4.

79 DriG (n 73) § 5.

80 Daniela Schröder, 'Challenges of German First-Year Law Students – Empirical Results and Implications for Legal Education' (2022) 3(1) *European Journal of Legal Education* 23.

81 Armin von Bogdandy, *The German Sonderweg in Legal Education: Reflections for a General Debate in the Context of European Society* (MPIIL Research Paper Series no 2024-01, Max Planck Institute for Comparative Public Law and International Law 2024) <<https://ssrn.com/abstract=4695167>> accessed 5 July 2025.

82 Ulrike Schultz, 'Legal Education in Germany – an Ever (Never?) Ending Story of Resistance to Change' (2007) in Vittorio Olgiati (ed), *Higher Legal Culture and Postgraduate Legal Education in Europa* (Edizioni Scientifiche Italiane 2008) 125.

83 Stefan Koriath, 'Legal Education in Germany Today' (2006) 24(1) *Wisconsin International Law Journal* 85.

84 BRAO (n 72) §§ 4,7, 26.

85 *ibid*, § 12.

86 *ibid*, §§ 31a(6), 43(6).

87 *ibid*, §§ 113(1), 114.

The German legal system provides for a special category of full-time lawyer (*Syndikusrechtsanwalt*),<sup>88</sup> who holds the status of an advocate but works under an employment contract and acts exclusively in the legal interests of the employer. Unlike the classic *Rechtsanwalt*, who operates independently or within the framework of a law firm and serves external clients, *Syndikusrechtsanwalt* performs legal work within the framework of an employment relationship with a specific organisation. This advocate is required to obtain a separate admission (*Zulassung*) in the form of a special license issued by the Bar Association, based on an assessment of the legal functions to be performed.

The regulatory model of the legal profession in Germany represents a form of co-regulation, striking a balance between state oversight and professional self-governance. Despite the country's federal structure, regulation is unified under the BRAO. Admission to the profession is administered by the state authorities, while regional Bar Associations are responsible for oversight and disciplinary proceedings. This approach ensures high professional standards, institutional transparency, and robust professional autonomy.

Germany's experience in consolidating legal assistance professionals into a unified profession offers valuable guidance for Kazakhstan. At present, advocates in Kazakhstan undergo internships and comprehensive certification, while consultants are admitted based on proof of experience and a qualifying examination, reflecting significant disparities in standards. The unification of admission requirements, coupled with the establishment of a single regulatory model, would enhance oversight and promote consistent quality in the provision of legal services.

### 5.3. Regulation of Legal Practice in Ukraine

In Ukraine, legal assistance is primarily provided by advocates, whose activities are governed by a specific legal act—the Law of Ukraine “On the Bar and Legal Practice” (hereinafter, the Law on the Bar). Private lawyers also provide<sup>89</sup> certain types of legal assistance; however, these individuals lack formal recognition in legislation and are not subject to licensing. Consequently, this analysis focuses exclusively on advocacy. According to current legal provisions, the Ukrainian system is characterised by professional self-governance of the bar.<sup>90</sup>

All practising advocates in Ukraine are members of the Ukrainian National Bar Association (hereinafter, UNBA), a non-governmental, non-profit professional organisation. The UNBA maintains the Unified Register of Advocates of Ukraine (hereinafter, the Unified Register), which provides public access to information regarding the number and composition of advocates.<sup>91</sup>

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88 *ibid*, § 46a.

89 Law of Ukraine no 5076-VI of 05 July 2012 ‘On the Bar and Legal Practice’ (amended 15 November 2024) <<https://zakon.rada.gov.ua/laws/show/5076-17#Text>> accessed 17 May 2025.

90 *ibid*, art 2.

91 *ibid*, arts 17, 45.

Bar self-governance operates at both national and regional levels. At the national level, governance bodies include the Congress of Advocates of Ukraine (the highest self-governing body), the Bar Council of Ukraine, the High Qualification and Disciplinary Commission of the Bar, and the High Auditing Commission of the Bar. At the regional level, governance is exercised by the Regional Conference of Advocates (the highest regional body), the Regional Bar Council, the Regional Qualification and Disciplinary Commission of the Bar (hereinafter, the RQDCB) and the Regional Audit Commissions of the Bar.<sup>92</sup> The Regional Bar Council and the RQDCB are established as legal entities.

The Law on the Bar sets out specific requirements for applicants to obtain the status of an advocate: a full higher legal education, proficiency in the state language, at least two years of legal work experience, successful completion of a qualifying exam, completion of an internship, and the taking of the advocate's oath. The Law on the Bar also contains conditions that prevent obtaining the status of an advocate, including an outstanding criminal record, lack of legal capacity, and other restrictions.<sup>93</sup> Upon fulfilling these requirements, the Regional Bar Council issues the Certificate of the Right to Practice Law and the Advocate's Identity Card of Ukraine. The Law on the Bar does not require compulsory professional insurance. Advocates may employ assistants under a labour contract; assistants must possess a higher level of legal education and meet similar eligibility requirements.<sup>94</sup> Notably, prior work experience as an advocate's assistant in the last two years may exempt candidates from the internship requirement.<sup>95</sup>

Upon taking the oath of the advocate of Ukraine, advocates automatically become members of the UNBA and are obligated to adhere to the oath, comply with the rules of professional ethics, engage in continuous professional development, and follow the decisions of bar self-governance bodies.<sup>96</sup> Professional organisation is conducted through disciplinary mechanisms of self-governance.

The powers of bar self-governance bodies include: the Congress of Advocates of Ukraine, which approves the Rules of Professional Ethics; the Regional Bar Council, which issues a Certificate of the Right to Practice Law, oversees the implementation of decisions adopted by the Regional Conference of Advocates, promotes professional development, and updates the Unified Register; and the RQDCB, which organises and conducts qualification examinations, decides on suspension or termination of the right to practice law, and conducts disciplinary proceedings against advocates.<sup>97</sup> Disciplinary sanctions may include warnings, suspension of the right to practice law for one month to one year, or revocation of the right to practice law with subsequent exclusion from

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92 *ibid*, art 46.

93 *ibid*, art 6.

94 *ibid*, arts 6, 16.

95 *ibid*, art 10(5).

96 *ibid*, arts 45, 12, 21.

97 *ibid*, arts 55, 54, 48, 50.

the Unified Register (for Ukrainian advocates) or simple exclusion from the Unified Register (for foreign advocates).<sup>98</sup> Disciplinary procedures involve verification of alleged misconduct, initiation of a disciplinary case, review of the case, and issuance of a decision.<sup>99</sup> This decision can be appealed to the Higher Qualification and Disciplinary Commission of the Bar or the court.<sup>100</sup>

The state does not determine access to the legal profession, directly regulate their activities or impose sanctions. The Ministry of Justice of Ukraine is indirectly involved in managing the legal profession through the legislative establishment of professional requirements for advocates, as well as through its interaction with the UNBA. The judicial authorities are authorised to consider complaints against the actions of the UNBA and the RQDCB. Consequently, advocacy in Ukraine is characterised by comprehensive self-regulation and independence from the state.

Historically, until 2012, the regulation of advocates in Ukraine operated under a state-administrative model: qualification and disciplinary commissions were formed by state authorities with their direct participation, and the Higher Qualifications Commission functioned under the Cabinet of Ministers of Ukraine.<sup>101</sup> The contemporary model, based on self-regulation with mandatory membership in a unified professional organisation, consolidates all key regulatory functions within the UNBA, which enjoys public-law status and decision-making independence. This transition to full self-regulation reflects both low public confidence in state authorities and a deliberate effort to achieve institutional independence following a prolonged period of administrative control.

Kazakhstan could benefit from legally defining the status of an assistant lawyer. While Kazakh legislation permits advocates to employ assistants, it does not establish formal requirements for this category.<sup>102</sup> Assistants perform tasks assigned by advocates; therefore, their role is also socially significant and should meet qualification criteria similar to those in Ukraine, including higher legal education, absence of a criminal record, and legal capacity. In addition, prior work experience as an advocate's assistant could be recognised as grounds for exemption from the mandatory internship required for prospective advocates.

Finally, regarding disciplinary measures, Kazakh legislation provides for remarks, reprimands, severe reprimands, and exclusion from the Bar Association.<sup>103</sup> In practice, the first three sanctions have comparable legal and practical effects. As in Ukraine, these should be consolidated into a single category (e.g., "warning" or "remark"), to simplify the system and enhance clarity.

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98 *ibid*, art 35.

99 *ibid*, art 37.

100 *ibid*, art 42.

101 Law of Ukraine no 2887-XII of 19 December 1992 'On Advocacy' (repealed 19 November 2012) <<https://zakon.rada.gov.ua/laws/show/2887-12#Text>> accessed 26 July 2025.

102 Law of Ukraine no 5076-VI (n 91) art 30.

103 Law of the Republic of Kazakhstan no 176-VI LRK (n 16) art 72.

## 6 CONCLUSION

Regulation of legal professional activity encompasses the establishment of admission requirements, professional standards, oversight mechanisms, and the application of sanctions. In theory, three regulatory models are distinguished: state regulation, self-regulation and co-regulation. Full government regulation may limit the institutional independence of legal professionals, while pure self-regulation can compromise its accountability. A co-regulation model that balances autonomy with oversight is the most effective solution in the field of legal assistance.

In the Republic of Kazakhstan, comprehensive legal assistance is provided by advocates and legal consultants. The activity of advocates is governed under a co-regulation model, which combines state licensing with a two-tier system of professional self-governance and control. In contrast, legal consultants operate within a self-regulatory framework, where mandatory membership in a professional organisation is required. These organisations are responsible for admitting members, adopting internal rules and professional standards, monitoring compliance, and imposing disciplinary measures. The authorised body sets minimum entry requirements for consultants and oversees the activities of the Chambers by approving their internal regulations, maintaining official registries, reviewing internal documents, monitoring operations, and applying enforcement measures where necessary.

The current model of self-regulation for legal consultants in Kazakhstan is marked by institutional instability, primarily due to the absence of unified regulation. To address this problem, it is advisable to create a single professional regulatory authority—potentially based on the RCLC—with territorial branches formed from current chambers. If the condition for full self-regulation cannot be maintained, regulation may be organised in a co-regulation format, similar to the model applied to advocates. This approach aligns with the United Kingdom's experience, where two distinct legal professions are regulated by separate bodies that share equal legal status and consistent regulatory powers.

The separation of legal consultants into a distinct category has also been subject to criticism. Although their functions largely mirror those of advocates, except for participation in criminal cases, legal consultants operate under a separate regulatory framework. This divergence impedes the development of a unified system for ensuring the quality of legal assistance. Potential solutions can be found in the regulatory models adopted by Germany, where legal assistance providers are integrated into a single profession, subject to a common regulatory framework that allows for differentiation based on levels of specialisation. Thus, Kazakhstan could improve national regulation either by establishing parity between the regulators of advocates and consultants or by merging both professions under a single regulatory authority.



Foreign experience demonstrates that in countries with a well-developed legal system, co-regulation predominates, ensuring a balance between professional independence and state supervision. On the contrary, in jurisdictions transitioning from a state-administrative model, regulation often evolves toward full self-regulation, as a response to previous state interference and a pursuit of professional autonomy. Comparative analysis has also highlighted several regulatory practices—indicated in the article—that may be effectively adapted to the Kazakh context.

In Kazakhstan, adopting a co-regulation approach to legal assistance for advocates and legal consultants appears optimal. Such a model would safeguard the legal profession's independence from administrative influence, while maintaining a degree of public accountability. Such a model would foster the development of a stable professional environment and improve the quality of legal assistance.

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## АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

### МОДЕЛЬ РЕГУЛЮВАННЯ ЮРИДИЧНОЇ ДІЯЛЬНОСТІ В КАЗАХСТАНІ

### ТА ІНОЗЕМНИХ ЮРИСДИКЦІЯХ:

### ПОШУК БАЛАНСУ МІЖ ДЕРЖАВНОЮ МОНОПОЛІЄЮ ТА САМОРЕГУЛЮВАННЯМ

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### АНОТАЦІЯ

**Вступ.** Щораз більший попит на кваліфіковану правову допомогу підкреслює необхідність ефективного регулювання юридичної діяльності. Залежно від розподілу регуляторних функцій існують три моделі: державне регулювання, саморегулювання та співрегулювання. У Казахстані правову допомогу надають адвокати та юридичні консультанти, які працюють за різними принципами. Адвокати працюють за моделлю співрегулювання, що поєднує державний контроль з професійною автономією, тоді як юридичні консультанти підпорядковуються системі саморегулювання, у якій професійні організації контролюють допуск та здійснюють нагляд. Ця розбіжність ускладнює розробку узгодженої та ефективної системи правової допомоги, що спонукає до дискусій щодо об'єднання їхнього правового статусу та управління.

Юрисдикції з добре розвиненими правовими системами, такі як Велика Британія та Німеччина, переважно використовують співрегулювання, що збалансовує професійну автономію з громадським наглядом. Кілька пострадянських країн, зокрема Україна та частково Казахстан, перейшли від державного адміністративного регулювання до саморегулювання. Однак ефективність саморегулювання залежить від зрілості та

стабільності його інституційної основи. У Казахстані система саморегулювання юридичних консультантів вже виявила структурні недоліки та потребує реформування. Це дослідження розглядає модель регулювання юридичної діяльності в Казахстані та окремих іноземних юрисдикціях, визначає недоліки в національній системі та пропонує рекомендації щодо її вдосконалення.

**Методи.** У дослідженні використовуються теоретичні та спеціальні методи юридичного дослідження. Аналіз та синтез у поєднанні із системним підходом дозволили зібрати та систематизувати відповідні матеріали (наукову літературу та правові акти), класифікувати моделі регулювання, виявити відмінності, оцінити їхню ефективність та розробити рекомендації. Формально-правовий метод сприяв дослідженню правових норм у різних юрисдикціях, тоді як порівняльно-правовий метод дозволив провести міжюрисдикційне порівняння, висвітливши відмінні риси та найкращі практики.

**Результати та висновки.** Регулювання юридичної діяльності здійснюється за однією з трьох моделей – державне управління, саморегулювання або співрегулювання, кожна з яких відрізняється ступенем участі держави та професійної залученості. У юрисдикціях із добре розвиненими правовими інституціями переважає підхід співрегулювання, яке поєднує державний контроль з професійною автономією. У країнах із правовими системами, що розвиваються, часто запроваджується саморегулювання. У Казахстані адвокати працюють за моделлю співрегулювання, тоді як юридичні консультанти підпорядковуються системі саморегулювання, яка демонструє помітні інституційні недоліки. Питання об'єднання цих двох професійних груп під керівництвом єдиного регуляторного органу залишається актуальним. Порівняльний аналіз національного та зарубіжного досвіду виявив практики, які можуть бути основою для вдосконалення казахстанської регуляторної системи.

**Ключові слова:** державне регулювання, саморегулювання, співрегулювання, юридична діяльність, допуск до професії, юрист (адвокати) або юридичний консультант.