



Stronger when united: Kazakh lawyers facing new challenges

Kirstine Rødsgaard Madsen

**Socioeconomic consequences of non-lawyer court
representation**

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The speaker

MSc Kirstine R. Madsen



- Economist at Copenhagen Economics
- Specialized in **competition economics** and assessment of regulatory impact
- Experience with regulation and competition in the **legal profession**

The topic of today's speak

Consequences of non-lawyer court representation



- In most countries **only lawyers** are allowed to represent their clients in court
- Some countries allow for non-lawyer representation
- What are the effects and **consequences of non-lawyer representation?**

The conclusions

The main message of today's presentation



- Non-lawyer representation may lead to **higher social costs** than benefits
- The **risk of lower quality** in legal work likely outweighs competition benefits
- Evidence from Sweden and Denmark

Introduction

The legal system in an economic context



- A well-functioning legal system is essential for **economic development**
- **High quality in legal procedures** ensures trust, reliability and accountability
- Legal work is **highly complex** and benefits from academic skills and training

Importance of high quality

High quality benefits society in a number of ways



- Higher effectiveness** and lower procedural costs in legal work
- Greater legal precedence** and the formation of applicable law
- Less resources** spent on supervision, approval, etc.

Challenges for high quality

But legal services are credence goods



- Difficult for clients to assess the quality of legal services – they are uninformed
- Such **asymmetric information** may lead to lower quality in the legal profession...
- ...by mechanisms of **moral hazard** and **adverse selection**

Challenges for high quality Moral hazard



Challenges for high quality
Adverse selection



Mitigating quality challenges

Problems with asymmetric information can be reduced



- Reputation** – recommendations, re-purchasing, consumer surveys
- Tests** – international ratings, supreme representation
- Guarantees** – no cure, no pay
- Regulation** – licensing, formal requirements, supervision

Mitigating quality challenges

Problems with asymmetric information can be reduced



Mitigating mechanisms

Mechanism	Examples	Type
Regulation	Licensing of lawyers Formal requirements Supervision Sanctions	Government
Reputation	Re-purchases Recommendations Consumer surveys	Market
Tests	International ratings Supreme representation	Market/Courts
Guarantees	No cure – no pay	Market

Mitigating quality challenges

Regulation can ensure higher quality



- High **educational requirements** for lawyers and other legal professionals
- Ethical guidelines and **effective supervision**
- Restriction of access** to court representation for non-lawyers

Mitigating quality challenges

But regulation can also lead to less competition



- Regulation and formal requirements may **reduce access to the legal profession**
- This may in turn reduce the supply of court services and lead to **higher prices**
- Which may **reduce the number of cases** taken to court
- Effects **may spill over to services** in earlier stages of the legal process

The relevant trade-off

Balancing quality and competition effects



Are higher prices harmful to consumers?

Consumers are more concerned with quality than price



Most important criteria for choice of lawyer

Criterion	Response share
Academic competences	56%
Trust	50%
Specialist in the area	48%
Price	46%
Honesty	43%
Reputation	33%

Note: The table shows the share of consumers that responded for each criteria that it was essential for their choice of lawyer

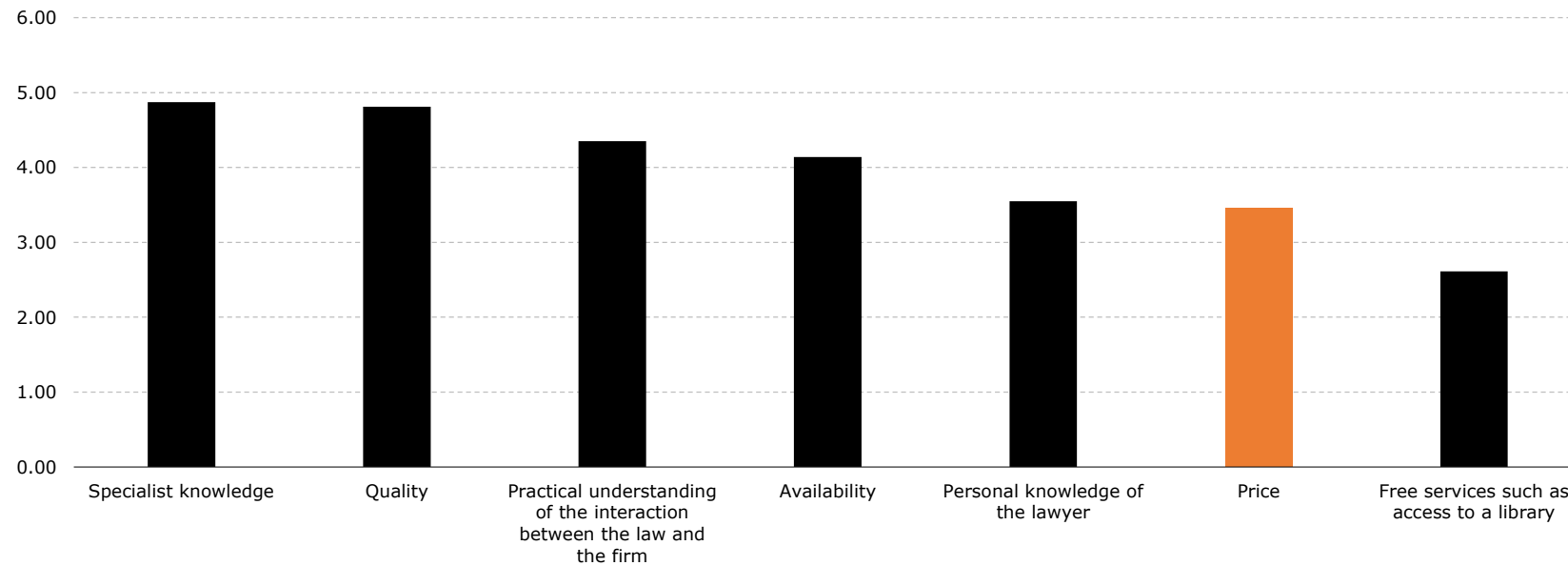
Source: Survey among Danish consumers, Advice (2014)

Are higher prices harmful to firms?

Firms are more concerned with quality than price



Most important criteria for choice of lawyer



Source: Copenhagen Economics (2016)

Are higher prices harmful to society?

With higher prices
less cases will go to court



- Procedural costs** of court work are in part borne by the state
- Higher prices **may reduce social costs** by lowering the amount of cases

Empirical case: Sweden

A case of liberal representation policy



- Sweden has always had a **fully liberal** representation policy
- The majority of cases can be represented by non-lawyers subject to approval
- No demand in practice** for non-lawyers and only in small and simple cases

Empirical case: Denmark

Effects of a partial liberalization



- In 2008 the Danish government **partially liberalized** representation policies
- Simple, small cases below 15.000 EUR can now be represented by non-lawyers
- Since 2008 **very few cases** have been represented by non-lawyers in practice

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Contact



Kirstine Rødsgaard Madsen

krm@copenhageneconomics.com

Copenhagen Economics

Langebrogade 1 (entrance B3)
DK-1411 Copenhagen
Denmark

www.copenhageneconomics.com

