



## Making legal aid attractive to private lawyers

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- not enough knowledge about legal needs of the population
- not enough money to fund legal services for the poor
- not enough control of the quality of the services provided

Never: not enough of lawyers who can potentially do legal aid

Event

Justice

# EU Forum of the Legal Professions



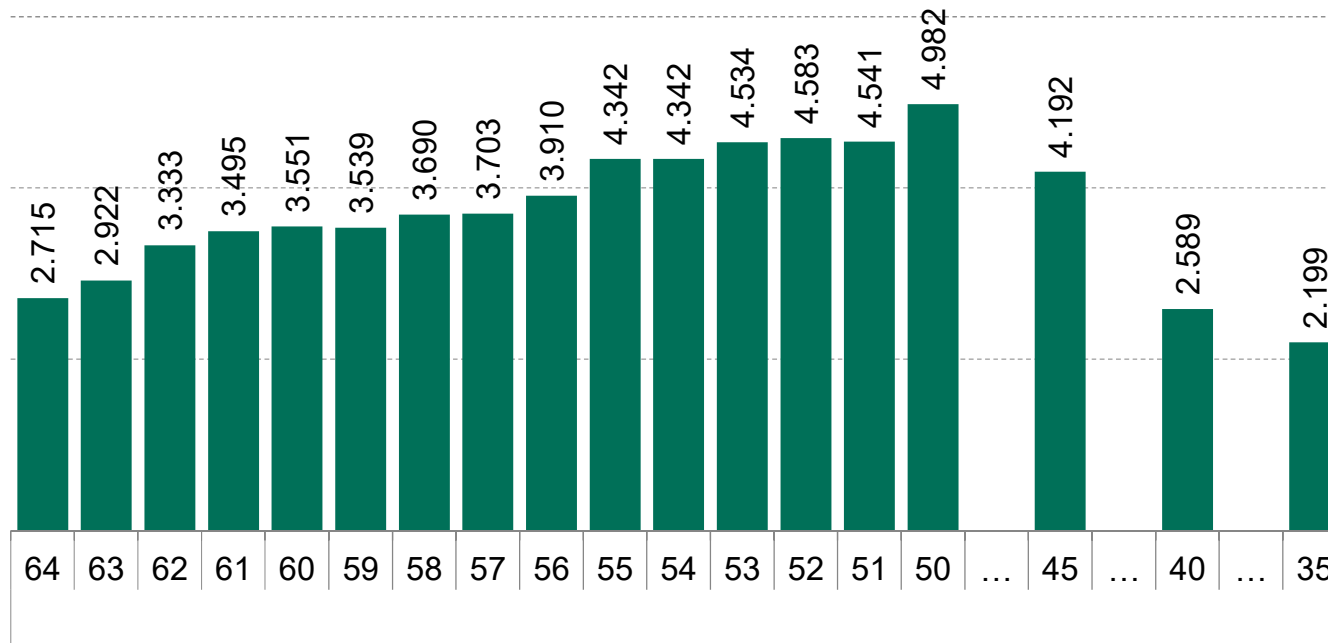
Maintaining the attractiveness of the legal professions: how can we anticipate future trends

## Ageing Societies : The oldest societies in the world

Country	Population by age <sup>[1]</sup>		
	0 to 14	15 to 64	Over 65
 Japan	12.49 %	58.33 %	29.18 %
 Germany	12.89 %	64.12 %	22.99 %
 Greece	14.53 %	63.04 %	22.43 %
 Finland	16.41 %	61.33 %	22.26 %
 Italy	13.45 %	64.47 %	22.08 %
 Puerto Rico (US)	14.22 %	64.01 %	21.77 %
 Malta	14.38 %	64.32 %	21.3 %
 Slovenia	14.84 %	63.93 %	21.23 %
 Croatia	14.16 %	64.78 %	21.06 %
 Estonia	16.22 %	62.78 %	21 %
 Portugal	13.58 %	65.5 %	20.92 %
 Hungary	14.54 %	64.77 %	20.69 %
 Sweden	17.71 %	61.7 %	20.59 %
 Latvia	15.32 %	64.18 %	20.5 %
 France	18.36 %	61.18 %	20.46 %
 Lithuania	15.26 %	64.29 %	20.45 %
 Czech Republic	15.17 %	64.6 %	20.23 %
 Bulgaria	14.52 %	65.5 %	20.06 %
 Serbia	14.07 %	65.93 %	20 %
 Denmark	16.42 %	63.67 %	19.91 %
 Austria	14.01 %	66.12 %	19.87 %
 Netherlands	16.11 %	64.07 %	19.82 %

Source: World Factbook / CIA

## Ageing Societies: Members of the German Bar by age



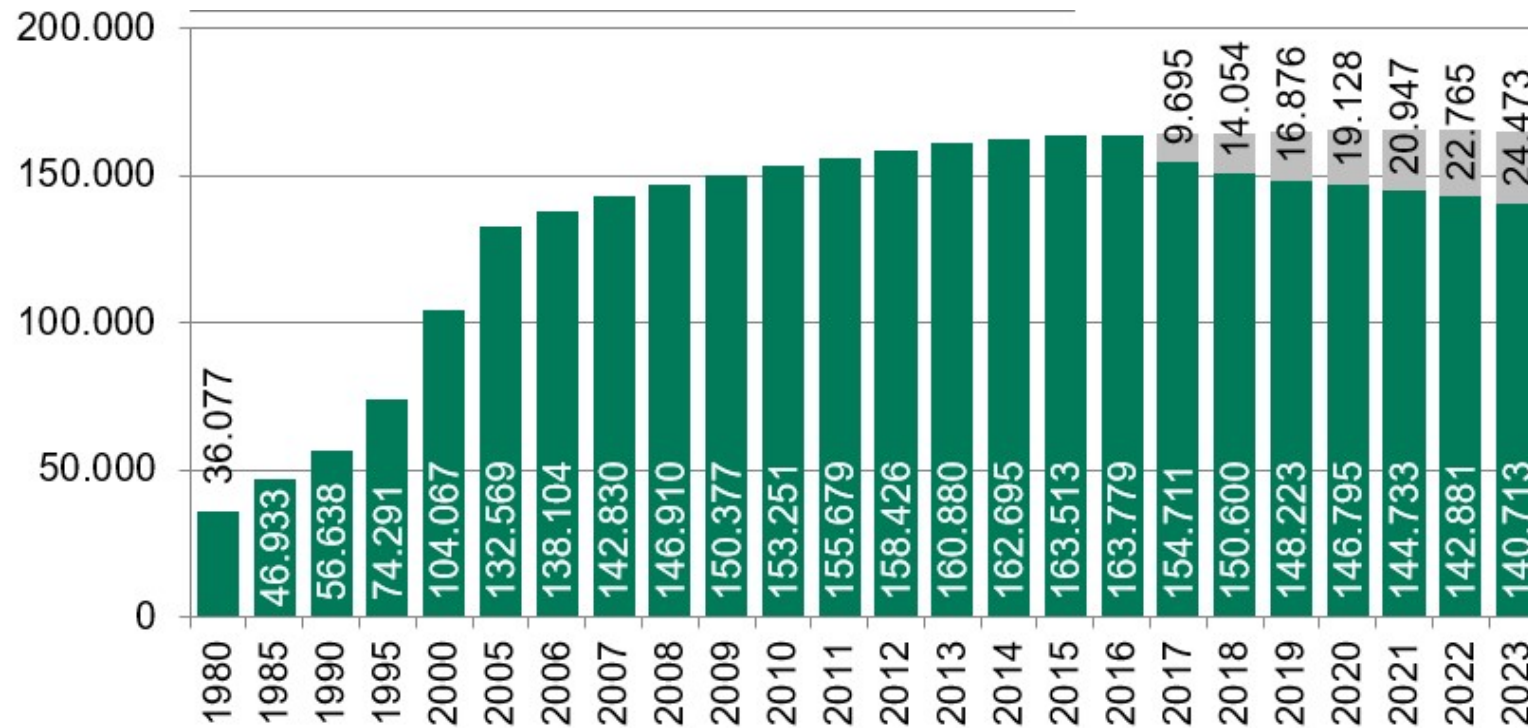
Source: German Federal Bar

In 20 years time, „65 per cent of our children will be working in professions that do not even exist in this form today“

*Marcus K. Reif, CPO Kienbaum (2016)*

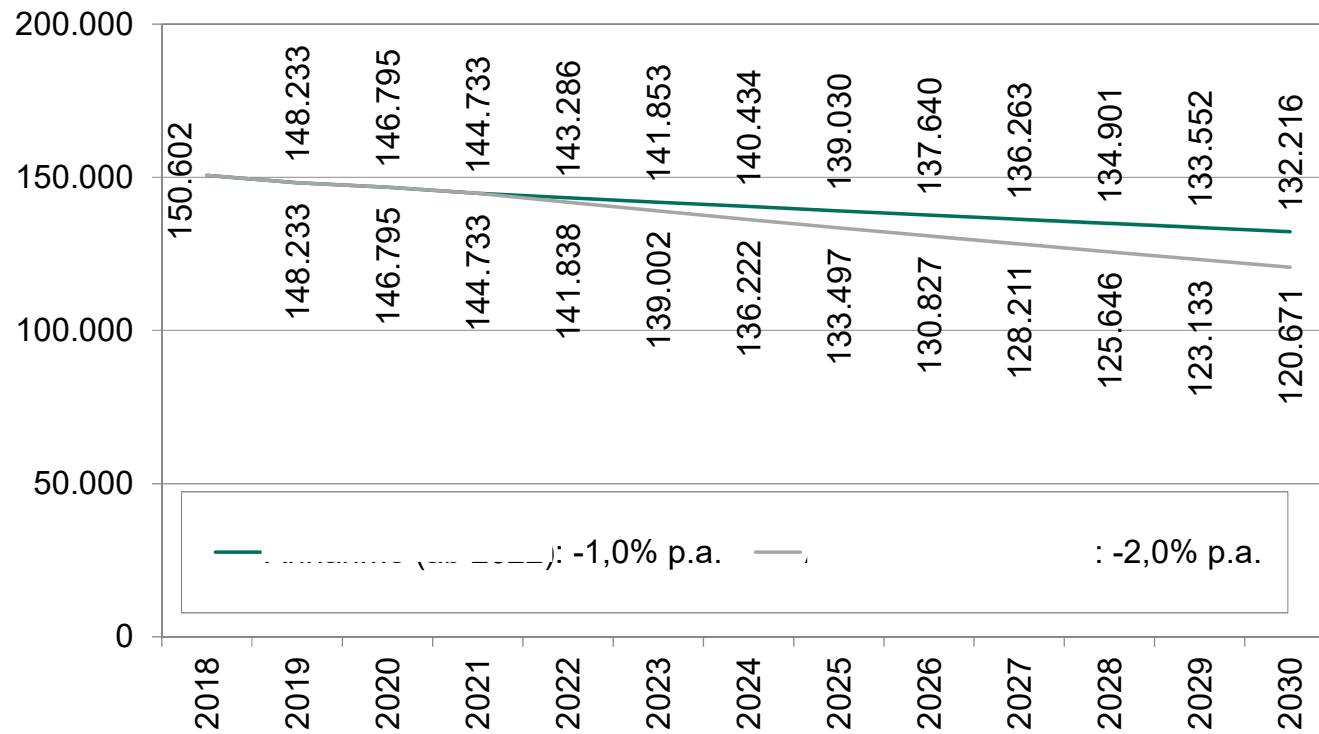
## Ageing Societies

### Members of the German Bar in private practice 1980 – 2023



Source: German Federal Bar

## Ageing Societies in Europe: Members of the German Bar in private practice – possible development



Source: Soldan Institute



# Effects On Legal Services: Experiences From Germany



Source: Soldan Institute (2021)

## **Expenditure will (have to) increase**

- lawyers can and will increasingly cherry-pick cases
- prices on the legal services market will go up, widening the income gap between legal aid work and non legal aid work.
- willingness to do poorly remunerated legal aid work will decrease among those who do not see legal aid work as an ethical obligation.
- side effect: more discussion about priorities.

## **Contracting will become more difficult**

- precondition for competitive tendering is a sufficiently competitive market in which providers are willing to compete for business and accept a lower remuneration in return for a guaranteed referral of cases.
- in a system where the number of lawyers is shrinking, lawyers likely be interested in legal aid cases only to fill spare capacity, but will be more reluctant to tie themselves to a contract that forces them to forego better earning opportunities
- side effect: quality control will face challenges

## Ethical rules on legal aid work will become more relevant

- legal aid systems that do not rely on contracting or panels typically rely on the market forces to guarantee services for those eligible for legal aid.
- In case of market failure, safeguards are in place that make it an ethical duty to accept a case if approached by a legal aid client.
- those ethical rules have relatively little relevance at this point because the free market works reasonably well – but this will likely change
- side effect: more discussion about (mandatory) pro bono work

## “Paraprofessionals” will to some extent replace members of the Bar

- alternative legal studies are becoming increasingly popular although they do not qualify for entering traditional legal professions, taking a bar exam etc.
- usually more specialized, practice-oriented, shorter legal studies.
- at this point, graduates mostly become employees of legal departments, large law firms, ALSPs – but, given their career preferences, they are ideal candidates to work in the legal aid field if the regulatory framework would allow them to do so.
  
- side effect: concept of reserved activities / UPL will come under pressure

## The role of legal expenses insurance will be discussed again

- “Legal expenses insurance and legal aid—two sides of the same *coin*?”
- discussion about the role LEI can play in guaranteeing access to legal services and how the use of LEI can be incentivized by the government is likely to gain traction.
- insurers do not work based on the cherry-picking principle, but by risk-pooling
- Caveat: insurers do not do criminal law and family law

## Summary: Legal Aid in Times of Shrinking Legal Professions

1. like it or not, public funding for legal aid will have to increase
  - ↳ side show: prioritization will rear its ugly head once more
2. concept that legal aid work is tendered and bulk-contracted will become more difficult to implement
  - ↳ side show: challenge to maintain effective quality control
3. ethical rules on legal aid work will become more relevant
  - ↳ side show: more discussion about (mandatory) pro bono work
4. “paraprofessionals” will to some extent replace members of the Bar
  - ↳ side show: concept of reserved activities / UPL will come under pressure
5. the role of legal expenses insurance as an alternative funding mechanism will be recalibrated
6. staff lawyer model will become more important
  - ↳ parallel show: discussion about external ownership of law firms

## Staff lawyer model will become more important

- Generations Z / Alpha expect an employer to be “innovative, family friendly, have a flat hierarchy, do pro bono work, care about work-life balance, offer personal development and equal career opportunities”.
- as traditional legal employers do not fit the bill (or do not walk their talk), law graduates increasingly shun work in law firms
- those who still go into law firms, are often not interested in becoming an entrepreneurial lawyer but would rather stay employed despite lower prestige and income.
- based on these demographic developments, strengthening or introducing a staff lawyer model may be one solution to address supply issues
- parallel effect: pressure to allow external ownership of law firms will increase