

Attorneys on the Two Sides of the Leitha

The Professionalisation of Attorneys in the Austro-Hungarian Monarchy in the Second Half of the Nineteenth and the Early Twentieth Centuries

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Abstract. The study aims to present the most important aspects of the professionalisation of the nineteenth century Austrian and Hungarian attorney professions. The main aim is, keeping in mind the approach of comparative historiography, to draw attention to the similarities and differences between the professions, and to present the state and market aspects of the professionalisation of the Austrian and Hungarian attorney professions. This article offers insight into the history of concepts related to the Austrian and Hungarian attorney professions, before turning its attention to changes in the numbers of practitioners in both professions, as well as the professional challenges underlying these changes. The analysis discusses in detail the organisational differences between the two professions, the social status of attorneys, and the relationship between attorney and other legal professions. The study also highlights the differing situations of Austrian and Hungarian lawyer-politicians. By examining all these aspects, it is possible to gain a better understanding of the challenges attorneys faced and the contemporary responses they offered, as well as the extent to which these reactions influenced the subsequent professionalisation of the attorney profession.

Keywords: attorney, professionalisation, social history, legal profession, Austro-Hungarian Monarchy

Introduction

This study examines the professional transformation of Austrian and Hungarian attorneys in the second half of the nineteenth century, using a comparative historical framework. It highlights the main elements of this professional transformation, identifying the fundamental similarities and differences, paying particular attention to overpopulation and the specific characteristics of the professionalisation process. In the first part, the path leading to the modern attorney profession is briefly

reviewed, touching upon the confusion surrounding the terminology. Next, the development at the end of the nineteenth century is examined, revealing several similarities between the two professions. Finally, the relationship between the attorneys and other legal professions, as well as the problems of specialisation and market forces are examined.

Geographically, the analysis is limited to the Austro-Hungarian Monarchy. One of the basic units of comparison is 'Transleithania' (the Kingdom of Hungary), while the other is 'Cisleithania' (the kingdoms and provinces represented in the Reichsrat), since both parts constituted homogeneous legal units. This analysis does not discuss the attorneys for Croatia and Slavonia.¹ Since much essential research is still to be done, in many cases we have limited the comparative analysis to the two most significant and populous bar associations, those of Vienna and Budapest. Due to its limited scope, this study cannot undertake a comprehensive presentation of the two professions, not least because significant primary research is still lacking to clarify certain issues. Although the focus is primarily on attorneys, the analysis also addresses their broader social roles and places them within the wider context of the legal profession.²

The attorney profession and the process of professionalisation

Clarifying the focus on legal professionals, more specifically attorneys, is essential because they have played a decisive role in modern societies for multiple reasons. The professionalisation paradigm originated in the Anglo-Saxon context, prompting the examination of the influence of the British and North American legal professions, as both modern legal systems and capitalist economies depend on legal expertise.³ Historically, scholarly studies of professions have consistently emphasised attorneys, whether analysing professionalisation from a social science perspective or within particular historical contexts.⁴ In the nineteenth century, attorneys in Europe were central

1 For more on Croatian attorneys, see the following works: Čepulo, "Croatian Constitutionalism from Autonomy to the State," 37–56; Čepulo, "Building of the Modern Legal System in Croatia 1848–1918," 47–91; Kent, *Attorneys in Zagreb, Croatia, 1884–1894*.

2 By the term 'legal professional' or 'lawyer,' we mean those individuals who hold a law degree and, by virtue of that qualification, carry out related activities. The term 'attorney' refers to a narrower group, as in this case, the requirement of holding a solicitor's qualification must also be met. From the second half of the nineteenth century, following the introduction of modern bar regulations, those may be regarded as attorneys who have applied for admission to the register of the bar association competent for their place of residence; here, therefore, membership of the bar is the decisive factor.

3 Burrage, "Introduction," 6–13; Friedman, "Lawyers in Cross-Cultural Perspective," 16–18.

4 Lewis, "Comparison and Change in the Study of Legal Professions," 31–37; Rüschemeyer, "Comparing Legal Professions," 311–12.

to political change, sometimes serving as instruments of political power and, at other times, leveraging their own political capital.⁵ According to Max Weber, attorneys played a decisive role in the development of modern politics: in the same way as party-based politics, their activities were also linked to the effective representation of interests.⁶ In the nineteenth century, the ideal held up before attorneys was the French legal profession, which in many cases led various political movements.⁷ In the courtroom, attorneys represented both clients and cases before the public; in the course of their work, they came into close contact not only with individuals but also with various social strata. Since the upper social strata exercised their representation through attorneys, they had the opportunity to directly enter political life. In addition, the inclination towards political engagement can also be deduced from attorneys' day-to-day work.⁸

Recent research demonstrates that these dynamics are not exclusive to Western Europe; professionalisation processes in Central and Eastern Europe are now also under scholarly investigation.⁹ These considerations demonstrate that a historical analysis of the attorney professions necessarily requires the precise identification of points of reference and a thorough definition of conceptual frameworks. Early social science and historical research soon realised that attorneys cannot simply be interpreted within a single paradigm, given the coexistence of 'common law' and 'civil law' systems.¹⁰

Among the first scholars to note is Dietrich Rüschemeyer, whose research focused on the lawyer professions in Germany and the USA.¹¹ He was the first to address the extent to which legal systems and legal customs determine the development of individual legal professions.¹² Rüschemeyer believed he had identified significant differences in lawyers' relationships with the market sector and with the state, and highlighted that mapping the structure of lawyers' activities is particularly warranted, as in many cases, individuals with other legal qualifications also perform activities similar to those of lawyers.¹³

5 McClelland, *The German Experience of Professionalisation*, 41–43; Adlgasser, "Lawyers in the Austrian Parliament, 1848–1918," 39–52.

6 Weber, *A tudomány és politika mint hivatás*, 74–75.

7 Karpik, "Lawyers and Politics in France," 733; Karpik, "Technical and Political Knowledge," 191–94.

8 Luger, "Advokatur und Politik," 221–22.

9 Müller, "Eigentum verwalten in Rumänien," 77–78.

10 Friedman, "Lawyers in Cross-Cultural Perspective," 1–8; Burrage, "Revolution as a Starting Point," 366–67.

11 Rüschemeyer, *Lawyers and Their Society*.

12 Rüschemeyer, "The Legal Profession in Comparative Perspective," 97–127.

13 Rüschemeyer, "Professional Autonomy," 38–57.

Later sociological analyses emphasised that legal systems, with their significant differences, should be systematically examined with these distinctions in mind. Social science research also expanded to consider the roles of lawyers in the economy, politics, and culture.¹⁴ As researchers explored processes and changes, they became increasingly aware of the importance of temporal factors.¹⁵ Notably, one analysis used the history of three political revolutions to examine shifts in the political elites' perceptions of lawyers.¹⁶

Significant insights emerged when interest in social history was combined with the professionalisation paradigm derived from sociology. Hannes Siegrist mapped the patterns of the lawyer profession in Central Europe through a comparative analysis of German, Swiss and Italian lawyers.¹⁷ He found that despite differing legal and historical traditions, systematic analysis within each social context made comparison feasible. Siegrist highlighted that professionalisation in this region represented the collective rise of a social group into the upper levels of bourgeois and capitalist society, whether successful or not.¹⁸ Siegrist's conclusions are clear: in Central Europe, the state has played a prominent role in fostering and coordinating professionalisation; however, we cannot rule out all market factors when examining these professions. Another important feature of professionalisation in Central and Eastern Europe is that it is not a unilateral development; rather, it may reverse itself, certain privileges may be lost, and from time to time the professions need to fight to regain them.

The history of the terms used for Austrian and Hungarian attorneys

Both the Austrian and Hungarian attorney professions can trace their origins to centuries, and various terms and concepts have become associated with them. Legal representation, whether in or out of court, was well-known and widespread in the Roman Empire, where the term *procurator* originated. In contrast, the *advocatus* or *iurisconsultus* appeared in court on account of his expertise and authority; he received no fee for his work, but instead an honorarium, and his opinion was

14 For a summary of recent sociological approaches to law, see Sida, "The Legal Profession as a Social Process," 670–93.

15 Lewis, "Comparison and Change in the Study of Legal Professions," 57–65; Abel, "Comparative Sociology of Legal Professions," 80–153.

16 Burrage, "Revolution as a Starting Point," 322–74.

17 Siegrist, *Advokat, Bürger und Staat*, vol. I–II.

18 Siegrist, "Professionalisation with the Brakes On," 267–98; Siegrist, "The Professions in Nineteenth-Century Europe," 68–73. Viewed through the lens of education and professionalisation, the most recent study of socio-cultural mobility strategies in a Hungarian context is by János Ugrai. "Going Their Own Way," 119–33.

considered final.¹⁹ This distinction persisted into the Middle Ages. While in the Holy Roman Empire, the title of *procurator* essentially merged with that of *Vorsprecher*, in Austria, the terms *Advokat* and *Prokurator* referred to the same social group or individual. In the Austrian Habsburg territories, and from the mid-seventeenth century in Bohemia as well, legal representation in court was made subject to a legal qualification; from 1638, two years' legal practice and a successful professional examination were required. However, in this period, we cannot speak of a profession yet. It should be noted that while the term *Advokat* entered legal terminology in Austrian territories, Hungarian usage favoured *prokurátor*, although in Hungary, too, there was no distinction between the two forms of representation.²⁰ In German-speaking regions, *Advokat* remained the most common term in the nineteenth century, but in the second half of the century, *Rechtsanwalt* emerged. Nevertheless, the 1868 Austrian Bar Regulations and subsequent legal works primarily used the Latin-derived term *Rechtsanwaltschaft* for the legal profession, which only really became widespread in the twentieth century.²¹ In Hungary, *prókátor* took on a pejorative connotation,²² and by the second half of the nineteenth century, *ügyvéd* had become the most widely accepted term, alongside *prókátor* and *fiskális*.

In identifying the group of attorneys whose common characteristics and differing professional strategies we intend to outline below, we give the following definition. As this comparison concerns attorneys practising in the second half of the nineteenth century and the first half of the twentieth century, in this study, attorneys are those professionals who, in accordance with the relevant bar regulations (in Austria from 1868, in Hungary from 1874), were registered members of a bar association. Only those who met the conditions prescribed by law and were admitted to the bar association competent for their place of residence were permitted to practice law. This distinction resolves the problem which title to use for Austrian attorneys (*Advokat* or *Rechtsanwalt*), just as there is no need to take into account attorneys' professional specialisations.

Under modern bar regulations, attorneys were, in principle, required to be independent in every respect; consequently, they could not be employed by the state or hold any position implying subordination. There were, however, a few specific exceptions to this rule. Specifically, during this period, attorneys could hold the status of university lecturer, serve as members of parliament, or occupy the position of

19 Zlinszky, "Az ügyvédség kialakulása Magyarországon," 9–11.

20 Zlinszky, "Az ügyvédség kialakulása Magyarországon," 22; Weissler, *Geschichte der Rechtsanwaltschaft*, 276, 280.

21 Kübl, *Geschichte der österreichischen Advokatur*.

22 Zlinszky, "Az ügyvédség kialakulása Magyarországon," 23; Bárczi, et al., *A magyar nyelv értelmező szótára*, 1959–1962.

legal adviser within business companies. Although the regulations did not formally recognise the institution of partnership attorneys, practice showed that there were, in fact, attorneys who operated law firms jointly and frequently handled each other's cases through deputisation. Furthermore, there are no obstacles to aligning attorneys registered with the bar with the basic unit of analysis, primarily because the analysis does not aim to present individuals, but the professional structures of the attorney profession, and it is precisely the bar system that established the framework for this.

The transformation of attorneys' organisations in the first half of the nineteenth century

In the nineteenth century, Austrian and Hungarian attorneys pursued similar professional objectives, seeking independent practice. Since neither Austrian nor Hungarian attorneys had an autonomous self-governing professional body, establishing one was seen as essential for securing professional independence. While the goals were shared, the starting points and conditions differed. In the seventeenth and eighteenth centuries, in both states, political leaders sought to regulate the legal profession through legislation. Although these measures advanced professionalisation, their controlling nature reflected the model of *Professionalisierung von oben*.²³ Ultimately, legal training, compulsory bar examinations, the attorney's oath, the codification of rights and obligations, and court disciplinary authority all contributed to the professionalisation process.²⁴

In Austria, as early as the end of the eighteenth century, the practice of law was made conditional upon holding a doctorate in law; this requirement was gradually extended to other provinces of the Habsburg Monarchy, such as Galicia, Dalmatia, and Istria. However, a doctorate in law was not yet sufficient to obtain an attorney's licence, as one had to pass the bar exam, the framework for which had been in place in the Austrian hereditary provinces since 1781.²⁵ While in the Kingdom of Hungary, Maria Theresa's 1769 decree made the bar examination compulsory,²⁶ the attainment of a doctorate in law was not a prerequisite for qualification as attorney until as late as 1875.

In the Austrian hereditary provinces of the Habsburg Monarchy, a limit on the number of attorneys was introduced in 1802, known by the contemporary term

23 Siegrist, *Advokat, Bürger und Staat*, vol. I, 62–68.

24 Wilensky, "The Professionalisation of Everyone," 137–58.

25 Rasse, *The Development of Legal Education*, 44.

26 Varga, "A hivatásos ügyvédi osztály kialakulása," 625–42.

numerus clausus. Under the imperial decree, the higher courts determined the number of attorneys practicing within their jurisdictions. The provision, which initially applied only to the Austrian hereditary provinces, was gradually extended to other provinces of the Habsburg Monarchy.²⁷

In Hungary, by contrast, there were no restrictions whatsoever on the number of attorneys. During the 1848–1849 Revolution and the War of Independence, Hungarian attorneys advocated the establishment of an autonomous professional body. The aspiration was articulated in numerous contemporary positions because, in the first half of the nineteenth century, the Hungarian attorney profession was strikingly under-organised. Although during the Reform Era a small group of Hungarian attorneys did plan to establish a professional association, ultimately this did not happen, and the formation of the first Hungarian Bar Association had to wait until 1866.²⁸ Nor do we find any sources of other such cooperation or action that would attest to the organisation of the Hungarian attorney profession during this period. In the first half of the nineteenth century, the two professions evidently operated within different organisational frameworks.

In the middle of the century, there were spectacular organisational transformations. Under the provisional Austrian Bar Regulations issued in August 1849, the practice of law remained subject to strict conditions but, at the same time, the opportunity arose for bar associations to be established in connection with the regionally competent courts.²⁹ These public bodies of attorneys are only partially forms of the modern profession. Since the system of appointing attorneys remained the same, the only change was that the bar associations could make recommendations for filling vacant positions, and the final decision now lay not with the higher courts but with the Minister of Justice. The Austrian bar associations could elect their senior officers, had their own budgets, and could delegate members to the bar examination board, but they could not decide independently on the admission of members or on disciplinary proceedings under the Bar Act, and thus were not granted what is perhaps the most important attribute from the perspective of professional autonomy.³⁰

The Hungarian attorney profession could not boast of similar positive changes. Following the defeat of the 1848–1849 Revolution and the War of Independence, Hungarian attorneys faced political reprisals from the Austrian authorities.

27 Neschwara, “The Development of the Legal Profession in Cisleithania,” 452–53.

28 Papp, “Össze-vissza kuszálva van ismét minden párt,” 40–42.

29 Neschwara, “The Development of the Legal Profession in Cisleithania,” 443–52.

30 Neschwara, “The Development of the Legal Profession in Cisleithania,” 469; Rasse, *The Development of Legal Education*, 87. For the latest on the role of autonomy in professionalisation, see: Keller and Kiss, “Hivatások autonómiája,” 7–16; Keller and Ugrai, “Bildungsreform, Autonomie, Kirchen und Professionalisierung,” 57–74.

Accordingly, the regulations governing the attorney profession, which came into force on 1 January 1853, were extended to the territory of the Kingdom of Hungary. The regulations, issued as an imperial patent, were extremely strict and contained provisions granting the state virtually unlimited influence.³¹ The decree required all practicing attorneys to sit a new bar examination. However, only those who had previously obtained the Minister of Justice's permission to continue their practice were allowed to appear before the examination board. The granting of such permission naturally depended largely on the attorneys' previous conduct and their political activities during the Revolution and the War of Independence.³² Another significant change brought about by the new regulations was the regulation of the attorney profession.³³ The regulations introduced in 1853 limited the number of attorneys in accordance with the above, and the Minister of Justice exercised control over the appointment system. Due to domestic political changes, in 1861 the strict regulations governing the profession were suspended in the Kingdom of Hungary, and the pre-1848 provisions were reinstated.

By the second half of the nineteenth century, many countries had already introduced modern bar regulations. For example, Austria in 1868 and Hungary in 1874 adopted liberal bar regulations that no longer imposed any restrictions on the number of practicing attorneys.³⁴ Thanks to these new developments, the two bar associations acquired very similar organisational frameworks. Both Austrian and Hungarian attorneys were able to exercise their rights of self-administration and self-discipline autonomously through the bar associations, and the award of a law degree was made conditional upon holding a doctorate in law and passing a rigorous bar examination. The only difference, which may seem minor, was the length of the legal training period: while prospective attorneys in Austria were required to spend seven years in legal training, in Hungary the period was three years.³⁵

Issues of overpopulation

Considering the aforementioned, we might conclude that the major problems faced by attorneys in the second half of the nineteenth century were resolved due to the introduction of modern bar regulations. Nevertheless, when reading contemporary

31 Korsós né Delacasse, *Az ügyvédi kamarák megszületése Magyarországon*, 31.

32 Németh, "Ügyvédek Nagykanizsán," 100–03. From the perspective of comparison and professionalisation, it should be noted that an impeccable record was also a mandatory requirement for Austrian attorneys under the rules governing the legal profession.

33 Korsós né Delacasse, *Az ügyvédi kamarák megszületése Magyarországon*, 33.

34 Wrabetz, *Österreichs Rechtsanwälte*, 60–61.

35 Rasse, *The Development of Legal Education*, 136.

reports by attorneys, we encounter a constant stream of complaints. Austrian and Hungarian attorneys mainly complained about the same subject, namely that there were too many attorneys, the most fundamental issue of the era. Therefore, we begin our comparison with this aspect.

As previously noted, the *numerus clausus* limited the number of practicing attorneys. In the first half of the nineteenth century, state officials, courts, and elites supported these limits. By the second half of the century, however, the push for restrictions came mainly from within the legal profession. To understand the role of overpopulation in professionalisation, we should review the number of attorneys.

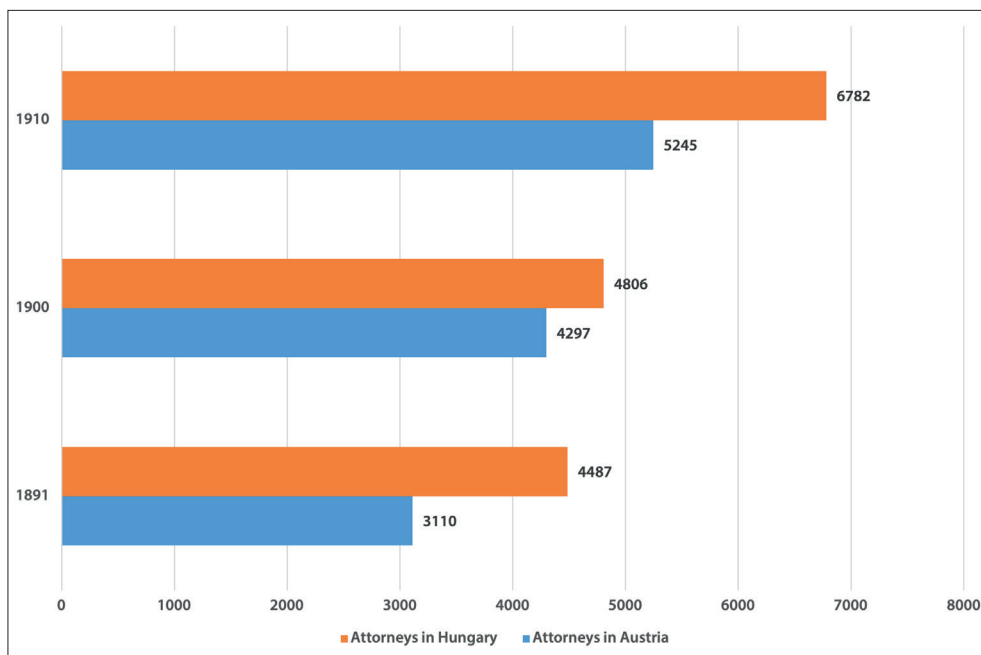


Figure 1 The number of attorneys in the Austro-Hungarian Monarchy between 1891 and 1910. Excluding Croatia and Slavonia.

Source: "Statistik der Advocaten," 391; *Statistisches Jahrbuch der Stadt Wien*, 300; "Ügyvédi statisztika Ausztriában," 151; Králik, *A magyar ügyvédség*, vol. I, 263–64; "Az ügyvédek száma Magyarországon és Ausztriában," 35.

As shown in Figure 1, both bar associations experienced a significant increase in membership around the turn of the century. Between 1891 and 1910, the Hungarian Bar saw a 51 percent increase in the number of members admitted to the bar, whilst the Austrian Bar recorded an even more dramatic 68 percent increase. However, the starting point was by no means the same; in 1891, there were nearly 50 percent more Hungarian attorneys than in Austria.

A key question is whether to compare the Hungarian attorney profession within the broader context of the Monarchy or with a profession of similar size and influence. Given the criteria and limited research on Czech and Moravian attorneys, the latter comparison is more relevant. Therefore, the next step is to compare the attorneys in the two capitals, Vienna and Budapest.

Figure 2 presents the number of attorneys practicing within the administrative boundaries of the two capital cities, as well as within their two largest bar associations. Why is this distinction necessary? The territorial jurisdiction of the Lower Austrian and Budapest Bar did not exactly correspond to the administrative boundaries of Vienna and Budapest at that time. The Budapest Bar included attorneys from the surrounding area,³⁶ and its territory was defined by district and regional court jurisdictions. The Lower Austrian Bar Association was organised similarly, though it had been established earlier and developed gradually. Bar associations could be formed from 1849, when Viennese attorneys founded their association, with Wiener Neustadt joining in 1851, and by 1861, all attorneys in Lower Austria were members of the Lower Austrian Bar Association.³⁷

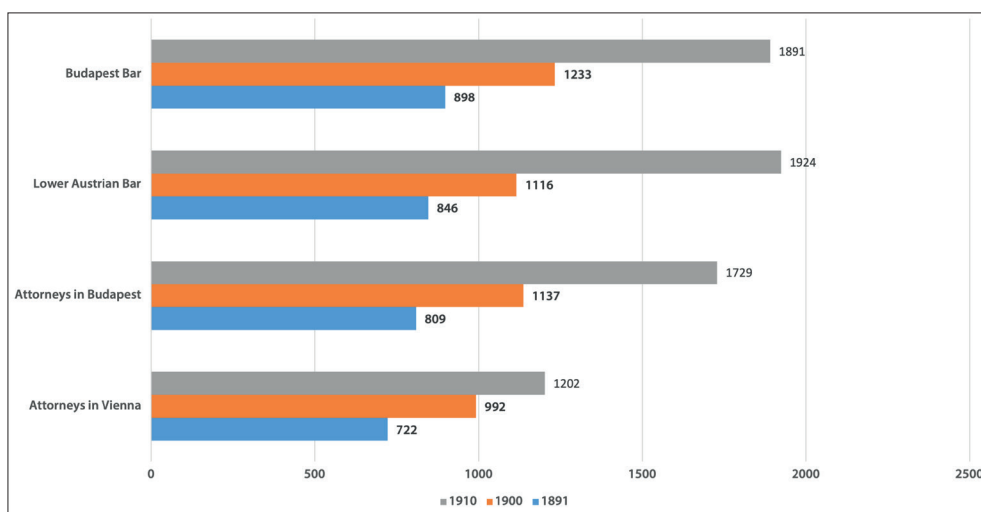


Figure 2 The number of attorneys in Vienna and Budapest between 1891 and 1910.

Source: "Ügyvédi statisztika Ausztriában," 151; "Hány ügyvéd van Ausztriában?" 240; "Az alsóausztriai (bécsi) ügyvédi kamara közgyűlése," 127; Králik, *A magyar ügyvédség*, vol. I, 263–64; *A M. Kir. Kormány 1910. évi működéséről*, 450.

Between 1891 and 1910, the Budapest Bar doubled in size, while the Lower Austrian Bar more than doubled. Most of this growth occurred after 1900.

36 Papp, "Budapest a professzionalizáció élén," 89–90.

37 Brix, *Organisation of the Legal Profession*, 5–6.

Comparing the two associations seems appropriate, as their starting numbers were similar: 898 members in Budapest, and 846 in Lower Austria in 1891. When separating attorneys practicing in the surrounding areas, it transpires that in this period Budapest's growth was concentrated in the capital, while many new Austrian Bar members settled outside Vienna.

To assess whether these figures were high or low, attorneys often compared them to population size. However, comparing the legal professions or populations of Budapest and Vienna is difficult due to limited data and differing jurisdictions. Additionally, for attorneys handling economic and civil matters, the size of the potential client base is not highly relevant.

These dramatic changes in numbers did not go unnoticed within the attorney profession. Indeed, within both the Austrian and Hungarian attorney communities, one of the most significant—if not the most significant—professional debates centred on the number of practicing attorneys. At the beginning of the period under review, when modern bar regulations were being drafted, the attorneys' position was clear: The overwhelming majority rallied behind the opinion-forming attorneys who sought to introduce a bar free from numerical restrictions.³⁸ At the time, this ideal permeated not only Austrian and Hungarian attorney circles but virtually the entire legal profession across continental Europe.³⁹

Consequently, although various arrangements emerged regarding the courts where a given attorney could appear in individual states, central regulation regarding numbers was not deemed necessary anywhere. In the 1860s, Austrian attorneys kept a close eye on the situation of the profession in certain German provinces and in France.⁴⁰ Some authors also noted that it is worth dividing the institution of unrestricted legal practice into two distinct categories, since representation before the courts, whether in civil or criminal matters, places different demands on the profession than the conduct of out-of-court proceedings.⁴¹ While the former is linked to the state's judicial system due to the requirement for legal representation, the latter—that is, the world of contracts—is much closer correlated with the region's or city's economic development indicators.

The number of Austrian attorneys grew steadily, and perhaps more importantly, in a balanced manner, in accordance with the Bar Regulations adopted in 1868. Although some opinion-makers had already spoken out in favour of reforming the regulations as early as the 1870s, the main problem at the time was still not the issue

38 Gneist, *Freie Advokatur*.

39 Siegrist, "Juridicalisation, Professionalisation and the Occupational Culture," 132–34.

40 Brix, *Organisation of the Legal Profession*, VI–X.

41 Jacques, *Die freie Advokatur*.

of numbers.⁴² Contemporary statistics indicate that explosive growth began in the 1890s. It is no coincidence that the idea of reintroducing the *numerus clausus* was first raised at the national assembly of Austrian attorneys in 1894.⁴³ It should be emphasised that the vote took place through electors delegated by the bar associations, acting on behalf of those associations; thus, the attorneys did not vote individually, nor did they vote on the matter at a national assembly. The majority rejected the restriction, but given the specific nature of the electoral vote described above, we cannot draw a general conclusion about the attorney profession's opinion. However, the relevance of the issue was clearly demonstrated by the fact that Austrian attorneys, who rarely convene, placed the question of limiting numbers on their agenda.⁴⁴

The Austrian attorneys' fears are easily understood in the light of historical precedents, since for the greater part of the nineteenth century there were restrictions on their numbers; certain Hungarian attorneys—who had always closely followed developments across the Leitha—linked this to the fact that “the Austrian attorney profession has no great tradition; it has no great idealistic attorneys, nor does the court atmosphere foster idealism.”⁴⁵ On the other hand, we should remember that the organisational structure of the Austrian attorney profession differed from that of the Hungarian Bar, as the 1868 regulations mandated an extremely long, seven-year period of legal practice. The first year of an attorney's practical training had to be spent at a court, and the remaining six years in a law firm. An important criterion in this regard was that at least three years of the practical training had to be completed after obtaining a doctorate in law.⁴⁶

In terms of the professionalisation of the Austrian attorney profession, this period of practical training yielded at least two further benefits. On the one hand, it could significantly influence law students' career choices, as, in addition to completing their law degree, passing the state examinations, obtaining a doctorate in law, and passing the bar exam, they had to factor in a lengthy period of practical training before they could finally set up their own practice as attorneys. It was precisely for this reason that the drafters of the regulations introduced the lengthy legal practice, reserving the profession for the truly determined, the more talented, and the wealthier law students.⁴⁷

However, the length of the legal internship in career choices is cast in a different light by the fact that, during the period of spectacular quantitative growth, not

42 Eichstett, *The Austrian Lawyers' Congress*, 70–73.

43 “Numerus clausus Ausztriában és Németsországbán,” 7.

44 “Österreichischer Advokatentag,” 31.

45 Králik, *A magyar ügyvédség*, vol. I, 184–85.

46 Neschwara, “The Development of the Legal Profession in Cisleithania,” 446.

47 Heindl, “Egyetemi reform – társadalmi reform,” 505.

only the numbers of attorneys and trainee attorneys but also those of law students were considered excessively high.⁴⁸ The long period of legal training nevertheless had an impact on the work of attorneys and the operation of law firms, as trainee attorneys provided a reliable and inexpensive workforce for practising attorneys.⁴⁹ A significant number of office staff also spoke out in favour of improving working conditions, demanding agreements similar to collective agreements and the establishment of minimum wages. Although for the Lower Austrian Bar Association these issues mattered, the Bar's General Assembly did not consider itself authorised to lay down regulations on pay control and, therefore, merely issued a cautious statement.⁵⁰ Contemporary accounts reflect that this period in legal practice was indeed a watershed.⁵¹

Within the Hungarian attorney profession, the issue of overcrowding was raised just as emphatically and, in any case, earlier than among Austrian attorneys. The observation that there were too many attorneys practising within Hungarian society first appeared as early as the 1860s and, by the 1880s, had turned into a professional discussion topic. It was at this time, during the period of the Dual Monarchy, that introducing the *numerus clausus* system was first proposed in connection with a draft bar regulation.⁵² It is no minor factor that the attorneys calling for the restriction did not keep track of the current trends in the number of attorneys as, between 1875 and 1886, the number of Hungarian attorneys increased by a mere 2.5 percent. The ideal of a fixed quota found support only among narrow circles; the statements formulated by the national bar associations undoubtedly carried the greatest weight. Although at the 1892 national assembly the most influential bar, that of Budapest, was not represented as a body, the attorney profession rejected any form of the *numerus clausus*.⁵³

At the turn of the century, there was a dramatic shift in the debate over the *numerus clausus* in Hungary. It was in 1901 that Hungarian attorneys first articulated support for the restriction at an institutional level,⁵⁴ in tandem with the explosive growth in the number of practicing and trainee attorneys. In 1907, the Hungarian attorney profession reached another milestone, with two key issues being decided

48 "A jogászai pályák túlszűfoltása Ausztriában," 156.

49 Mayer, "Néhány szó az ügyvédtartásról," 135; Papp, "Conflicts, Compromises and Professionalization," 114–19.

50 "Az alsóausztriai (bécsi) ügyvédi kamara közgyűlése," 127.

51 Benedikt, *Die Advokatur unserer Zeit*, 23–28.

52 Papp, "Budapest a professzionalizáció élén," 95–100.

53 "Országos ügyvédgyűlés Győrött," 257–58.

54 "Hang a numerus clausus mellett," 216. See also the report of the Debrecen Bar: "A debreceni ügyvédi kamarának," 136.

at the national attorneys' assembly in Budapest. While a unanimous decision was reached in favour of establishing a pension fund, the *numerus clausus* sparked an extremely heated debate among the participants; however, in the end, the majority of the national assembly voted down the proposal to limit the number of members.⁵⁵

The interrelationships between income, professional networks, and career strategies

We needed to address the issue of overpopulation because attorneys linked this problem to a number of other professional questions in the period. They attributed to this issue both the decline in attorneys' incomes and the loss of prestige associated with the attorney profession. Some attorneys believed that population growth and economic expansion had not led to sufficient development to provide adequate employment opportunities for new entrants to the profession. The fierce competitive environment led to solutions incompatible with the profession's prestige, such as 'client poaching' and the proliferation of solicitors' advertisements and promotions. In other words, practicing attorneys feared for their own positions and client base in the face of the new generation.⁵⁶ This attitude pervaded broad sections of both the Austrian and the Hungarian attorney professions.⁵⁷ Restricting the practice of law, however, would have run counter to the modern ideal of the attorney profession, the very ideal that by the second half of the nineteenth century enabled all social groups—excluding women for the moment—to gain access to a sphere of activity that had previously been closed off and, until the early nineteenth century, reserved for the nobility.

From the second half of the nineteenth century onwards, the professions formulated their collective identities and developed strategies to protect their positions and activities. In the case of the two selected attorney professions, the model of liberal professionalisation (*liberale Professionalisierung*) is clear: although the modern-style rules of professional conduct were drawn up together with the practitioners, their adoption and implementation were left to state actors. After the introduction of these rules, however, the state withdrew into the background.⁵⁸

Austrian attorneys were displeased that their proposals had not received a serious response from the government, and the reform ideas formulated in the 1870s

55 On the long drawn-out debate, see: Pap, ed., *A Budapest, 1907. október hó 7., 8. és 9. napjain tartott*, 44–111.

56 "Az ügyvédség hanyatlásának oka," 4.

57 Kann, *Neu-Organisation oder Reform der Advokatur*; Kastner, *Numerus clausus oder Freie Advokatur*; Stiller, "A szabadság jegyében," 345–46; Pollák, "Az ügyvédség jövője," 1–4.

58 Siegrist, "The Professions in Nineteenth-Century Europe," 71–73.

were not taken up by decision-makers either.⁵⁹ A key issue among Austrian attorneys was the remuneration of their work. Attorneys' fees could be determined by two scales: in court proceedings, the presiding judge sets the costs to be borne by the winning party, including the attorney's fees. The agreement between the attorney and the party they represented was of a different nature: here, the practice of free negotiation essentially prevailed. One of the aims of Austrian attorneys was to have a central fee schedule adopted, which would have determined the fees for each type of case to which the attorney representing it was entitled.⁶⁰ It is noteworthy that there was already a form of fee schedule when the modern regulations were introduced, but it applied exclusively to proceedings of lesser value in the courts of first instance. At the same time, a significant number of attorneys espoused the liberal principle that the level of remuneration should be based solely on an agreement between the attorney and the client. On the other hand, it was difficult to reconcile the ideal of the legal profession, which emphasised the maintenance of social prestige, with attorneys negotiating financial matters with their clients and pursuing any outstanding fees through litigation. Central European attorneys sought to achieve the social and financial esteem of the attorney professions they held up as examples, while at the same time not supporting organisational reforms. In any case, the Austrian attorney profession viewed it unfavourably when the Minister of Justice, without involving the bar associations and in cooperation with the courts, set about drafting a centralised fee schedule. As a result of the attorneys' intervention, not only was the original draft removed from the agenda,⁶¹ but they also succeeded in establishing a new practice. Overall, the Austrian Bar Association successfully intervened to prevent a decision being made against the bar's interests without the involvement of attorneys. Furthermore, it succeeded in ensuring that the courts would seek the opinion of the Bar Council's committees on the setting of attorneys' fees.⁶²

The above action, which can be described as successful, underscores that the relationship between Austrian attorneys and judges, even if not entirely free of conflict, enabled far greater cooperation and compromise than was the case with Hungarian attorneys. The professional relationship between the Hungarian judiciary and the bar was characterised by numerous ambivalences during the period of the Dual Monarchy. As is well known, both the judiciary and the bar were granted modern legal frameworks in the 1860s and 1870s, which simultaneously defined the activities under the professions' control. However, the question of prestige was at least as significant as these activities. Due to their relationship with the state and their

59 Rasse, *The Development of Legal Education*, 124–25.

60 "Der zehnte österreichische Advokatentag," 505–09; "Az ügyvédek díjazása," 4–5.

61 Králik, *A magyar ügyvédség*, vol. I, 185.

62 "Az ügyvédek díjazása," 4–5.

role in society, judges and attorneys enjoyed a higher level of social recognition than other professions or social groups. This recognition, however, was not reflected in the relationship between the two professions. Hungarian attorneys consistently argued that the doors to judicial positions should be opened to them, so that the barrier between the two professions would be minimised.⁶³ The development of the relationship between the Hungarian attorney and judicial professions can, on the whole, be described as a spectacular struggle for the pinnacle of the (legal) professions' pyramid, which took shape in that era as part of the professionalisation process.⁶⁴

In addition to professional networks, we should also consider the institution of the civil notary and its activities. In Austria, an examination system was introduced in 1850 that distinguished between three types of examinations: the professional examinations for judges, attorneys, and notaries existed side by side. While the first examination qualified candidates for judicial and public prosecutor posts, those who passed the bar examination could be appointed not only as attorneys but also as notaries. In this light, it is no surprise that there were hardly any applicants for the separate notary public examination, as it qualified candidates exclusively for notary public positions.⁶⁵ In the second half of the nineteenth century, legislators and legal circles endeavoured to abolish separate professional examinations and introduce a common examination system based on the judicial examination. A proposal was indeed drawn up by the early 1910s, but ultimately its introduction did not take place before World War I, much to the delight of certain circles of attorneys and notaries who feared overcrowding in the legal professions.⁶⁶ According to available information, the number of Austrian notaries in the 1880s was around 1,100, five times that of Hungarian notaries.⁶⁷ Furthermore, the scope of activities of notaries and attorneys bore many similarities during this period, which was largely attributable to the identical qualification system. At the turn of the century, the Austrian Minister of Justice himself initiated an assessment of the extent to which the notarial profession could be merged with the attorney profession,⁶⁸ although it should be noted that, under the rules of professional conduct, simultaneous practice in the two bodies was incompatible.⁶⁹

63 Kasselik, "Ügyvédek és bírák," 4–5.

64 Liljegren, "Key Metaphors in the Sociology of Professions," 20–21.

65 Rasse, *The Development of Legal Education*, 80–83.

66 Rasse, *The Development of Legal Education*, 125–27.

67 "Az ügyvédek és közjegyzők száma," 338.

68 "Ügyvédek mint közjegyzők," 7.

69 Králik, *A magyar ügyvédség*, vol. I, 182.

The relationship between professional specialisation and market effects

In addition to the relationship with other legal professions, we should also address the impact of professional specialisation on the bar associations under examination, and on the opportunities available to attorneys facing overpopulation and a shrinking client base during this period. While attorneys arguing against the *numerus clausus* and the trends of generational change maintained that population growth and economic development did not sufficiently compensate for their scope of practice, groups of attorneys emerging in business companies suggest other changes in this regard.

There is little research concerning the professional specialisation of attorneys, and even less on the role attorneys have played in the capitalist economic transformation. Consequently, we can only make cautious statements on this issue. The starting point, however, may be formulated as follows: if the attorney profession is smaller, we should assume lower levels of competition. If fewer attorneys are practicing in a given city or region, then professional specialisation does not take off at such a rapid pace as it does, for example, in a metropolis. From this perspective, there is no reason to assume striking specialisation differences between attorneys in Vienna and Budapest. However, data suggests otherwise.

Although the study cited below falls outside the timeframe of the present comparative analysis, it is nevertheless helpful to include its findings in the discussion, as Hans Wagner's analysis also covered Austrian attorneys' economic position. Covering the period from 1920 to 1937, his research establishes that only sixty-four attorneys held leading positions on the management boards of commercial enterprises (banks, credit unions, insurance companies). This figure is extremely low given that in 1937, for example, 3,000 attorneys were registered in Austria.⁷⁰

No comprehensive data is available regarding Hungarian attorneys' economic position during the Dual Monarchy or in the interwar years. In the case of Budapest attorneys, however, it appears that in 1899, a quarter of them held at least one position on a board of directors or supervisory board, and by 1910 this proportion had risen to one third. This means that in 1910, one in three Budapest attorneys could boast of some form of economic position.⁷¹ It is important, however, to distinguish between these positions: while board or supervisory board posts represented occasional engagement and were more a matter of social prestige, legal counsel work involved a salary and constituted actual employment for attorneys. Economic positions were not distributed equally among attorneys: a clearly definable group of

70 Wagner, *Der österreichische Rechtsanwaltsstand*, 57.

71 Papp, "Gyenge kötésekkal a gazdaságban," 296–97.

Budapest attorneys held a disproportionate number of board and supervisory board positions, which in their case may be seen as a reflection of their social capital.⁷²

Why did Budapest attorneys show such strong affinity towards companies? In answer to this question, both contemporary attorneys and public affairs writers, as well as later historians, emphasise that the Hungarian higher education system was rather under-specialised, and there were no higher education institutions available to meet the demand for specialists in business companies.⁷³ This was compounded by a distinctive feature of Hungarian legal education: alongside legal subjects, numerous other subjects were part of the curricula, including public finance, and financial and tax knowledge.⁷⁴ The accumulation of economic positions by Budapest attorneys can also be interpreted within the framework of professionalisation and specialisation. Competition intensified among the growing number of practicing attorneys, and for some, it seemed advantageous to take up the newly established legal counsel positions within commercial companies. It is worth noting that the rules of the bar did not prohibit such positions at all, nor did the bar associations object to filling legal counsel positions. At the same time, however, activities involving the management of funds or acting as agents were strictly penalised.⁷⁵

Suppose that in that period some of the attorneys in Vienna and Budapest specifically applied for legal counsel positions at business entities, choosing to earn their income as employees. In this case, only those attorneys who held the position of legal adviser should be regarded as specialists; therefore, we cannot include those who merely held positions on the board of directors or the supervisory board. As due to the lack of exploratory studies, this distinction cannot be made regarding the Viennese attorneys, our observations can only be formulated on a theoretical level. Accordingly, the Budapest attorney profession turned towards new areas as part of a clearly visible strategy. This type of activity can essentially be interpreted as professional specialisation, as well as a response to quantitative growth. Naturally, this required an economic boom on the scale and of the quality seen in Budapest at the time. On the other hand, the specialisation of the Budapest attorney profession must be assessed with caution when viewed in a broader context, as it cannot be stated that economic development in Vienna was not as significant as that in Budapest. Thus, using additional factors, future research must explain why Viennese attorneys were absent from the economic sector.

72 Lengyel, *A multipozicionális gazdasági elit*; Utasi, "Középosztályi életvitel és életstílusok," 84–96.

73 Laky, "Adalékok Magyarország kulturális viszonyainak újabbkori fejlődéséhez," 39.

74 *A Budapesti Királyi Magyar Tudományegyetem Almanachja*, 14–21; Fehér, *Darányi Ignác pályája*, 25.

75 Papp, "Panaszkultúra és önrendelkezési törekvések," 67–84.

On the one hand, we must consider the organisational difference described above, namely the longer legal training period. In addition to fears of attrition during the legal practice period, there was a successful campaign by Austrian attorneys to regulate attorneys' fees. A more balanced relationship between Austrian attorneys, the courts, and the government offered certain guarantees regarding attorneys' fees and, consequently, their livelihoods. Moreover, the dramatic shift of some Budapest attorneys towards the business sector also entailed risks, as there was little scope for the bar to monitor the professional standing of attorneys working within companies. But this is not merely a matter of disciplinary issues and the social prestige arising from serving market interests. The subordination of Budapest attorneys to market factors will lead us to an understanding of Hungarian particularities.

The Hungarian attorney profession was guaranteed independent and autonomous practice; however, the strategy formulated in response to social and economic transformations distanced them from the Western European model of the attorney profession, which they regarded as an ideal.⁷⁶ For example, in the nineteenth century, and even in the first half of the twentieth century, French attorneys strictly prohibited any form of participation in industrial and commercial enterprises, which amounted to the same thing—systematically shielding itself from the influence of the capitalist market.⁷⁷ For more than a century, the French attorney profession confined itself to the narrow sphere guaranteed by law and voluntarily refrained from expanding its activities in any way. Naturally, this decision paved the way for the emergence of other legal professions and vocations, which French attorneys came to regard as rivals in the twentieth century. At the same time, in the nineteenth century, the point of reference for French attorneys was not another legal profession, but the state.⁷⁸ A significant section of the Hungarian attorney profession had to operate under conditions shaped by the principles of the capitalist market, while forms of market control constantly exerted pressure on the principles of the profession, varying by era and region. In the case of Austrian attorneys—insofar as we can conclude from the limited information available—there is no justification for assuming such a degree of vulnerability. However, it certainly raises further questions as to what might have stood behind the conscious rejection of the market in the case of Austrian attorneys.

76 Siegrist, "Professionalisation with the Brakes On," 271–73; Králik, *A magyar ügyvédség*, vol. I, 399; Stipta, "Dell'Adami Rezső és az ügyvédi hivatás," 475–87.

77 Karpik, "Lawyers and Politics in France," 718.

78 Karpik, "Lawyers and Politics in France," 723.

Conclusions

The comparative analysis presented in this study has demonstrated that the professionalisation of the Austrian and Hungarian attorney professions in the second half of the nineteenth century cannot be interpreted through a single explanatory framework. Although the two professions developed within the common political framework of the Austro-Hungarian Monarchy, their historical traditions, organisational structures, and responses to modernisation produced both significant similarities and important divergences. The comparison has shown that the evolution of the attorney profession in Central Europe was shaped simultaneously by state intervention, market expansion, and professional autonomy.

One of the most striking findings of the study is that the modernisation of the attorney profession in Austria and Hungary followed remarkably parallel institutional trajectories after the introduction of modern bar regulations. The Austrian Bar Regulations of 1868 and the Hungarian Bar Regulations of 1874 created professional frameworks that shared the same liberal foundations: admission to the profession was tied to legal education, practical training, bar examinations, and membership in autonomous bar associations. In both cases, the profession acquired the essential attributes of modern professional autonomy, including self-administration and self-disciplinary authority. This institutional convergence demonstrates that the attorney profession within the Monarchy increasingly became part of a broader European model of liberal professionalisation.⁷⁹

At the same time, the comparison also reveals that the apparent institutional similarity concealed substantial structural differences. The most visible distinction concerned the length and function of practical legal training. Austrian attorneys were required to complete a significantly longer period of legal practice, which not only affected access to the profession but also shaped the internal organisation of law firms and the emergence of a semi-dependent stratum of trainee attorneys. In Hungary, where the practical training period was shorter, this intermediary layer remained less institutionalised. Nevertheless, the Austrian example demonstrates that prolonged training alone was insufficient to prevent the dramatic growth in the number of practicing attorneys around the turn of the century. Consequently, the issue of overcrowding emerged as one of the defining professional concerns in both professions.

The debate surrounding the *numerus clausus* provides particularly valuable insight into the contradictions of liberal professionalisation. During the middle decades of the nineteenth century, unrestricted access to legal practice represented an essential liberal principle for both Austrian and Hungarian attorneys. However,

79 McClelland, *The German Experience of Professionalisation*; Siegrist, "Professionalisation with the Brakes On," 267–98.

once the rapid expansion of the profession intensified competition and weakened traditional forms of prestige and income security, significant sections of both professions began advocating restrictions on entry. This transformation demonstrates that professional liberalism was not an unchanging ideological commitment but rather a position constantly negotiated in response to economic and social pressures. Importantly, however, neither profession abandoned entirely the principle of free access, which suggests that professional identity remained closely linked to the liberal ideals upon which the modern bar associations had originally been founded.

The study has further demonstrated that the professionalisation of attorneys cannot be understood solely through institutional history. Market forces played an equally decisive role in shaping professional strategies and social behaviour. Attorneys increasingly had to reconcile the traditional ideals of professional independence and honour with the realities of capitalist competition. Complaints concerning declining prestige, falling incomes, aggressive competition, and the commercialisation of legal practice reflected a broader anxiety regarding the compatibility of professional ethics and market society. In this respect, the Austrian and Hungarian professions reacted differently to the pressures of economic modernisation.

The Hungarian attorney profession, particularly in Budapest, displayed a far stronger orientation toward the economic sphere. The accumulation of positions within commercial enterprises, supervisory boards, and legal counsel posts indicates that many Hungarian attorneys consciously expanded their activities beyond the traditional sphere of courtroom representation. This development can be interpreted both as a strategy of professional adaptation and as a form of specialisation generated by the opportunities of capitalist urban development. The growth of Budapest as a commercial metropolis created new professional opportunities that many attorneys successfully integrated into their career strategies. At the same time, this process also increased dependence on market mechanisms and contributed to growing inequalities within the profession.

In contrast, Austrian attorneys appear to have maintained a more cautious relationship toward direct integration into the business sector. Although the available data remains incomplete, the evidence suggests that Viennese attorneys did not pursue economic positions within commercial enterprises to the same extent as their Budapest counterparts. Several factors may explain this divergence. The longer Austrian training period, the more stable institutional relations between the bar, judiciary, and state administration, and the relatively successful efforts to regulate attorneys' fees may all have reduced the need for seeking alternative economic opportunities. Austrian attorneys therefore appear to have preserved a somewhat stronger attachment to the classical liberal ideal of professional independence from both state and market.

Ultimately, the study confirms that the professionalisation of attorneys in the Austro-Hungarian Monarchy was neither linear nor uniform. The development of the Austrian and Hungarian attorney professions was characterised by constant negotiation between autonomy and dependence, liberalism and regulation, prestige and market competition, as well as professional ideals and social realities.⁸⁰ The state provided the legal framework necessary for professionalisation, yet the market increasingly determined the practical conditions under which attorneys operated. The resulting tensions shaped not only professional strategies but also the social identity of the attorney profession itself.

The comparative approach adopted here has therefore demonstrated that the history of attorneys within the Austro-Hungarian Monarchy offers important insights into broader processes of bourgeois transformation, capitalist modernisation, and state formation in Central Europe. The study also highlights the need for further empirical research, particularly regarding the economic activities, social stratification, and regional variations of the attorney professions. Only through such research will it become possible to fully understand the complex interplay between profession, society, and modernity in the legal world of the nineteenth century.

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