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Implementation of Legal Compliance Function in Different Types of Enterprises and Its Implications for Job Positions and Skillset Requirements

Modele działania funkcji *compliance* – zapewnienia zgodności z prawem – w różnych rodzajach przedsiębiorstw i ich implikacje dla stanowisk i wymagań w zakresie kompetencji

Summary

Compliance roles remain one of the fastest growing legal professions undergoing a profound transformation as the compliance function itself adapts to the requirements of a fast-paced regulatory and business environment.

The purpose of this study is identification of current approaches to the implementation of the compliance function through an analysis of relevant job offers and positions in different types of organizations in the Polish market in 2023 and 2024. The broad diversity of entities covered allows for a comparison of the evolution of compliance function in different types of organizations in financial or non-financial industries, domestic or international operations and/or setting up a shared services center. The secondary objective is to provide guidance to both educational institutions and employment candidates and support them in aligning skills and competences with current and future market requirements.

KEYWORDS: compliance, legal compliance function, compliance in Poland

Streszczenie

Role związane z realizacją funkcji *compliance* – zapewnienia zgodności z prawem – należą do najszybciej rozwijających się w ramach zawodów prawniczych. Podlegają one obecnie głębokiej transformacji, w miarę jak funkcja zapewnienia zgodności jest dostosowywana do wymagań szybko zmieniającego się otoczenia regulacyjnego i biznesowego.

Celem niniejszego badania jest identyfikacja aktualnego podejścia do realizacji funkcji *compliance* poprzez analizę wybranych ofert pracy oraz stanowisk w różnych typach organizacji na polskim rynku w latach 2023–2024. Duża różnorodność podmiotów objętych analizą pozwala na porównanie funkcji zapewnienia zgodności w różnych typach organizacji, z uwzględnieniem czynników takich jak działalność w branży finansowej lub niefinansowej, działalność krajowa lub międzynarodowa i/lub wyodrębnienie centrum usług wspólnych. Ponadto wnioski z niniejszego badania mogą posłużyć zarówno instytucjom edukacyjnym, jak i kandydatom do pracy w dostosowaniu umiejętności i kompetencji do obecnych i przyszłych wymagań rynku.

SŁOWA KLUCZOWE: *compliance*, zapewnienie zgodności, funkcja *compliance*, funkcja zapewnienia zgodności, *compliance* w Polsce

Introduction

Among the broadly understood legal professions compliance remains one of the fastest growing in recent years with the combined global governance, risk, and compliance market being valued over 54 bln USD in 2023 (Grand View Research, 2024). This trend is also clearly visible in Poland, simultaneously driven by several factors:

- domestic changes in legislation requiring or encouraging¹ organizations to set up compliance-related processes and capabilities as well as emphasizing the requirement of segregation of duties and preventing certain industries (e.g. banks) from sharing compliance responsibilities with other functions;
- global trends in increased scrutiny in multiple compliance areas, including complex and labor-intensive tasks such as e.g. anti-money laundering (called further: AML) and sanctions evasion prevention;²
- continuous growth of Polish near-shoring and outsourcing sector, combining advancements in workflow processing and remote working tools, availability of highly skilled resources, fluency in multiple in-demand languages and relatively low labor costs³ with geopolitically-induced relocations of global business operations.⁴

This accelerating growth is accompanied by a rapid transformation of the scope and activities of the compliance function as compared to what it used to be just a few year ago; according to Miller (2021):

This older version of compliance is fast giving way to something new and different – “Compliance 2.0,” if you like. [...] Compliance departments do more than check boxes and test controls. They increasingly work in teams embedded in agile work environments that prioritize people and imagination over processes and tools. They perform risk assessments, allocate resources and test controls based on these

¹ Implementation into domestic legislation of Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the Protection of Persons Who Report Breaches of Union Law (Official Journal of the European Union L 305, 26.11.2019, pp. 17–56) and Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (Official Journal of the European Union L 322, 16.12.2022, pp. 15–80) as well as the expected novelization of the Act of 2002 on the Liability of Collective Entities (Ustawa z dnia 28 października 2002 r. o odpowiedzialności podmiotów zbiorowych za czyny zabronione pod groźbą kary, tekst jedn. Dziennik Ustaw [hereinafter: Dz. U.] z 2024 r. poz. 1822).

² Primarily in connection with the Russian invasion of Ukraine starting in 2014 and escalated in 2022.

³ Poland was indicated as the second most preferred location for SSCs in the world, see: Deloitte, 2023.

⁴ In particular relocation of financial institutions from London to continental Europe following Brexit, restructuring of supply chains after COVID-19, impact of sanctions against Russia and Belarus, growing export restrictions to China, etc.

assessments. They act in a quasi-consulting role by providing input on the compliance implications of new business strategies or markets. They develop relationships with regulators and represent their firms in negotiations over compliance matters.

The author attempts to analyze the approaches to the implementation of compliance function by analyzing the compliance job offers and positions in different types of organizations in the Polish market. The primary differentiating attributes of the organizations in question are whether they operate in the financial or non-financial industry and whether their scope of business activity is domestic or international and/or operating as a shared services center (called further: SSC). Subject to discussion are differences between the preferred skillsets and key attributes of compliance roles in these organizations. The qualitative theoretical discussion of the different compliance positions depending on organization type is substantiated by a quantitative component encompassing a comparison of the distribution of open compliance positions advertised in the Polish labor market between May 2023 and May 2024.

Observations and conclusions in this paper are formulated from the perspective of the Polish regulatory landscape and labor market incorporating the impact of membership in the European Union's common economic area and legal framework. Poland, being both a medium-sized European economy with significant presence of domestic and international enterprises as well as a well-established location for near-shoring and SSCs, provides a relatively unique opportunity to analyze the full spectrum of present compliance roles and function concepts.

Apart from formulating observations and conclusions regarding the evolution of compliance function in different types of organizations the aim of this paper is to provide guidance to both educational institutions and candidates alike. Supporting them in aligning skills and competences with current and future market requirements in the broadly understood compliance space remains a challenge, as indicated by e.g. Sokol (2016):

[...] law schools have misdiagnosed the demand side – it takes not merely the particular type of class (compliance) but also the substance of such classes with the type of quality offering necessary to maximize student needs short term (entry level hiring) and long term (preparation for ever-shifting analytically complex practice challenges).

1. Compliance as a legal profession

The profession of compliance officer (in particular in the position of Chief Compliance Officer, called further: CCO) is definitely a multidisciplinary one, as underlined by Baer (2020):

[...] compliance represents a marriage of the firm's "enterprise" risks and its corresponding "legal" risks, the effective CCO's task is to become a mini-expert in both, to immerse herself in her company's "structures," "processes," and overall culture, while keeping a critical eye on the legal and regulatory world that either buffets or cocoons her employer.

Unlike attorneys at law or legal advisors the profession of compliance officer is not regulated and specific educational background, passing of professional exams or admission to the bar are not prerequisites for becoming an active professional in that field. In fact, in Poland only around 40% of compliance professionals have a primary educational background in law (see Instytut Compliance, 2018); according to Pacella (2020) regarding the US market:

[...] considerable influx of lawyers in the compliance function is illustrative of the evolution of lawyer roles over recent years, continuously shifting from what was once predominately a law firm or litigation-based practice to "quasi-legal" settings at the intersection of both business and law in which legal expertise, while desirable, is not required.

The primary drivers for legal professionals in pursuing a career in compliance could be identified in the:

- already mentioned above combination of both legal, business and process-related topics resulting in a high variability of tasks stimulating continuous development, compared to e.g. litigation or transaction-related roles;
- unique holistic view of the organization, its stakeholders and environment, going beyond the typical limitations of organizational "silos;"
- many common areas and developmental synergies with internal control, internal audit and (operational) risk roles and tasks, enabling a potential transition into other professions;
- global/regional cooperation and opportunities to work in foreign languages in case of international compliance function structures.

The responsibility of compliance officers remains a complex issue from a perspective of legal sciences. In the current Polish and European Union regulatory environments as an unregulated profession the role of compliance officer does not generate specific, role-related criminal or civil responsibility; in case of employment under an employment contract, standard employee responsibility is applicable (Art. 119 Labour Code of 1974 [Ustawa z dnia 26 czerwca 1974 r. – Kodeks pracy, tekst jedn. Dz. U. z 2023 r. poz. 1465 z późn. zm.]). However, as highlighted by Małolepszy and Pierzchlewicz (2019), there have been attempts made in other European jurisdictions, e.g. in Germany, to expand the scope of responsibilities of compliance officers as guarantors of non-occurrence (preventing employees within a company from committing crimes) and criminal liability could not be definitely ruled out in future.

While the overall view in the US does not significantly differ, as performance of duties of a compliance officer does not constitute “practicing law,” Pacella (2020) indicates that increased awareness should be maintained to avoid responsibility resulting from a potential breach of related ethical obligations: “[...] acting in a non-legal role, such as compliance, gives rise to the potential for heightened liability because lawyers must ensure that they are following and fulfilling their ethical duties, even in duties that do not constitute law practice” (Pacella, 2020). Another important consideration is maintaining independence of the compliance function by staying within the realm of advisory and avoiding assigning decision power and authority over operational activities to it, as summarized by Martin (2015):

As CCOs become more involved in general business activities, they become more threatened by the risk of supervisory accountability for the regulatory violations of company employees to whom they have provided advice. [...] In a report last year, SIFMA specifically told top executives that they “should not assign supervisory or managerial responsibilities to Compliance . . . even in limited ways or on a temporary basis.” Now it is time for these agencies to define “supervisor” so that there is no ambiguity in its meaning for CCOs.

2. Organization types and compliance roles implications

Meeting compliance requirements of an organization is inherently complex and should be supported by adequate organization setups, as indicated by Bergmann (2016):

[...] the law-compliance-control-constellation is a combination of various distinct requirements, heterogeneous purposes and demands on the firms. [...] This bundle of necessities can lead to a mutual reinforcement of each sub-target of compliance, involving a re-building of the organizational structure as a whole.

Specific role attributes and skillset requirements for compliance roles are defined by the implemented organizational solutions and structures; as these are strongly influenced by the type of organization pursuing a compliance function, this aspect will be analyzed further.

A significant differentiating factor influencing the objectives, skill requirements and reporting lines of the compliance function is whether the organization operates in a regulated or unregulated industry. While the terms “supervision” and “regulation” are closely related, they might have slightly different legal meaning in different jurisdictions and frameworks;⁵ for the purpose of this paper the term “regulated industry” will be used for the broadly understood financial industry, with its own distinctive set of regulatory requirements, supervisory institutions and specific requirements for the compliance function.⁶

Another relevant factor that will be discussed in greater detail below will be the scope and scale of operations of the organization – whether it is domestic (limited to the Polish market and jurisdiction) or operating internationally with a multinational corporation. The latter case will be analyzed further differentiating between “conventional” organizational and corporate structures and shared services centers acting as a centralized compliance “hub” for multiple markets and/or jurisdictions.

Domestic companies in Poland featuring compliance functions are primarily within the regulated financial industry – both majority state-owned banks and insurers (e.g. PKO BP, Pekao S.A., PZU) with relatively large headcounts and structures as well as brokerage houses and smaller financial institutions in private ownership. The requirements regarding the operation of an independent compliance function are enshrined in the relevant regulatory guidelines of The Polish Financial Supervision Authority (Komisja Nadzoru Finansowego; The Polish Financial Supervision Authority, 2011). For domestic companies operating outside the financial sector incentives for establishing a dedicated compliance

⁵ E.g. the Basel Committee on Banking Supervision used to make a clear distinction between regulation (Pillar 1) and supervisory discretion (Pillar 2), see: Bank for International Settlement, 2004.

⁶ While multiple industry sectors have dedicated regulatory frameworks and oversight bodies (e.g. pharmaceuticals, aviation) it is the financial sector that has specific requirements for the compliance function, making it distinct from other industries in Poland.

function are either rooted in the Best Practices Guidelines of the Warsaw Stock Exchange (Warsaw Stock Exchange, 2021) or contractual requirements of key (often regulated) customers.

While the specific circumstances may vary significantly between the organizations, some common features regarding compliance functions and positions in domestic companies in Poland could be identified:

- the owner and decision-making center of the entity are located locally in Poland; as the full organizational structure of the compliance function is on site, including the most senior positions (e.g. CCO);
- awareness of the importance of the compliance function and resources allocated to it are strongly dependent on the type of industry and scale of the entity; often limited outside of the financial industry;
- scale of the compliance function is usually relatively limited – small teams or independent positions;
- very high variability of tasks and wide scope of necessary skills;
- relatively low volumes of business operations;
- work almost exclusively in Polish.

International organizations operating in more than one jurisdiction face the inherent challenge of ensuring compliance with all relevant regulation requirements which might be contradictory and/or vague in terms of scope, applicability and enforceability. As indicated by Braun (2014):

This phenomenon of cross-border applicability of national regulations in corporate activities has various bases and takes various forms [...] such obligations may be imposed not only on entities from the same group, but also, for example, on service providers or even customers. This means inevitable consequences of conflicts of laws within international economic structures. [...] In the type of situation described here, the conflicts that exist in practice may become irremovable, unless the category of primacy of one type of norms over others is clearly established.

As compared to domestic organizations, features regarding compliance functions and positions in international companies in Poland differ in several important aspects:

- the owner and decision-making center are located abroad – with the important exceptions of international companies operating in regulated industries in the Polish market through their subsidiaries⁷ that are licensed

⁷ Only FCE Bank plc operates currently in Poland as a branch (oddział) of a foreign bank rather than a subsidiary, see: Polish Financial Supervision Authority, n.d.

in Poland and subject to the same regulatory regime as domestically-owned entities. For unregulated industries the local structure of the compliance function and availability of senior positions strongly depends on the approach of the capital group or parent entity;

- awareness of the importance of the compliance function and resources allocated to it are partially dependent on the type of industry and scale of the entity, but in most cases higher than in domestic companies. Focus is usually stronger on enforcing adherence to group-level requirements in local activities rather than on ensuring compliance of group operations with local regulations;
- scale of the compliance function strongly dependent on type of the industry and scale of operations;
- moderate variability of tasks and wide scope of necessary skills;
- volumes of business operations strongly dependent on the type of industry and scale of operations;
- work primarily in English, tasks related to compliance with local regulations in Polish.

While the business process outsourcing and nearshoring sector in Poland has been booming for the last 20 years⁸ establishment of compliance-oriented SSCs within major multinational companies is a relatively recent development. Compliance positions in these SSCs share several distinctive features and skillset requirements:

- the owner and decision-making center are located abroad – the local structure of the compliance function depends on the subprocesses handled in a given SSC;⁹
- awareness of the importance of the compliance function and resources allocated to it are very significant, often part of the core scope of SSC activity;
- scale of the compliance function is dependent on the size of a given SSC, usually relatively large;
- relatively narrow scope and low variability of tasks and necessary skills; often multiple highly-specialized positions;
- volumes of business operations are usually very significant, partly depending on the type of industry and scale of SSC;
- work almost exclusively in English, possibly in other foreign languages supported by the SSC.

⁸ At least 650 business service centers employing over 150,000 people according to KPMG report, see: KPMG w Polsce, 2015.

⁹ Although the growing trend in fully remote work makes it possible to locate even top-level specialty positions (e.g. global head roles) in an SSC based on best talent availability.

3. Quantitative analysis for 2023–2024 in Poland

Supporting the above qualitative analysis of compliance positions, opportunities and required skillsets a quantitative study has been performed based on a comparison of advertised open compliance roles in the Pracuj.pl¹⁰ on-line job marketplace¹¹ as of 1 May 2023 and 1 May 2024. The results have been allocated to the relevant employer scope and scale of operations (domestic, international, international SSC) as well as industry type (financial, non-financial).

The study methodology was based on the analysis of the name and legal entity of the prospective employer as well as wording of the position name and/or organizational unit of the vacancy (if provided) in order to allocate the advertised position to the relevant industry/employer type combination. While the distinction between domestic and international organizations is relatively straightforward, identification of SSCs is not always possible based on the content of the job advertisement alone. As SSCs run by financial institutions may themselves constitute unregulated entities in Poland providing services to a regulated entity abroad for the sake of comparability of compliance roles they are treated in this study as “financial.” It should also be noted that analysis of job vacancies only implies some inherent limitations of methodology, such as failure to cover internal transfer opportunities, counting location-independent positions advertised but not exclusively located in Polish market and potentially recurring advertisements of the same position due to an inefficient hiring process and/or unattractive employment conditions resulting in high attrition.

The distribution of open compliance positions in Poland as of 1 May 2023 and 1 May 2024 is presented in the Table 1.

Table 1. Open compliance positions structured by employer ownership and industry type

Industry Type	Domestic		International		International - SSC	
	2023	2024	2023	2024	2023	2024
Financial	2	12	16	20	15	6
Non-Financial	19	14	17	20	21	14
Total	21	26	33	40	36	20

Source: own research based on data from Pracuj.pl as of 1 May 2023 and 1 May 2024.

The overall number of open positions in 2024 was close to the level from 2023 (86 vs 90). The most significant change that should be noted is the strong increase

¹⁰ The dominant recruitment portal in Poland with a market share of 64 per cent, see: OC&C, 2021.

¹¹ The keyword search was conducted based on the inclusion of the words “compliance” and its Polish equivalent “zgodność”/ “zgodności.”

in hiring opportunities in domestic financial institutions (12 positions in 2024 vs just 2 in 2023). On the other hand, the number of open positions in international SSCs has decreased noticeably (from 15 to 6 in the financial sector, 21 to 14 in non-financial).

The open positions have also been structured by the respective grade and work experience required as can be seen in the Table 2.

Table 2. Open compliance positions structured by employer ownership type and position grade

Employer Ownership Type/ Years	Manager	Expert	Senior Specialist	Specialist	Junior Specialist	Trainee	Total
Domestic	4	7	7	25	2	2	47
2023	2	3	4	10	–	2	21
2024	2	4	3	15	2		26
International	12	9	9	37	3	3	73
2023	4	4	2	19	3	1	33
2024	8	5	7	18		2	40
International SSC	7	–	8	38	2	1	56
2023	4	–	5	24	2	1	36
2024	3	–	3	14	–	–	20

Source: own research based on data from Pracuj.pl as of 1 May 2023 and 1 May 2024.

A majority of open positions (100 out of 176 for both years) are at the Specialist grade (usually between 2 and 5 years of relevant experience) while entry-level positions are scarce (just around 7 per cent). The trend already mentioned above regarding increasing hiring opportunities at domestic organizations and decreasing at international SSCs is particularly visible for this grade (15 position in 2024 vs 10 in 2023 for domestic entities, 14 vs 24 for international SSCs). In addition, a significant increase of hiring opportunities for senior positions in 2024 compared to 2023 should be noted in international entities (8 vs 4 for Managers, 7 vs 2 for Senior Specialists).

Geographical dispersion of open positions in respect to employer ownership type has also been analyzed and summarized in the Table 3.

Table 3. Open compliance positions structured by employer ownership type and location

Location	Domestic		International		International - SSC	
	2023	2024	2023	2024	2023	2024
Ameryka (Olsztyn District)	–	–	–	1	–	–
Bielsko-Biała	–	–	–	1	–	–
Gdańsk	–	1	1	1	–	–
Gdynia	–	–	–	–	1	–
Gniezno	1	–	–	–	–	–
Jankowice (Poznań District)	–	–	1	–	–	–

Location	Domestic		International		International - SSC	
	2023	2024	2023	2024	2023	2024
Katowice	–	1	1	–	–	–
Kraków	–	–	–	–	13	8
Łódź	–	–	1	1	1	3
Multiple locations	1	3	11	6	4	2
Poznań	1	2	1	1	1	1
Ruda Śląska	–	1	–	–	–	–
Rudawa (Kraków District)	–	–	–	1	–	–
Sochocin (Płońsk District)	1	–	–	–	–	–
Szczecin	–	–	–	1	–	–
Warszawa	16	17	15	25	13	4
Wrocław	1	1	2	2	3	2

Source: own research based on data from Pracuj.pl as of 1 May 2023 and 1 May 2024.

The Warsaw labor market accounts for about half of all the open opportunities (49 per cent in 2023 and 53 per cent in 2024); the concentration is particularly high (although decreasing) for domestic entities (over 76 per cent in 2023 and 65 per cent in 2024). Only in case of international SSCs Kraków used to offer a comparable number of hiring openings (13 in 2023, on par with Warsaw); with a sharp decrease of new opportunities in Warsaw (down to just 4 in 2024) Kraków (with 8 in 2024) clearly takes the lead. It should be noted however, that in the meantime the number of opportunities in international non-SSC organizations increased significantly in Warsaw (from 15 in 2023 to 25 in 2024).

Conclusions

Observations from the empirical data could indicate two significant trends in the compliance employment space. The relatively large increase of opportunities in domestic financial services entities (e.g. Polish banks) is a very recent development only noticeable in 2024, while these offerings were almost non-existent in the prior year. Concentration on the local market and stagnation in new product offerings of domestic financial services providers, not only in 2023 but also in prior years, resulted in a relatively low number of potential positions in compliance functions and correspondingly low demand for related skills (including e.g. legal professionals unable to work in languages other than Polish). Recent additional compliance-related regulatory requirements such as the implementation of CSRD (see e.g. Bank Polski, 2023) could constitute a major contributing factor to the trend being discussed.

The second major and quite surprising change would be the relative demise of new hiring opportunities in SSCs.¹² The presence of SSCs providing compliance capabilities used to be a strong and growing trend in Poland providing around 40 per cent of all open positions in 2023. As these roles were usually relatively narrowly focused, specialized skillsets e.g. in AML or sanctions enforcement used to be in high demand and requirements regarding foreign language fluency (at least in English) could have presented a strong potential barrier for inflow of compliance professionals from domestic financial services entities. Confirmation whether this trend could be lasting and whether its root causes are supply-driven (e.g. exhaustion of available and skilled resources in Poland, uncompetitive pay) or demand driven (e.g. economic slow-down, automation of certain compliance activities) would definitely require additional study and a longer observation period.

A final observation regarding training and education of compliance professionals should be made in light of the position grades being advertised. While the relatively low number of senior positions is not surprising, the almost complete absence of entry-level offerings is particularly noteworthy. This would underline the importance of specialist skills development for compliance experts prior to entering the profession, as opportunities for obtaining the necessary skills on-the-job while transitioning from a generalist legal role seem to be limited. While managerial and leadership skills tended to be less relevant given the relatively low availability of domestic high-profile compliance roles, the recent increase in new open managerial positions at international entities might indicate a new development. It should also be noted that the global nature of SSC-based processes does provide opportunities for medium-level managerial roles with an impact far outreaching the local market.

Providing useful training and education for compliance professionals in a fast-paced and diversified market remains a formidable challenge not only in Poland, as indicated by Sokol (2016):

[...] programs and classes in compliance [...] do not focus on the substantive areas of practice needs with the highest demand [...] and do not teach the analytical skills necessary to succeed in such jobs. Nor do these courses focus on the special context within which compliance operates, ideally independent of the “business” but always a part of it;

¹² It should be noted that due to the limitations of the methodology of this study the distinction between international “conventional” entities and SSCs is not always clear-cut, e.g. in cases of group-level compliance initiatives as well as performing of some tasks by the Polish entity on behalf of other entities in the group.

however, analyzing the various compliance function implementations and resulting job functions in different types of organizations could provide a valuable starting point in providing the supply once the demand – its structure and trends – are understood.

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