

Report of the New Technology and the Future of the Profession Commissions

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Presidents of the Commissions:

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present at the working session @Bar Society London 9 Nov

Representatives from: Verona, Dresden, Bilbao, Warsaw, Wrocław, Krakow,

Rotterdam, Lucca, The Hague and a delegate from France (?)

1. The Commissions during its joint and very fruitful meeting discussed issues related to online platforms which are at the heart of digital economy. Online platforms - also called multi-sided markets – become more and more popular among lawyers and therefore both Commissions found it important to discuss risks and potential pitfalls for lawyers connected with the use of the platforms. By online platforms we mean: referral and comparison platforms, Legal Q&A platforms, as well as chatbots (or in other words: “robotlawyers”) and platforms providing templates to the general public with some document automation.
2. The Commissions identified a few areas of risks. One such area is the risk of IT security in general and unlawful access by third parties. Another area is the danger in platform providers analysing client data stored using their services, and their reuse of such data. A third area of concern is the lack of access to the data stored by the lawyers in case of any dispute with platform providers or in case a lawyer deceases or becomes incapable to lead his practise, and last but not least, the possible inability to export practically all important information contained in the platform when the lawyer decides to terminate a contract with a platform provider. Similar problems arise relation to the supervision on lawyers by the Bar Association of an external supervisor. The protection of the professional secrecy for clients is sacred. If lawyers can not guarantee confidentiality, the professional secrecy become irrelevant and target for abolishment by governments.
3. The Commissions therefore would like to recommend testing of the platforms regarding security controls put in place by the platform provider. In terms of IT security, lawyers should select those platform providers that provide detailed, actual information on what kind of IT security they wish to attain and how they try to achieve it, with certifications to support these claims, if possible. Lawyers should be

aware of the jurisdiction where data is stored by a given platform provider. If possible, lawyers should avoid storing client data in jurisdictions outside the EU or with platform providers that are not able (or not willing) to give assurances about the jurisdiction where the data is actually stored.

4. The Commissions discussed also the implementation of the Regulations on data protection and its implication on legal practice, to be implemented in 2018. In the discussion it was noted that the ‘sense of urgency’ has not yet come through in all jurisdictions and law societies.

As it follows from the discussion in some jurisdictions the bars provide training to lawyers in this regard and in others lawyers have to adjust their practice to new requirements themselves.

The Polish National Bar Association has made available to its members the document called: “Data protection and processing forms and recommendations for law firms” and we suggest that other bars could follow this good practice. In other jurisdictions trainings are provided through private education, scientific institutes or lawfirms.

5. The joint commissions discussed the uprise of smart contracts. As an example the platform of Fizzy by AXA insurances was named by the representative of Verona. Travelers can insure themselves against airline delay. When the traveler is confronted with a delay, the system automatically pays a delay-fee without human interference. This kind of automated dispute resolution will have an impact on other fields of practice and the business of lawyers. Another development with impact on the future of the profession is artificial intelligence. Artificial intelligence software from the company Case Crunch outperformed a group of 100 lawyers from top lawfirms. Circumstances were made perfect for the computer, but this is the beginning of an development where data-analyses in the legal field might not longer be a commodity that lawyers can sell as part of their business. Another example is found in the scientific research of automatic prediction of the outcome of cases of the European Court of Human Rights. These developments are coming at us quicker than we can imagine.

6. As lawyers we face new challenges, but the future also holds new opportunities. In an presentation by the Tilburg University (the Netherlands) it was said the legal profession will distinguish different forms of services, in other words, different species of legal professionals:

- Personal advocates for clients
- Conflict resolution specialists
- Lawyers working for the public interest

- Software programmers, engineers and legal architects
- Managers for analyzing, deciding and determining strategy

The character, focus and size of lawfirms will change. In the future we shall see ‘global boutiques’, ‘legal companies’ with efficient working processes, multi-disciplinary lawfirms (family offices, full service advice to small and midsize companies), ‘managed legal service providers’ (for routine repetitive work), flexible independent legal talent, independent legal technology providers and legal educational institutes.

Lawyers in the 21st century will have to adapt and be ready to provide services in this new service-environment. And beware, we also have to take into account that our clients are millennials, demanding state of the art solutions.

7. The Commissions would like to implement the project next year: “The law firm of the future” which would take a form of the Competition for Young Lawyers and the participants i.e. young lawyers would be required to prepare 10 – minute presentation about the Law Firm of the Future. The best presentations would be shown to the members of Federation during the next Congress. The competition would be held in Autumn next year. Both commissions have committed their cooperation.

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