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# EUROPEAN LAWYERS IN THE ERA OF CHATGPT

GUIDELINES ON HOW  
LAWYERS SHOULD TAKE  
ADVANTAGE OF THE  
OPPORTUNITIES OFFERED BY  
LARGE LANGUAGE MODELS  
AND GENERATIVE AI

The European Bars Federation  
(Fédération des Barreaux d'Europe)  
New Technologies Commission

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# INTRODUCTION

## HOW LAWYERS SHOULD BENEFIT FROM LARGE LANGUAGE MODELS AND GENERATIVE AI

*“As the New Technologies Commission of the European Bars Federation, our goal is to ensure that European lawyers are well-versed in new technologies, enabling them to use AI tools responsibly and in alignment with professional principles.”*

The discussion regarding the impact of artificial intelligence (AI) on the legal sphere has been ongoing for some time. However, the introduction of OpenAI's ChatGPT on November 30, 2022, served as a significant catalyst for exploring how generative AI tools could transform legal services. As of June 2023, we are still in a phase where general-purpose AI chatbots are accessible, but it is expected that specialized generative artificial intelligence systems will emerge over time, specifically designed for the legal field, aiming to streamline tasks for legal professionals.



# OVERVIEW

## OUTLINE OF GUIDELINES ADDRESSING THE USE OF GENERATIVE AI BY ATTORNEYS

The FBE's New Technologies Commission recommends the following guidelines on the applications of large language models and generative artificial intelligence tools based on them in legal practice:

- 1. Understand the generative AI technology**
- 2. Acknowledge limitations and context**
- 3. Adhere to existing rules on AI use**
- 4. Complement legal expertise**
- 5. Maintain attorney-client privilege**
- 6. Ensure data protection and privacy**
- 7. Inform clients and assume responsibility**

While these guidelines may not be exhaustive, they should be taken into consideration in order to maintain ethical standards, protect client confidentiality, and ensure responsible and informed usage of generative artificial intelligence and large language models in the legal field.

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## LARGE LANGUAGE MODELS

Large Language Models (LLMs), such as OpenAI's GPTs, have achieved a groundbreaking advancement in the field of AI, particularly in natural language processing. These models have undergone extensive two-stage training: in the pre-training stage, they are trained on a large dataset without manual annotation, establishing a foundational understanding of language; this is followed by the fine-tuning stage, where the models are trained on smaller, task-specific datasets with manual annotations.

## GENERATIVE AI

Generative artificial intelligence (GenAI) refers to AI systems that can generate text, images, or other media in response to prompts. GenAI are based on LLMs and have an ability to generate output that closely resembles human language. Typically, users do not directly interact with LLMs themselves but use specific GenAI tools built upon them. For example, OpenAI's ChatGPT is a conversational GenAI system fine-tuned for dialogue tasks, based on GPT-3.5/GPT-4. Similarly, Bard is a conversational GenAI chatbot developed by Google, initially leveraging LaMDA (*Language Models for Dialog Applications*) and later incorporating PaLM (*Pathways Language Model*).

**06****GUIDELINE 1****UNDERSTAND GenAI**

Ensure that you possess a comprehensive understanding of the generative artificial intelligence technology utilized in your legal practice. Take the time to familiarize yourself with its capabilities, functionalities, and potential legal implications. This knowledge will empower you to make informed decisions regarding the appropriate and responsible utilization of the technology, determining when and how to leverage it effectively in your legal work.

**PAY ATTENTION TO:**

It is essential to understand both the known threats associated with machine learning, such as bias and lack of interpretability, as well as the risks specific to LLMs and GenAI, such as hallucinations (making up information or content that does not align with reality or factual accuracy). Familiarize yourself with the main principle of LLMs: their primary task remains the prediction of the next token (simplified: the next word in a string of words), with the result that the answers generated by GenAI may or may not be true.

## GUIDELINE 2

### ACKNOWLEDGE LIMITATIONS AND CONTEXT

Understanding how LLMs and GenAI can enhance legal processes and offer more effective solutions is crucial for remaining at the forefront of the industry. However, it is important to consider the limitations of this technology. Despite its advancements, it inherently has constraints. Acknowledge that AI-generated content may not always be entirely accurate, comprehensive, or up-to-date. Constantly bear in mind the primary purpose of large language models, the risks of hallucinations and bias. Remember that GenAI systems that serve conversation, for example, are not necessarily suitable for other applications, including legal applications. Always verify the output generated by the system.



## GUIDELINE 3

### ADHERE TO EXISTING RULES ON AI USE

It is essential for European lawyers to acknowledge and adhere to the existing rules governing the use of AI. This includes staying informed about the EU Artificial Intelligence Act, which is currently in the legislative process. Additionally, it is crucial to be aware of any possible national regulations or rules established by Bar Associations, even if they are not legally binding. Lawyers should also thoroughly review the Terms of Service provided by GenAI providers to ensure compliance with ethical and legal standards.

It is important to note that the rules on AI-use are subject to constant evolution and changes, reflecting the dynamic nature of AI technology and legal frameworks. Therefore, lawyers should remain vigilant, stay updated on developments, and adapt their practices accordingly to align with the evolving regulatory landscape.

## GUIDELINE 4

### COMPLEMENT LEGAL EXPERTISE

GenAI should complement your legal competences rather than replace them. Utilize it as a tool to streamline processes in your law firm and improve the efficiency of legal services. However, remember that GenAI should not substitute the exercise of your professional judgment, legal analysis, and expertise.

Avoid becoming overly reliant on the outputs of GenAI. Remember that while it can assist in generating legal documents, it should not replace human decision-making. Exercise caution and independently verify the outputs through analysis, research, fact-checking, and professional judgment.

There is a risk that some individuals may opt not to seek legal counsel because they perceive a "consultation" with a chatbot based on LLMs as sufficient. It is important to inform clients about the risks associated with relying solely on this type of practice.



## GUIDELINE 5

### MAINTAIN ATTORNEY-CLIENT PRIVILEGE

Safeguard attorney-client privilege when using generative AI tools or platforms. Take necessary precautions to protect the confidentiality of client information and communications. Ensure that the generative AI systems you use have appropriate security measures in place. Implement your own robust security measures to safeguard sensitive data and adhere to ethical and legal obligations related to client confidentiality.

### PAY ATTENTION TO:

Depending on the provisions of the Terms of Service or equivalent regulations, entering directly or indirectly client data as part of a prompt in GenAI systems may not be permissible due to the potential for further processing of the information contained within the prompt.



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## GUIDELINE 6

### ENSURE DATA PROTECTION AND PRIVACY

While partially overlapping with the previous guideline on client-attorney privilege, this guideline underscores the crucial importance of safeguarding personal data for lawyers when utilizing GenAI tools. It emphasizes the need for a detailed assessment of GenAI's compliance with the General Data Protection Regulation (GDPR), highlighting the significance of exercising caution, implementing appropriate measures, and addressing privacy concerns, and emerging risks. It needs to be remembered that the professional use of GenAI introduces new threats alongside the customary challenges of data protection and privacy.

Attorneys must be mindful that inputting personal data into genAI systems requires a proper legal basis and assessment in compliance with data protection and privacy provisions. Remember that GenAI tools not only process data to generate responses to prompts but also employ the provided data to enhance the system itself. However, these risks can be partially mitigated by utilizing GenAI tools through application programming interfaces (APIs) and/or by using a special "opt-out" option, which can help separate the input data from system development.

To ensure data privacy and protection, it is essential to implement robust security measures encompassing both technology and processes, guarding against unauthorized access, use, or disclosure of personal data.

## GUIDELINE 7

### INFORM CLIENTS AND ASSUME RESPONSIBILITY

Maintain transparent communication with your clients regarding the use of GenAI in your legal practice. Clearly explain the fact that you use it, as well as the purpose of such use, benefits, limitations, and guarantees, ensuring that clients understand the role of this technology in their legal matters. Specify whether it is used for legal research or additional office tasks.

Assume responsibility for the outcomes and consequences of utilizing GenAI, while being mindful of your professional obligations and potential liability.

Keep in mind that it may be advisable to wait for specialized systems designed to assist lawyers (specifically tailored for the legal sphere) to become available on the market. Avoid using generic conversational generative AI systems that may not be suitable for strictly legal applications when automating substantive tasks in your work.

Adopt a responsible approach to using GenAI tools within your law firm. Inform all your coworkers about the established rules and ensure their compliance.



## SUMMARY

HOW LAWYERS SHOULD TAKE ADVANTAGE OF THE OPPORTUNITIES OFFERED BY LARGE LANGUAGE MODELS AND GENERATIVE ARTIFICIAL INTELLIGENCE

*“While we acknowledge the significant advantages of using generative AI in the legal field, we caution against hastily and inappropriately applying GenAI tools to tasks that lie at the core of legal competence and the lawyer-client relationship.”*

We believe that by adhering to the presented guidelines, European attorneys can effectively and responsibly integrate generative AI into their legal practice. This will allow them to harness the technology's benefits while upholding ethical standards, safeguarding client confidentiality, and maintaining professional competence.

We strive to ensure that the ongoing business revolution driven by the widespread use of large language models also benefits the professional legal community. Simultaneously, we aim for lawyers within the Bar Associations of FBE to be guided by the highest ethical standards in their practice. These guidelines serve as a compass for lawyers who aspire to embrace disruptive technologies while adhering to professional requirements.

## CALL TO ACTION

### **Shaping the Ethical Framework for LLMs and GenAI in the Legal Sphere: A Call to Members of the European Bars Federation**

We encourage these guidelines to serve as an invitation to initiate a comprehensive discussion on the legal and ethical framework concerning the use of GenAI within the legal sphere.

We kindly request you to consider these recommendations and engage in deliberations within your respective Bar Associations, contemplating how they align with existing or planned ethical rules and professional standards. FBE is eager to know about the outcome of these discussions.

It is important to acknowledge that the guidelines may need to be subject to modification over time, in response to legislative changes or advancements in technology itself. It is crucial to stay updated and maintain a responsible approach towards GenAI in the legal profession. This will establish the foundation for a new era of delivering legal services in Europe, where knowledge is kept current, and a responsible approach to LLMs and GenAI is embraced.