

Legal Technological Competence Statement for IBA Principles

On 25 May 2024, at the IBA Mid-Year Meetings in Bucharest, the IBA Council formally approved an update to Explanatory Note 9.2 under the 'Competence' principle of the IBA International Principles on Conduct for the Legal Profession (www.ibanet.org/document?id=-International-Principles-on-Conduct-for-the-Legal-Profession-2018).

The updated statement reads: *"A lawyer should keep abreast of changes in the law and be competent in their response to, awareness, and use of technology relevant to their practice. Technological competence is a spectrum, ranging from the effective use of electronic communications to engaging with Artificial Intelligence. Lawyers should aim to be conscious of the opportunities, risks, and ethical challenges that technology presents for themselves as well as their clients."*

The Bar Issues Commission and the Legal Technology Competency Working Group of the Academic and Professional Development Committee and the Legal Policy & Research Unit spearheaded the project initiative.

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Project Background:

IBA Working Group Proposal to the Bar Issues Commission on Legal Technology Competency

Introduction

In late 2022, the Academic and Professional Development Committee (APDC) was approached by Anurag Bana of the IBA Legal Policy & Research Unit (LPRU) with a request for support in developing a new lawyer competency statement regarding legal technology. The request was based on a report of an internal survey conducted in 2021-2022, by the LPRU in collaboration with the North American Regional Forum, to determine the current state of regulation surrounding technological competence.

The intention was that such statement should be added to the 'Competence' section of the IBA's International Principles on Conduct for the Legal Profession (IPCLP) as a supplemental competency.

Rationale

The rationale for the inclusion of such a statement was that there needs to be a recognition in any set of general principles of lawyer competence that the use and understanding of relevant technologies is an essential requirement for lawyers in the modern age. Legal technology and its impact on the industry has been a recurring theme at recent IBA conferences and has gained added impetus with the rapid advancement of Chat GPT and other Artificial Intelligence technologies.

Methodology

The APDC and the LPRU formed a small working group to take the project forward, which has spent the last few months developing and refining the proposed competency text. Creating a competency statement which can be applied universally, taking into account varying global access to technology and the wide spectrum of different tools which may be described as 'legal technology' made for a challenging exercise. This was further tempered by the need to ensure the statement was not vulnerable to instant obsolescence given the speed at which technology is progressing.

To respond to these challenges, the APDC and LPRU Legal Technology Competency Working Group applied the following principles when developing the text:

1. The text was framed broadly in terms of defining legal technology, using illustrative examples only, in order to avoid built-in obsolescence and a bias towards any particular level of the technologies currently available.
2. The text is not prescriptive in terms of specific competencies, to ensure it does not set unrealistic or inappropriate standards but is nonetheless robust enough to create a proportionate general threshold for competence.

The Proposed Text for IBA Council (to be appended to the Explanatory Note at para 9.2 of the IPCLP)

A lawyer should keep abreast of changes in the law and be competent in their response to, awareness, and use of technology relevant to their practice. Technological competence is a spectrum, ranging from the effective use of electronic communications to engaging with Artificial Intelligence. Lawyers should aim to be conscious of the opportunities, risks, and ethical challenges that technology presents for themselves as well as their clients.
