

UIA Guidelines on the use of artificial intelligence systems by lawyers

Introduction

The UIA Guidelines on the Use of Artificial Intelligence by Lawyers (UIA AI Guidelines) have been drafted by the AI Task Force of the Union Internationale des Avocats (UIA), and they are intended to apply to all lawyers throughout the world.

Since the legal and ethical rules with which lawyers must comply may vary across different jurisdictions, some of these Guidelines may not align with the specific rules governing the legal profession in certain countries. In case of conflict between national regulations and the UIA AI Guidelines, the local regulations shall, of course, prevail.

1. Scope of Application of the UIA AI Guidelines and Definition of AI

The UIA AI Guidelines are intended to apply to all lawyers who use artificial intelligence (AI) in the practice of law, in any country.

The term AI is used here very broadly, to mean any software-based or machine-based system that is designed to understand language, learn from experience, generate content, make predictions, recommendations and decisions etc., in a manner similar to human capabilities, including – but not limited to – generative AI, machine learning, deep learning, or any other similar or analogous tool or function that currently exists or may emerge in the future.

2. Background Understanding of AI

AI presents both significant opportunities and risks when used in the legal profession.

Therefore, before using AI in the practice of law, lawyers should ensure that they have sufficient and appropriate knowledge of (i) the system they intend to use; (ii) the sources of the data used in the system's training; (iii) how any of the data inputted in the system by the user will be used in future (e.g. whether that data may be retained by the AI developer and used to train the developer's AI models); and (iv) the reliability of outputs and risk of hallucinations, so as to be able to understand the system's limitations and to be aware of the associated risks and related legal implications.

Also, users should always check the relevant terms and conditions of the AI system they intend to use.

3. Confidentiality, Privacy and data protection

The use of AI-based systems by lawyers poses risks to the preservation of client privilege, confidentiality of privileged and other communications between lawyers, privacy and data protection obligations.

When using AI systems, lawyers should therefore: (i) always review the terms and conditions of the chosen AI system to determine how it will use the information entered therein; (ii) whenever possible, opt for AI systems that do not retain information entered by the lawyer or systems that just retain and use that information for the benefit of the user and that will not share such information with others; (iii) whenever the conditions under (ii) cannot be fulfilled, anonymize all data and information that might in any way identify clients and/or specific matters; and (iv) in any case, avoid sharing with AI systems particularly sensitive information, such as health data, passwords, trade secrets, etc.

4. Duty of competence and compliance with rules of professional ethics

Lawyers have a duty to only accept engagements they can competently perform. Lawyers should therefore not use AI to advise on legal subjects about which they do not have adequate knowledge or expertise, and they must also comply with any other applicable rules of professional ethics.

5. Relationship with Clients

Lawyers should maintain transparent communication with their clients, informing them of their use of AI systems, the purposes of such use, and the precautions taken. In any case, lawyers shall make sure that the strategy of each matter they take on for their clients and the implementation thereof is determined and carried out by themselves and not by AI, it being understood that professional judgment cannot be delegated to AI.

Moreover, if the client's information and records are to be used to train an AI system, the client should be informed, and their consent should be obtained.

6. Relationship with Other Lawyers and Third Parties

The use of AI systems for transcribing, summarizing and/or translating meetings (held in person or remotely) or telephone conversations can only occur with the consent of all participants, it being understood that the transcript, summary or translation will not be considered as an official document unless approved by all participants.

Subject to duties of professional secrecy and rules of legal professional privilege, in their interactions with other lawyers and third parties, lawyers should transparently disclose any use of AI systems, including the incorporation in those systems of information and data derived from such interactions.

Training of junior lawyers should not be delegated primarily to AI systems, to ensure that personal transmission of knowledge and experience is maintained.

Lawyers working in partnership with other colleagues or with individuals from other professional organizations are encouraged to adopt clear and agreed policies regarding the use of AI.

7. Responsibility

Lawyers are and remain fully and solely responsible for any decision taken, activity carried out, or content released by them that was created by AI or that is based on research, suggestions, or predictions made by or with the assistance of AI.

Lawyers shall also ensure that their use of AI is covered by their professional insurance.

8. Output Review and Duty of Supervision

Considering the risks associated with the use of AI systems, lawyers shall always have the duty to verify that (i) any law, case law or legal literature identified by AI actually exists and is cited correctly; and (ii) any content identified or produced by AI or with the assistance of AI is correct, accurate, comprehensive, and applicable to the actual set of facts of the relevant, specific case at issue, as well as compliant with the applicable laws and rules of professional conduct, so as to prevent mistakes, hallucinations, or breach of laws.

Lawyers should therefore always exercise critical analysis and supervision of the results produced by AI and never use directly the outputs – or rely on them – without first reviewing and verifying those outputs.

Also, lawyers should not create unsupervised legal bots that respond autonomously to legal questions asked by actual or potential clients without specifying that this is AI-generated information and not personalized and supervised advice..:

9. Regulatory Compliance

Lawyers must constantly keep up to date and ensure that their use of AI (i) complies with the regulations and legal requirements applicable in their jurisdictions; and (ii) is in keeping with court practice.

This includes understanding the relevant laws and regulations (including international, national, regional, and local regulations), as well as complying with the existing guidelines of regulatory authorities and professional bodies.

10. Legal Fees and Costs

Regarding legal fees, lawyers should determine them in a balanced and transparent manner towards the client, taking into account the time savings permitted by AI, the costs related to its creation, training and use, and that the lawyer bears the responsibility for the contents generated by or with the support of AI.

11. Advertising and Marketing

Lawyers should be particularly careful when using AI systems for advertising and marketing purposes and shall adopt ethical and transparent strategies.

In particular, lawyers shall make sure that advertisements made through AI do not violate their duty of confidentiality and competence, and/or – where applicable – the rules preventing direct contacts with prospective clients.

Moreover, when using conversational bots to respond to general questions asked by actual or prospective clients as to the lawyer/law firm or legal services offered, lawyers should make it clear to such clients that they are communicating not with a human, but with an AI system.

12. General Precautions and Ethical Use of AI

Lawyers should: (i) ensure that activities carried out by any AI system are traceable, including through log registration and, where possible, by recording input data / user prompts; (ii) take enhanced measures to protect the cybersecurity of data being processed with AI; (iii) pay particular attention to the use of AI systems not provided by a reliable source; and (iv) be aware that use of any AI system carries – without limitation – risk of infringement of IP rights, disclosure of trade secrets, infringement of privacy and data protection rights, as well as infringement of rules, regulations and/or laws relating to defamation, discrimination and insider trading.

Considering that the use of AI systems can pose significant risks to human rights and may lead to unintended consequences affecting individual freedoms and protections, lawyers must be able to effectively identify such risks and proactively work to prevent, mitigate, and address both current and potential future harms.

Moreover, lawyers must ensure that the use of AI systems in their practice adheres to the highest ethical standards and social values that apply in their communities. This commitment includes, but it is not limited to, upholding human rights as recognized in international law, avoiding discrimination, and maintaining the rule of law.
