

# HANDBOOK FOR THE IFP ON LAW & TECHNOLOGY

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ELSA INTERNATIONAL  
2019/2020



*elsa*

The European Law Students' Association

## FOREWORD

Dear Network,

We are proud to present the Handbook on the International Focus Programme (IFP) on Law and Technology for the period from 1 January 2020 to 31 July 2022.

The aim of this handbook is to create an organiser's overview and an implementation guide for the ELSA Network while providing information to engage ELSA members in one of the most interesting concepts ELSA has in store.

For the last 25 years, ELSA has strived to unite the Network under different IFP topics with one common goal – to impact the society we live in. We hope to keep the tradition of standing united under one common theme while constantly improving the different ways in which we, affect the lives of law students, young lawyers and civil society.

It is up to the law students and young lawyers of today to create the legal framework of tomorrow which will help make this world a better place. At a time of technology affecting every single aspect of our lives, ELSA cannot stand ignorant of the impact technological developments have. Therefore, it is the aim of this IFP to reassert the goals of ELSA and connect them to the dynamic and ever-changing world of technology.

We hope you will find this handbook helpful!

Best wishes,

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## I. INTRODUCTION

This handbook will firstly describe the IFP and secondly provide a definition of the IFP on Law and Technology. This will be followed by a guide as for how to implement the IFP on Law and Technology as well as a guide on how to gain external support.

## II. WHAT IS THE INTERNATIONAL FOCUS PROGRAMME?

### 2.1 Definition of the International Focus Programme

The IFP was adopted in 1995 with the aim of raising awareness on a specific theme for the ELSA Network during a fixed period of time. In this way, ELSA creates a forum where law students and young lawyers can combine their efforts, discuss and participate in various activities on a topical area of law. Furthermore, the IFP consolidates work and achievements of all ELSA groups and gives law students an opportunity to raise opinions and ideas.

The IFP topic is chosen by the International Council of ELSA and should be versatile, internationally relevant, academically interesting and impacting civil society. When implemented consistently throughout the Network, the IFP can impact the general opinion and mindset of law students and young lawyers. In short, with the IFP, ELSA can have an impact on students, young lawyers and civil society.

The main objectives of the IFP are to:

- Make use of the unique ELSA Network to create awareness amongst today's law students and tomorrow's lawyers;
- Create a forum where law students and young lawyers can gather and discuss a contemporary theme;
- Utilise the ELSA Network in a programme that directly involves all Local and National Groups in similar activities;
- Set out a common goal for all members to work towards;
- Give law students and young lawyers all over Europe a voice by gathering their diverse opinions and ideas;
- Implement the vision of ELSA's philosophy statement: *"A just world in which there is respect for human dignity and cultural diversity"*.

Historically, the IFP has been concluded with an international conference and/or a publication. With the IFP on Law and Technology, ELSA International intends to publish a Final Report and Video. This outcome will encapsulate the efforts on the Network in implementing the IFP, the impact the Network has made for law students and young lawyers, and the change created in society.

### 2.2 History of the International Focus Programme

Since its introduction, the IFP has touched upon the following topics:

- "A Just World: A new role for lawyers, legal education and law in development" (1995 – 1997)
- "The Law of Peace in the Year 2000 – current violations and effective enforcement of international law; the reform of international organizations" (1997 – 1999)
- "Information Society – the Legal Challenges: Application of New Technologies, Protection of Individuals and the Legislative Response." (2000 – 2002)

- “Trade Law – a Way for Sustainable Development” (2003 – 2005)
- “25 Years of Legal Development” (2006 – 2007)
- “Intellectual Property Law” (2007 – 2010)
- “Health Law” (2010 – 2013)
- “Media Law” (2013 – 2016)
- “Environmental Law” (2016 – 2019)

### 2.3 Decision Book and Strategic Goals 2019-2023

The IFP is regulated in the General Part of the International Council Meeting Decision Book of ELSA. The Decision Book sets out the aim of the IFP, the implementation plan of the IFP, the responsibilities of ELSA International, National Groups and Local Groups towards IFP implementation, and the IFP topic.

The IFP is furthermore mentioned in the Strategic Goal regarding “A Living Vision”. As part of strengthening ELSA’s identity, ELSA shall create a strategic plan to increase the awareness and knowledge of the IFP.

### III. WHAT IS LAW AND TECHNOLOGY?

Technology has become a core element of today’s society. From email to smart vehicles, almost every part of our daily lives is dependent on technology in a form or another. Importantly, apart from everyday routines, technology is here to change the substance and the form of the legal profession as we know it. Technology pierces into every area of law. This trend already manifested itself over the past decades with an increasing speed. For example, social media shutdowns demonstrated restrictions to the freedom of speech, cryptocurrencies and blockchain became the hottest topic in financial law, e-commerce was included in international trade agenda, and major law firms are racing to implement legal software based on machine-learning to automate processes thus minimising traditional expenditures. As such, technology is the centre of attention for both regulators and the private sector alike.

Furthermore, technology has a major impact on the future of the legal profession. The future lawyer needs to be tech savvy and understanding not only how technology works, but also how that impacts existing legislation.

Technological advancements also lead to new problems and ethical dilemmas. Radical changes have caused uncertainty necessitating a framework for regulating the ever-changing field of technology. Technological developments often influence human behaviour or, in the words of Marshall McLuhan,<sup>1</sup> “*We become what we behold: we first make the tools, then the tools will make us.*” Technology exerts influence on our norms and culture and permits individuals to enjoy wealthier, easier and safer lives. However, technology can also lead to unanticipated results. For example, mass surveillance systems promote state

<sup>1</sup> Marshall McLuhan, in full Herbert Marshall McLuhan, (born July 21, 1911, Canada—died Dec. 31, 1980, Toronto), Canadian communications theorist and educator

security, but can also undermine democratic values and override civil liberties. Understanding the relationship between Law and Technology serves as a tool to promote informed legal analysis.<sup>2</sup>

### 3.1 Definition

“Law and Technology” is not a set area of law. Rather, this topic seeks to explore (1) how technology and technological developments may affect law and (2) how law and regulation may affect the realisation of the full potential of technology and innovation.

The topic of Law and Technology is wide and encompasses all aspects of law necessary to analyse properly the challenges and opportunities posed by the Fourth Industrial Revolution. The Fourth Industrial Revolution encompasses the digital developments which have occurred since the 1950s. Essentially it is characterised by a fusion of technologies which makes it difficult to differentiate between the physical, digital, and biological spheres.<sup>3</sup>

Finally, the topic is inherently intertwined with human by both threatening human rights protection and advancing access to justice.

### 3.2 Regulatory developments

The following chart lists some important binding and non-binding decisions by supranational organisations. They reflect the regulatory developments on matters where law and technology interact.

ELSA International highly encourages you to thoroughly examine whether the following acts apply or have been incorporated into the national legislation of your National Group and further discover the regulatory framework applicable in your national legal order.

Date of Introduction:	Act:
1966	<a href="#">Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies</a> , which provides the basic framework on international space law.
1995	<a href="#">Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data</a>
1997	<a href="#">Directive of the European Parliament and of the Council on the protection of consumers in respect of distance contracts</a>
1998	<a href="#">Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions</a>

2 2020. *Towards A Law And Technology Theory*. [online] Available at: <[https://www.researchgate.net/publication/228230088\\_Towards\\_a\\_Law\\_and\\_Technology\\_Theory](https://www.researchgate.net/publication/228230088_Towards_a_Law_and_Technology_Theory)> [Accessed 8 April 2020].

3 <https://www.weforum.org/agenda/2016/01/the-fourth-industrial-revolution-what-it-means-and-how-to-respond/>

1999	<a href="#">Directive of the European Parliament and of the Council on a Community framework for electronic signatures</a>
1999	<a href="#">The Uniform Domain-Name Dispute-Resolution Policy (UDRP)</a> is a process established by the Internet Corporation for Assigned Names and Numbers (ICANN) for the resolution of disputes regarding the registration of internet domain names. This isn't regulation in the same sense as ECD, but is very important apparently.
2000	<a href="#">Directive of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market</a>
2001	<a href="#">Directive of the European Parliament and of the Council on the harmonization of certain aspects of copyright and related rights in the information society</a>
2001	<a href="#">The Convention on Cybercrime of the Council of Europe, also known as the Budapest Convention</a> , which is the first and the only binding international instrument on the issue of crimes committed via computer networks. The Convention is supplemented by a <a href="#">Protocol on Xenophobia and Racism committed through computer systems</a> .
2002	The <a href="#">Electronic Commerce (EC Directive) Regulations 2002</a> , which establishes legal rules that online retailers and service providers must comply with when dealing with consumers in the 27 member countries of the European Union (EU).
2006	<a href="#">Directive of the European Parliament and of the Council on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive</a>
2010	<a href="#">Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Digital Agenda For Europe</a>
2010	<a href="#">Declaration of the Committee of Ministers of the Council of Europe on the Digital Agenda for Europe</a>
2011	<a href="#">Directive of the European Parliament and of the Council on consumer rights</a>
2014	<a href="#">Recommendation CM/Rec(2014)6 of the Committee of Ministers of the Council of Europe to member states on a Guide to human rights for Internet users</a>
2011	<a href="#">Declaration by the Committee of Ministers of the Council of Europe on Internet governance principles</a>

2015	<a href="#">Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Communication A Digital Single Market Strategy for Europe</a>
2016	<a href="#">General Data Protection Regulation (GDPR)</a> , which is a regulation in EU law on data protection and privacy in the European Union and the European Economic Area, while addressing the transfer of personal data outside the EU and EEA areas as well. The GDPR aims primarily to give control to individuals over their personal data and to simplify the regulatory environment for international business by unifying the regulation within the EU.
2018	<a href="#">Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on Artificial Intelligence for Europe.</a>
2019	<a href="#">Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernization of Union consumer protection rules.</a> The directive modernizes the EU consumer protection rules comprehensively to protect consumers from rogue traders online.

### 3.3 Potential core topics and/or sub-topics

#### 3.3.1 Artificial intelligence (AI)

AI is in essence a technique enabling computers to mimic human behaviour. The AI systems are powered by machine learning, i.e. techniques using statistical methods to enable machines to improve with experience.

AI can be distinguished by being either general or specific. General AI involves machines thinking, feeling and joining in like people, which is the least developed part of AI. Specific AI is the intelligence to perform particular tasks.

AI offers great opportunities in society as it can perform complicated maths within seconds, conduct legal document review, etc. However, AI-based systems impact the right to privacy because they are highly dependent on the collection and use of large quantities of data which they use to make predictions. Further, such predictions are often based on existing social patterns of bias and discrimination.<sup>4</sup>

#### 3.3.2 Biotechnology law

Biotechnology is technology relating to the development and manipulation of living things for human use and gain.<sup>5</sup> It entails human use or application of biology for advancement of mankind in terms for e.g. medicine, animals, agriculture and industry. An example of biotechnology is modification of genes

<sup>4</sup> World Economic Forum, How are today's biggest tech trends affecting our human rights?, <<https://www.weforum.org/agenda/2017/12/how-are-today-s-biggest-tech-trends-affecting-human-rights/>>

<sup>5</sup> Legalcareerpath.com. 2020. *What Is Biotechnology Law?*. [online] Available at: <<https://legalcareerpath.com/what-is-biotechnology-law/>> [Accessed 8 April 2020].

in a crop to produce a larger yield. Furthermore, manipulation of stem cells in an attempt to create new medicines or reduce genetic birth defects falls under biotechnology.

An interesting subtopic of biotechnology is bioethics, and it might be pertinent to discuss the ethics involved with gene modification.

### ***3.3.3 Cybercrime***

Cybercrime simply refers to criminal acts committed online. With the rise and usage of the Internet, cybercrime has become a growing problem.

Examples of cybercrime include the utilisation of botnets, i.e. networks of devices infected with malware without their users' knowledge to transmit viruses that gain illicit remote control of the devices, steal passwords and disable antivirus protection.<sup>6</sup>

### ***3.3.4 Financial law (FinTech, blockchain, cryptocurrencies)***

Financial technology (FinTech) is used to describe new technology that seeks to improve and automate the delivery and use of financial services. At its core, FinTech is utilised to help companies, business owners and consumers better manage their financial operations, processes, and lives by utilising specialised software and algorithms that are used on computers and, increasingly, smartphones.<sup>7</sup> Fintech includes different sectors and industries such as education, retail banking, and investment management. Fintech also includes the development and use of cryptocurrencies such as bitcoin.

### ***3.3.5 Data protection law***

The Internet has opened up for a new array of data processing, which, in turn, creates the necessity for data protection law. This is exemplified with the General Data Protection Regulation (GDPR) which aims at strengthening the fundamental rights of individuals in the digital age and facilitate business by clarifying rules for companies and public bodies in the EU.

### ***3.3.6 E-commerce law***

E-commerce law governs purchase and sale of goods and services via the Internet. E-commerce is typically subject to specific regulation with the purpose of protecting consumers online. In the EU, for example, consumers have a period of 14 calendar days to withdraw from purchases made online.

### ***3.3.7 Energy technology law***

As current trends in energy production prove unsustainable for the environment, energy security and economic development, innovation becomes imperative. In the transition to low carbon energy sources, countries take advantage of the emerging opportunities presented by technological advancements. Thus, the interplay between law and technology is transforming energy law.

<sup>6</sup> Europol. 2020. *Cybercrime*. [online] Available at: <<https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/cybercrime>> [Accessed 8 April 2020].

<sup>7</sup> Investopedia. 2020. *Financial Technology – Fintech Definition*. [online] Available at: <<https://www.investopedia.com/terms/f/fintech.asp>> [Accessed 8 April 2020].

### **3.3.8 Intellectual property (IP) law**

IP law contains the rules for securing and enforcing legal rights to ideas, brands, innovations, designs and artistic work. The purpose of IP law is to incentivise entrepreneurial spirit without fear of misappropriation of their work by others. IP law includes protection of:

- Patents: An exclusive right granted for an invention, that provides a new way of doing something or offers a new technical solution to a problem;
- Trademarks: A distinguishable sign for goods or services of a business;
- Copyright: An exclusive right given to creators over their literary and artistic works.

### **3.3.9 Internet law**

Internet law, i.e. cyber law, refers to the legal issues related to the use of the Internet. It is a mixture of newly established fields of law including, inter alia cybercrime, cybersecurity and data protection in combination with common fields of law that apply to the Internet as well (e.g. IP law, contract law, privacy law).

Internet law usually concerns the protection and registration of patents, copyrights, trademarks, trade secrets, service marks and other IP on the Internet, domain name registration and protection internet security, and internet censorship.

Major steps have been made in the last decades on a regional level to regulate the Internet substantially while protecting civil liberties and rights. For example, in the United States of America, the Digital Millennium Copyright Act (DMCA)<sup>8</sup> constitutes a law of paramount importance with a global practical effect. The Act shapes the process for taking copyright infringements down and protecting online service providers. The DMCA is a 22 years old Act and the Senate Subcommittee on Intellectual Property is currently reviewing the law in an attempt for reform. On the EU level, the General Data Protection Regulation (GDPR)<sup>9</sup> is an EU regulation that requires certain minimum standards of data protection for anyone processing data of an EU citizen, or processing data in the EU. The practical effect of this regulation is also global, taking into account the fact that it imposes obligations to organizations anywhere, so long as they target or collect data related to people in the EU.

### **3.3.10 Legal Technology (LegalTech)**

LegalTech, rather than being an area or topic of law, refers to the use of technology and software to assist lawyers in their daily work on tasks such as document storage, billing, document review, accounting and electronic discovery. LegalTech may also be referred to as tools and platforms reducing or in some cases eliminating the need to consult a lawyer. Different types of LegalTech include smart document generation, E-discovery, and smart knowledge management

### **3.3.11 Space Law**

Space law comprises a wide range of international treaties, agreements, conventions, United Nations General Assembly resolutions and regulations of international organisations for space-related activities.

<sup>8</sup> Trendacosta, K., 2020. *Reevaluating The DMCA 22 Years Later: Let'S Think Of The Users*. [online] Electronic Frontier Foundation. Available at: <<https://www.eff.org/deeplinks/2020/02/reevaluating-dmca-22-years-later-lets-think-users>> [Accessed 8 April 2020].

<sup>9</sup> GDPR.eu. 2020. *What Is GDPR, The EU'S New Data Protection Law? - GDPR.Eu*. [online] Available at: <<https://gdpr.eu/what-is-gdpr>> [Accessed 8 April 2020].

The term "space law" is mostly associated with regulations on an international level. Yet many states have adopted national legislation for space-related activities.

Space law addresses a variety of matters. One of the most important fields of regulation is the use of space-related technologies. When it comes to new dimensions in the exploration and use of the Outer Space, we are witnessing new entrants consisting of private actors from the digital industry, newly established programs related to the exploitation of space resources, satellite applications and space transportation.

Although the development of space technology is able to benefit humanity in many ways, the possibility of an arms race in outer space poses a series of concerns and constitutes an enormous challenge to mankind in real-time. It is obvious that we are entering a new era of space exploration with a dynamic presence of the private sector. International law must establish the balance between main principles of space law and the tendency to support private initiatives.<sup>10</sup>

### **3.3.12 Disinformation, propaganda and fake news**

The development of technology has resulted in an influx of information on a global scale, creating a fertile ground on disinformation campaigns. Taking into consideration the emotional and ritualistic elements of communication, the purpose of communication lies in representing shared beliefs. In the last few years, the Council of Europe has initiated a set of attempts to comprehensively address the phenomenon and promote the creation of an independent and pluralistic media environment in which individuals can trust and actively participate in. Fake news and propaganda constitute some of the biggest challenges today. Policymakers around the world are trying to shape a response to the threat.<sup>11</sup>

Disinformation and propaganda are human rights related issues since they can i.e. violate people's right to freedom of expression (cf. Art. 19 ICCPR), the right to non-discrimination (cf. Arts. 21 and 26 ICCPR), the right to freedom from unlawful attacks upon one's honour and reputation (cf. Art. 17 ICCPR), the right to health (Cf. Art. 12 ICESCR), the right to free and fair elections (cf. Art. 25 ICCPR), and other rights and freedoms.<sup>12</sup>

## **3.4 Interaction with other areas of law**

### **3.4.1 Human rights**

Human rights are an essential to ELSA being a core part of ELSA's philosophy statement. In ELSA, human rights are understood as those provided under the Universal Declaration of Human Rights,<sup>13</sup> the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>14</sup> as well as those provided under national laws.

<sup>10</sup> Unoosa.org. 2020. *Space Law*. [online] Available at:

<<https://www.unoosa.org/oosa/en/ourwork/spacelaw/index.html>> [Accessed 8 April 2020].

<sup>11</sup> Expression, F. and Disorder, I., 2020. *Information Disorder*. [online] Freedom of Expression. Available at:

<[https://www.coe.int/en/web/freedom-expression/information-disorder#{%2235128714%22:\[0\]}](https://www.coe.int/en/web/freedom-expression/information-disorder#{%2235128714%22:[0]})> [Accessed 8 April 2020].

<sup>12</sup> Gp-digital.org. 2020. *A Human Rights-Based Approach To Disinformation | Global Partners Digital*. [online] Available at:

<<https://www.gp-digital.org/a-human-rights-based-approach-to-disinformation/>> [Accessed 8 April 2020].

<sup>13</sup> <https://www.un.org/en/universal-declaration-human-rights/>

<sup>14</sup> [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

It is inevitable that technological development affects the area of human rights. The internet poses challenges to protection of privacy, especially data protection. Further, while the internet and social media offers new fora for free expression, it is a challenge how and to what extent the freedom of expression can be restricted. The urgency of these issues is exemplified by the fact they constituted the moot problem addressed at 7th edition of the European Human Rights Moot Court Competition.

Technology also offers great opportunities in society as it can perform complicated maths within seconds, outperforms on medical procedures, conducts legal document review etc. However, AI-based systems impact the right to privacy because they are highly dependent on the collection and use of large quantities of data which they use to make predictions.<sup>15</sup> Further, such predictions are often based of existing social patterns of bias and discrimination. Therefore, researchers suggest embedding human rights considerations into the fundament of AI, “human rights law provides an agreed set of norms and a shared language and institutional infrastructure for helping to ensure that the promises of AI are met and its greatest perils are avoided”.<sup>16</sup>

According to the World Economic Forum, technology can also protect human rights.<sup>17</sup> Firstly, because online learning can provide access to education for the more than 120 million people worldwide who are without any schooling. Secondly, because the humanitarian crisis can be prevented, or at least aided, by analysing key trends through cloud computing and big data analysis that can then issue early warning signals. Thirdly, because blockchain technology can provide for more transparency in the supply chain of products thus highlighting issues of modern slavery and authenticating purchases.

As seen, technology affects human rights and the protection thereof, and therefore it is of paramount importance for ELSA to focus on the interference between law and technology.

### **3.4.2 Private law**

Private law allows people to shape their own legal relations with others by choice and provides that this choice can be made in a meaningful way.

Rapidly growing online platforms and marketplaces, where individuals make daily transactions and electronic agreements has revolutionised the area of private law. Contracts are made, transactions are executed, and sensitive information is shared. Protection of data online, new electronic contract models and consumer protection issues are emerging while challenging the field of traditional private law.

Contract law is one of the most important private law institutions of individuals’ autonomy. Electronic contracts can be formed in different means by email, through a computer program or with a click of a “I

15 World Economic Forum. 2020. *How Is Technology Affecting Our Human Rights?*. [online] Available at: <<https://www.weforum.org/agenda/2017/12/how-are-today-s-biggest-tech-trends-affecting-human-rights/>> [Accessed 8 April 2020].

16 Raso, Filippo and Hilligoss, Hannah and Krishnamurthy, Vivek and Bavitz, Christopher and Kim, Levin Yerin, *Artificial Intelligence & Human Rights: Opportunities & Risks* (25 September 2018). Berkman Klein Center Research Publication No. 2018-6.

17 World Economic Forum. 2020. *How Is Technology Affecting Our Human Rights?*. [online] Available at: <<https://www.weforum.org/agenda/2017/12/how-are-today-s-biggest-tech-trends-affecting-human-rights/>> [Accessed 8 April 2020].

agree” button. This is done by individuals on a daily basis when downloading applications, starting to use a program or social media and shopping online. Digitalisation has made it possible to execute a contract in seconds, which has given many advantages and challenges to traditional contract law.

Like traditional contracts, electronic contracts consisting of an offer and acceptance are enforceable. Electronic contracts are also user-friendly as they have low transactional cost and they can be made fast. The risk of electronic contracts is that sensitive information is required to form a contract but security measures for data might not always be efficiently provided. Also, when making contracts online, there is always the possibility that something goes wrong without the human interaction and the contract might not be enforceable.

### **3.4.3 Criminal law and criminal justice**

Criminal law is the body of laws pertaining to criminalised actions and penalisation of committing such actions. The influence of technological development is equally visible in the fields of criminal law and criminal justice. Technology has paved the way for the commission of new types of crime while at the same time its potential has upgraded the investigation and prosecution procedures.

While numerous technological advances have given rise to a wide range of criminal activities, none has had greater impact so far than the Internet. Cybercrime remains today one of the fastest growing areas of crime and keeps raising rule of law and human rights concerns. Apart from the introduction of cyber-dependent crimes, namely criminal acts which can be committed exclusively using computers or other forms of information and communications technology (ICT), the latter have also been used to increase the scale and scope of traditional crimes, such as child sexual exploitation and fraud.<sup>18</sup>

Over the years, technological means have parallelly been used by more and more countries in the effort to boost the efficiency of their criminal investigations. Drones, license plate scanning, Global Positioning Systems (GPS) and surveillance cameras are only some of the mechanisms that the evolution of technology has offered to the authorities with a view to providing them with a clearer insight of a criminal activity.

It follows from the above that technology has not only posed new challenges to the practice of criminal law but has also the capacity to support combating crime, revealing this way another interesting parameter of the linkage between law and technology.

### **3.4.4 International law**

International law defines the legal responsibilities of states in their conduct with each other as well as their treatment of individuals under their jurisdiction.<sup>19</sup> During the past decades, a series of important issues in which the paths of international law and technology cross each other have surfaced.

Among the greatest challenges in the field of international peace and security at the present time is the phenomenon of cyberwarfare, namely warfare conducted in cyberspace through cyber means and

18 Europol, 2017. *Crime In The Age Of Technology*. [ebook] Available at: <[https://www.cepol.europa.eu/sites/default/files/924156-v7-Crime\\_in\\_the\\_age\\_of\\_technology\\_.pdf](https://www.cepol.europa.eu/sites/default/files/924156-v7-Crime_in_the_age_of_technology_.pdf)> [Accessed 7 April 2020].

19 Un.org, 2020. *Uphold International Law*. [online] Available at: <<https://www.un.org/en/sections/what-we-do/uphold-international-law/>> [Accessed 7 April 2020].

methods. The international community is urgently called to examine and agree upon the implication of the existing rules and principles of international law to the new domain of cyberspace.<sup>20</sup> While the potential for human tragedy remains present, states should re-examine their responsibilities under existing international humanitarian law as well as their moral responsibility towards future generations.

Other topical issues reflecting the impact of technology to international law that are currently examined by scholars, institutions and organisations are inter alia:

- Exploration and use of outer space;
- Weapons of mass destruction;
- Threats to the environment caused by modern technology at global level;
- Deep-seabed exploitation.

### 3.4.5 Commercial law

Commercial law is usually referred to as business or economic law. It regulates businesses and merchants that are engaged with trade, sales, and commerce, including e-commerce. Commercial law affects all of civil society as it also covers for example consumer protection, contracts and IP.

As in the other fields of law, technological development, more precisely the enormous increase of businesses and retailers on the internet, online markets have created advantages and challenges for commercial law. However, the security of information on business' websites and collected customer data from unauthorised access, use and other threats impose challenges for online commercial activity.

Since the increase of business activities online, for many large and small businesses, computer software has become a critical part of maintaining their services, satisfying customers and protecting online information from potential threats. However, as the technology evolves, so does the software. The demand for new innovative work, new technologies, creative efforts demand also updated IP law. In addition, technology laws help to protect the creatives who come up with these ideas and ensure the rights concerning the distribution of their work.

### 3.5 Sources for further reading

Books:

- Murray, Andrew (2016) *Information technology law: the law and society*. Oxford University Press. ISBN 9780198732464
- Raysman, Richard and Brown, Peter (1999-2008) *Computer Law: Drafting and Negotiating Forms and Agreements*. Law Journal Press. ISBN 978-1-58852-024-1
- Godwin, Mike (2003) *Cyber Rights: Defending Free speech in the Digital Age*. Times Books. ISBN: 9780262571685
- Lessig, Lawrence (1999) *Code and Other Laws of Cyberspace*. Basic Books. ISBN: 9780465039128
- Smith, Graham (2019) *Internet Law and Regulation*. Sweet & Maxwell. ISBN: 9780414047891
- Hartung, Markus, Bues, Micha-Manuel and Halbleib, Gernot (2018) *Legal Tech: A Practitioner's Guide*. Hart Publishing. ISBN: 9781509926329
- Edwards, Lilian (2009) *Law and the Internet*. Hart Publishing. ISBN: 9781841138152

<sup>20</sup> Melzer, N., 2011. *Cyberwarfare And International Law*. [ebook] The United Nations Institute for Disarmament Research. Available at: <<https://unidir.org/files/publications/pdfs/cyberwarfare-and-international-law-382.pdf>> [Accessed 8 April 2020].

- Benson, Vladlena and McAlaney, John (2019) *Cyber Influence and Cognitive Threats*. Academic Press. ISBN: 9780128192047
- Susskind, Richard (2017) *Tomorrow's Lawyers: An Introduction to Your Future*. Oxford University Press. ISBN: 9780198796633
- Susskind, Richard (2019) *Online Courts and the Future of Justice*. Oxford University Press. ISBN: 9780198838364

Journals:

- The European Journal of Law and Technology

## IV. IMPLEMENTING THE IFP ON LAW AND TECHNOLOGY

### 4.1 The cycle explained

The topic on Law and Technology will be implemented throughout the IFP cycle, which is a three-year advocacy campaign, from 1 January 2020 to 31 July 2022. The IFP cycle is materialised by yearly human rights campaigns (previously known as the “ELSA Day”). The topic of each year’s human rights campaign is announced to the ELSA Network, after consulting with the Council of Europe and National Groups of ELSA, during the spring International Council Meeting.

*Year 1: Freedom of expression online*

- *Survey*: A survey looking into the knowledge of the society on the area of freedom of expression will be launched by ELSA International.
- *Video*: A video containing clips from each National Group will be created to generate social media engagement and raise awareness.
- *ELSA Day Webinar*: During the ELSA Day Webinar, the results of the survey will be presented, examined and discussed by experts within the field.
- *Report*: The survey and the expert comments will be published in a report.
- *Legal Research Group*: An International Legal Research Group on Internet Censorship will be launched to research the legal background for the results of the survey.
- *ELSA Law Review*: A call for submissions will be opened for the ELSA Law Review welcoming articles on the IFP topic.
- *STEP*: Special recognition will be given to IFP traineeship providers.
- *Events of the network*: Throughout the year, the Network will engage law students and civil society nationally and locally through their events and campaigns.
- *Concluding video and report*: All efforts will be summarised in a concluding video and report which can be used in marketing and further awareness campaigns.

*Year 2: AI and human rights*

- *Survey*: A survey looking into the knowledge of the society on the area of AI and human rights will be launched by ELSA International.
- *Video*: A video containing clips from each ELSA National Group will be created to generate social media engagement and raise awareness.
- *ELSA Day Webinar*: During the ELSA Day Webinar, the results of the survey will be presented, examined and discussed by experts within the field.

- *Report*: The survey and the expert comments will be published in a report.
- *Legal Research Group*: An International Legal Research Group on Artificial Intelligence will be launched to research the legal background for the results of the survey.
- *ELSA Law Review*: A call for submissions will be opened for the ELSA Law Review welcoming articles on the IFP topic.
- *STEP*: Special recognition will be given to IFP traineeship providers.
- *Events of the network*: Throughout the year, the Network will engage law students and civil society nationally and locally through their events and campaigns.
- *Concluding video and report*: All efforts will be summarised in a concluding video and report which can be used in marketing and further awareness campaigns.

### *Year 3: Unknown*

- *Survey*: A survey looking into the knowledge of the society on the ELSA Day topic will be launched by ELSA International.
- *Video*: A video containing clips from each ELSA National Group will be created to generate social media engagement and raise awareness.
- *ELSA Day Webinar*: During the ELSA Day Webinar, the results of the survey will be presented, examined and discussed by experts within the field.
- *Report*: The survey and the expert comments will be published in a report.
- *Legal Research Group*: An International Legal Research Group will be launched to research the legal background for the results of the survey.
- *ELSA Law Review*: A call for submissions will be opened for the ELSA Law Review welcoming articles on the IFP topic.
- *STEP*: Special recognition will be given to IFP traineeship providers.
- *Events of the network*: Throughout the year, the Network will engage law students and civil society nationally and locally through their events and campaigns.
- *Concluding video and report*: All efforts will be summarised in a concluding video and report which can be used in marketing and further awareness campaigns.

At the end of the three-year IFP cycle, ELSA International will publish a concluding IFP report and video which will summarise the efforts made and the total impact achieved.

#### **4.1.1 National Groups**

The IFP concerns the Local Groups first and foremost, yet the Local Groups are sometimes unaware of its existence. Thus, National Groups of ELSA are responsible for awareness-raising about the IFP topic and ensuring that the IFP is implemented appropriately by coordinating the actions within their respective national network.

National Groups can engage the Local Groups by inter alia organising training events on the IFP providing the necessary basic understanding of the topic, running an internal IFP competition (for the best IFP event) and other initiatives keeping them updated throughout the year.

Each National Group should create their IFP implementation strategy, i.e. a guideline for the National Network of a specific duration (1-3 years) in order to inspire Local Groups. Furthermore, National Groups are responsible for securing national IFP partners.

### 4.1.2 Local Groups

Local Groups have direct contact to members and civil society, hence, they perform the most important part of IFP implementation. It is the responsibility of the local officers to organise events on the IFP topic through their Key Area activities by engaging with civil society. Local Groups may also seek local partnerships with relevant associations, firms, and even other societies at their university.

## 4.2 Law and Technology Events

Law and Technology can be implemented into all Key Areas of ELSA as outlined below. Events unique to the topic could be:

- *ELSA Legal Hackathon*: This would take form as a competition in which participants will work in teams to create technology-based legal solutions. Subsequently, teams would present their ideas to a panel and eventually maybe even to partners of ELSA. Such competition could also be a good opportunity for ELSA to cooperate with other students' organisations, such as [BEST](#) (Board of European Students of Technology).
- *Student LegalTech Accessibility Index*: This would be published as an annual report on the accessibility of legal technologies for law students and young practitioners in Europe. It would enable us not only to measure current state of technology accessibility but also compare it year by year and assess ELSA involvement in the process of increasing the availability of digital tools. By establishing the index, we can also touch upon human rights problems, such as digital exclusion or access to proper education.

## 4.3 Implementation in Academic Activities

*Legal Writing*: Technological changes happen rapidly, and hence, conducting research to be up to date is crucial. Legal writing on the topic of Law and Technology will enable law students and young lawyers to practice their legal writing and analytical skills, which are pivotal while working as a legal practitioner. Such legal writing can take the form of:

- Essay competitions on the (sub-)topics falling under Law and Technology;
- Collaboration with universities/educational institutions/publishing houses engaged in the study and research of the (sub-)topics falling under Law and Technology;
- Law reviews focussing particularly on Law and Technology (cf. the 2020 Law Review of ELSA Austria).
- Legal Research Groups on the topic of Law and Technology enable comparisons on the regulatory developments in different countries,

*Academic Competitions*: Negotiating, interviewing and debating enable participants to expand their knowledge on a particular topic, while exploring many points of view and being open-minded to fully understand the problem. Legal Debates on Law and Technology may be controversial, and will therefore, bring the attention of many young people to the issue which will initiate discussions. Academic Competition could take the form of:

- Moot court competitions exploring the (sub-)topics falling under Law and Technology through either the substance of the case (cf. the moot problem of the 7th EHRMCC) or technology shaping the procedure of the legal proceedings (cf. telematic trials).
- Negotiation Competitions – negotiating new tech solutions for a law firm.
- Legal Debates – debating topical issues of Law and Technology.

*Lawyers at Work events (L@W):* engaging ELSA members directly in how legal professionals operate in the field(s) covered by the topic of Law and Technology, and how legal technologies are incorporated in the daily work of a lawyer.

#### 4.4 Implementation in Seminars & Conferences

*General:* Seminars and conferences are some of the most commonly organised events within the Network. They are relatively simple to organise, and they have a high potential for improving the knowledge of participants. Organisation of conferences and seminars focused on Law and Technology, would be an exemplary case to increase the range of knowledge and understanding of Law and Technology.

*ELSA Webinars:* An ELSA Webinar is a presentation, lecture, workshop or seminar that is transmitted over the web using video conferencing software. Not only it allows for a larger group to attend the event, it also makes your event more attractive, as you learn about law and technology, using the means of technology to solely conduct the event.

*ELSA Law Schools:* An ELSA Law School concentrated on law and technology gives an opportunity for its participants to learn about the topic from speakers from all over the world. It also facilitates networking with peers from different countries, sharing the same passion toward law and technology.

*International Conferences of ELSA:* Organising a conference academically focused Law and Technology should prove a great way to gather law students, legal academics and professionals in the field to facilitate awareness raising and networking.

*ELSA Delegations:* Several institutions and conferences are organised on the field of Law and Technology, and hence, sending ELSA Delegates to such is an excellent way to raise awareness on the topic and get the first-hand knowledge on the topic from the lawmakers

#### 4.5 Implementation in STEP

Several existing and prospective Traineeship Providers are active in the field of the (sub-)topics falling under Law and Technology. Undertaking such traineeship vacancies provides ELSA members the perfect opportunity to either analyse the issue with theory or work with technological tools in the legal profession.

Moreover, the topic of Law and Technology complements well the discussions about the future of legal profession generally by e.g. exploring the possibilities of online traineeships and remote work relying on the use of technological tools.

#### 4.6 Social responsibility

One of the main purposes of ELSA is promotion of social responsibility, i.e. contributing to the development of individuals willing to fulfil their civic duty. Hence, social responsibility should be incorporated into all projects and activities.

The IFP is a perfect means to implement social responsibility. Thus, when planning your IFP campaigns/events make sure to set a goal you wish to achieve with your initiative. Achievement of this goal should be measured inter alia by the level of impact your initiative made on society in general.

As an example, an ELSA Group may decide to organise a series of ELSA Webinars, with the goal of making society aware of the threats to their fundamental rights, deriving from the developments of the AI solutions. After each ELSA Webinar, the organiser writes a brief conclusion reached by the speaker(s) regarding the main topic and compiles all of the conclusions reached in order to publish short guidelines, listing mentioned threats and preventive measures. The ELSA Group now has a tool which may be distributed to the local community, universities and schools.

## V. SECURING IFP PARTNERSHIPS

The sections below outline the steps necessary to securing an IFP partnership. Please note that these guidelines are not exhaustive, and it is recommended to consult the guidelines provided in the [BEE Toolkit](#).

### 5.1 Why have an IFP Partner?

Having an IFP partner can give you many benefits, some of them are:

- Easier access to experts in the specific field of law, who can then become speakers, juries, mentors for the ELSA members and events;
- Monetary and non-monetary support, e.g. giving out a traineeship for a winner of the IFP competition;
- Bigger visibility and credibility of your IFP related initiative inside the legal world and the society.

### 5.2 Who should you contact?

When deciding who to contact, you need to clarify what you want from the partnership:

- Bodies such as educational institutions and research centres specialised in technology can provide expertise knowledge and human resources for webinars, lectures etc.
- Private firms can offer monetary support as well as logistics in the form of venues.
- Start-ups specialising in the field of lawtech and fintech can support you with expertise and multiply your IFP event's impact in the world of Law and Technology.
- Many associations specialise in technology and law and can hence provide credibility to your campaigns.
- University professors can assist in moot courts, essay competitions, seminars etc.

### 5.2 How to initiate contact?

Before contacting a prospective partner, make sure that you have a substantial knowledge of the IFP topic, so that you can develop a discussion about the possibilities and the nature of your partnership and bring fresh ideas to the table.

The first contact with a prospective partner will often be via email. The email should include:

- A short description of ELSA;
- The partnership proposal;
- What you are able to offer;
- A note that you reserve to call within a specified period of time;
- An attachment of any informative promotional material.

You need to make sure that the email is concise and outlines what you are looking for and what you are offering. Many organisations often do not respond, so it is important to have a follow-up strategy.

When it comes to the phone call:

- Refer to the email to set the basis to proceed;
- Try to arrange a personal meeting or lay the foundation for continuous communication;
- Keep it concise and professional.

If you manage to arrange a meeting:

- Prepare accordingly, since you are representing a whole Network;
- Take another member of the board with you (e.g. President) or one of your directors;
- Bring promotional materials with you.

At the end of the day, what you need to prove to the prospective partner is that it is a win-win proposal and a great opportunity that will offer them advertising and a big audience of ambitious students and practitioners.

### 5.3 Selling the IFP

The IFP offer several benefits for a prospective partner:

- It is specific to one topic and can hence provide the partner visibility and recognition in a field that is current and interesting.
- It can be a great recruitment opportunity, as the members participating in the IFP projects are internationally minded and forward-facing.
- The three-year period highlights the fact that ELSA sets long-term goals and develops the appropriate strategy to achieve them. This is a strong card for you in order to build a long-term partnership.
- The IFP is implemented throughout the ELSA Network, and hence, the partner gets associated with a Europe-wide initiative.
- The topic of Law and Technology offers the partner an opportunity to collaborate on futuristic and inventive projects, projecting that they are innovation-driven and focusing on the future of law.

## VI. CONTACT

Should you wish to learn more about the IFP on Law and Technology, please do not hesitate to contact the International Board of ELSA at [elsa@elsa.org](mailto:elsa@elsa.org), or contact the respective Key Area Officer:

- Vice President in charge of Academic Activities: [academicactivities@elsa.org](mailto:academicactivities@elsa.org)
- Vice President in charge of ELSA Moot Court Competitions: [mootcourts@elsa.org](mailto:mootcourts@elsa.org)
- Vice President in charge of Seminars and Conferences: [seminarsconferences@elsa.org](mailto:seminarsconferences@elsa.org)
- Vice President in charge of the Student Trainee Exchange Programme: [step@elsa.org](mailto:step@elsa.org)