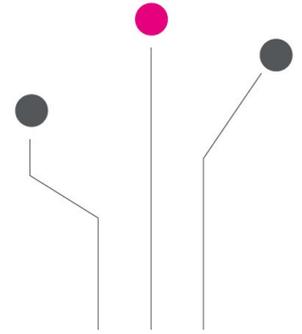


to the point technology & digitalisation



February 2020

Preface

Why is law so important in the context of technology? A couple of years ago, the two areas did not seem to have much in common. They looked like two separate fields that barely intertwined. But in 2020 the connection of these two fields is undisputable. To get digitalisation projects done successfully, legal aspects should be considered in due time. There are countless debates on, for example, ethical guidelines for AI, protection of citizens from unfair algorithms, transparency in the ad tech business, etc., all of which show that legal discussions must take the role of technology into account. And tech must take legal and regulatory frameworks into account. What is the lawyer's job in all this? It is not just to represent you in court, but also to build bridges between the two fields and translate law into tech and tech into law. Thus, in this fast-moving world, lawyers' "language skills" have to improve rapidly, which is a challenge but also a lot of fun!

Schoenherr's "technology & digitalisation" group ([tech.schoenherr.eu](https://www.tech.schoenherr.eu)) is made up of specialised lawyers from all over CEE, striving to improve the way technology-related challenges can be tackled. With our newsletter we want to give a brief outline of current and important topics in this area. If you are interested follow us on [LinkedIn](#).



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GDPR News Corner:

Recent but significant GDPR fines:

- The Italian Supervisory Authority imposed a EUR 27.8m fine on telecom operator TIM SpA for unlawful processing for marketing purposes (marketing calls).
- The Italian Supervisory Authority imposed two fines on Eni Gas and Luce totalling EUR 11.5m: EUR 8.5m for unlawful data processing icw telemarketing and tele-selling activities, and EUR 3m for unsolicited contracts.
- The Spanish Data Protection Authority imposed three fines of EUR 185,000 in total on Vodafone Espana for unlawfully processing customer data and a fourth one of EUR 75,000 for noncompliance with general data processing principles.
- The UK Supervisory Authority (Information Commissioner's Office) issued a GDPR fine of approx. EUR 320,000 on Doorstep Dispensaree Limited, a London pharma-cy, for failing to store patients' data in accordance with the GDPR.

Sources:

¹ https://edpb.europa.eu/news/national-news/2020/marketing-italian-sa-fines-tim-eur-278-million_en

² https://edpb.europa.eu/news/national-news/2020/italian-supervisory-authority-fines-eni-gas-e-luce-eur-115-million-account_de

³ <https://www.aepd.es/es/documento/ps-00270-2019.pdf>; <https://www.aepd.es/es/documento/ps-00278-2019.pdf>;

<https://www.aepd.es/es/documento/ps-00405-2019.pdf>; <https://www.aepd.es/es/documento/ps-00275-2019.pdf>

⁴ <https://www.aepd.es/es/documento/ps-00275-2019.pdf>

⁵ <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2019/12/london-pharmacy-fined-after-careless-storage-of-patient-data/>

To the Point:

• Vienna's Start-up Mega Event

The week of 11 – 17 May will be dedicated to start-ups and technology as Vienna hosts its first mega start-up event, the Vienna UP'20. More than 50 workshops, conferences, networking events and talks will take place with more than 40 partners from the start-up and tech scene. The event will focus in particular on the following topics: Tech & FinTech, Health and Life Sciences, Social Entrepreneurships and Industry 4.0. We will be there and, by way of coincidence (naturally), we will have our next Tech Night @ Schoenherr in the same week (SAVE THE DATE!). For more information, visit: <https://www.viennaup.com/>
[Thomas Kulnigg](#)

• The flying Fiaker: A Case Study

Fiakers have been trundling through the streets of Vienna since the 1690s. But for this case study, a flying Fiaker, which is autonomously operated with multiple rotors in the airspace above Vienna's historic city centre, serves as an example of a flying drone taxi. Designed and operated to transport people, the flying Fiaker must comply with the technical and operational requirements of an unmanned aircraft system (UAS) in the "certified" category as set out in the new EU legal framework for UAS. For this, the new EU drone law widely refers to the air law of manned aviation and will be applicable for the flying Fiaker from 1 July 2020.

In a nutshell, EU aviation law is placing great importance on UAS for the first time. But many details about the technical and operational specifications of a flying Fiaker have yet to be resolved.

[Visit our blog to learn more!](#)
[Maximilian Trautinger and Andreas Lopatka](#)

• European plans for Artificial Intelligence and the flow of data

On 19 February 2020, the European Commission presented its main ideas and goals for digital transformation in the European Union by publishing papers such as the "White Paper on Artificial Intelligence – A European approach to excellence and trust" and "A European Strategy for Data". According to the press release, over the next five years the Commission will focus on three key objectives which are supposed to benefit businesses and natural persons. These include: technology that works for people, a fair and competitive economy, and an open, democratic and sustainable society. 2020 is only the beginning of the technological revolution that will cover the entire EU. Both papers published on 19 February 2020 are currently open to public consultations. Detailed information is available at:

https://ec.europa.eu/commission/presscorner/detail/en/ip_20_273

The European Commission has set an ambitious goal and its next steps for this year include working on and presenting the Digital Services Act and a European Democracy Action Plan, proposing a review of the eIDAS regulation and

strengthening cybersecurity by developing a Joint Cyber Unit.

[Daria Rutecka](#)

• Save CO2 and earn tokens? Vienna makes it possible

Environmentally friendly mobility in Vienna will be rewarded in the future. The blockchain makes it possible. By using an app that automatically recognises via motion tracking whether the distance travelled is done on foot, by bike or by public transport, a personal CO₂ footprint is created. For every 20 kg of CO₂ saved you receive a "culture token". This token in turn entitles you to free admission to certain cultural institutions in Vienna. A pilot project with 1,000 participants was set to start on 26 February 2020 and from autumn the blockchain-based project is expected to go into full operation.

[Visit our blog to find out more!](#)
[Maximilian Nutz](#)

• Interview with the robot: What does AI think about the future of the legal profession?

Discussions on artificial intelligence (AI) invariably revolve around which human professions will be made obsolete by the advancements in AI. Disconcertingly, lawyers get mentioned too often. In a development which seems to bear out this future, OpenAI, a renowned Californian AI lab, publicly released their state-of-the-art unsupervised language generation model in late 2019. GPT-2, as the model is called, is able to generate surprisingly coherent text based on a few words of initial human input. Instead of resorting to speculation, Schoenherr decided to ask GPT-2 – the machine overlord in the making – for its take on the future of the legal profession. [Take a look at its \(unredacted\) responses here.](#) Try out GPT-2 [here](#).

Keywords: artificial intelligence, AI, GPT-2, neural network, language generation, lawyers, future of the legal profession

[Jurij Lampič](#)

• FinTech Trends dominating 2020 and beyond

With a new year ahead, it's the right time to be bold and identify which fintech trends we expect to gain traction this year:

- Partnerships and collaboration among incumbents and FinTech start-ups are on the rise. Equally, next generation digital-only providers will continue to grow rapidly on the back of innovative technologies such as DLT;
- Big data and AI will facilitate personalised direct-to-customer services, optimise processes and risk management, detect fraud and predict customer behavior;
- Data sharing resulting from open banking under PSD2 will continue to boost innovative business models such as convenient on-demand services or payment innovations. For example, digital

wallets are expected to double compared to 2018;

- Driven by constant pressure to reduce operating costs, robotic process automation (RPA) and machine learning will be used in a variety of areas, from customer intelligence & support to (regulatory) compliance or risk management;
- Regulation is expected to intensify to protect customers against risks from digitisation such as cyberattacks, online fraud, identity theft or money laundering;
- The popularity of blockchain technology and cryptoassets will continue. New digital currencies such as Facebook's Libra are expected to come to market and use cases will extend beyond payments/securities to other areas of digital finance, platforms and registers, such as in the real estate sector

[Ursula Rath](#)

- **Romanian fintech start-ups combine powers and create the first Romanian fintech association**

Sixteen domestic fintech companies founded and launched the Romanian Financial Association – RoFin.Tech in January 2020 with the hope of boosting their business and access to financing, while contributing to the creation of a favourable fintech-related legal framework by Romanian financial authorities. The members of the association provide various financial services and are open to accepting new members for the association to have an extensive pool of fintech players. For more details, visit our blog or go to our website.

[Visit our blog to learn more!](#)

[Vlad Săndulescu](#)

- **Augmented reality on construction sites**

Digitalisation is finally spreading to industries still seen as rather analogue. An example is the construction industry, where there has been an increase in the research and application of augmented reality (AR). Using augmented reality in construction projects makes it easier and quicker to discover faulty execution and saves costs for remedies or re-planning. Among others, this is achieved by overlaying the current state of a construction site with images from digital building models (BIM) using data goggles, allowing inconsistencies to be easily detected. To generate a significant upside for employers, the use of these new tools and technologies must be considered already when negotiating and drafting the agreements with the construction companies and with the architects.

[Constantin Benes](#)

- **Mandatory digitalisation in the Polish healthcare system**

As of 8 January 2020, medical prescriptions in Poland have to be issued in electronic form. In theory, such move should accelerate and simplify the whole treatment process. But in practice, even though e-prescriptions were supposed to be an advantage for the entire healthcare system, patients and medical facilities remain sceptical. According to information from the Polish data protection authority, pharmacies and medical centres have already encountered a slew of problems when issuing and accepting e-prescriptions, especially with respect to safe personal data processing. Each electronic prescription contains a four-digit code, which patients often lose. So far it is unclear whether the pharmacy or the patient should be entitled to ask for the code or even which entity should provide it – the medical facility or the prescribing doctor. Pharmacies are struggling with longer lines and confused patients. Electronic prescriptions could be an amazing tool for faster and more efficient healthcare, but despite the convenience promised by the Health Ministry, they may instead give rise to a new wave of sensitive data leaks. Hopefully these issues will be sorted out over time so that everyone can benefit from the potential of e-prescriptions.

[Daria Rutecka](#)

- **Czech data protection authority: Can employers read their employees' e-mail?**

In January 2020, the Czech Office for Personal Data Protection published an anonymised inspection report containing valuable information about what the authority's view is on reading employee e-mails. It explains that the confidentiality of correspondence can be breached only under very limited circumstances.

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[Eva Bajáková](#)

- **Digital Signatures**

More and more companies are using digital signatures to sign their contracts electronically. But is this permissible and are the contracts valid? For instance, if the law or a contract stipulates that an agreement has to be "in written form", this means that the undersigning persons must sign the document in their own hand. According to the Signature and Trust Services Act (*Signatur- und Vertrauensdienstegesetz*), the written form requirement (*Schriftlichkeitserfordernis*), if replaced by electronic means, is fulfilled by the use of a qualified electronic signature (*qualifizierte elektronische Signatur*) only.

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[Serap Aydin and Peter Ocko](#)

For further information, please contact any of the individuals named above, your usual contacts at Schoenherr or any member of our [technology & digitalisation practice group](#).