



CCBE GUIDELINES ON LEGAL OUTSOURCING

Conseil des barreaux européens – Council of Bars and Law Societies of Europe

association internationale sans but lucratif

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CCBE Guidelines on legal outsourcing

Legal outsourcing is a practice in which a regulated legal professional ("outsourcing lawyer") outsources legal work which is usually done by lawyers, trainee lawyers, paralegals e.g. research, due diligence, litigation discovery, etc. ("legal work") to a service provider in another country who is not a regulated legal service provider ("service provider").

This situation poses many challenges to bars and other regulators responsible for regulating lawyers or giving guidance to lawyers on how to deal with legal outsourcing, in order that it is carried out in full conformity with the core values of the legal profession and the ethical-deontological rules applicable to the outsourcing lawyer.

When undertaking legal outsourcing, the outsourcing lawyer must comply with all professional/ethical-deontological rules of his/her home country, as well as with the CCBE Code of Conduct where appropriate. When complying with these professional/ethical-deontological rules, no difference should be made between a lawyer practising in a law firm and a lawyer who relies on an external legal service provider. Each of them is bound by the same professional/ethical-deontological rules and in particular by the rules relating to the absence of conflict of interests and to professional secrecy-confidentiality.

These guidelines aim to assist outsourcing lawyers by highlighting some of the issues which should be taken into consideration:

- a. Legal outsourcing is different to other methods of using the help of regulated or non-regulated professionals, and outsourcing lawyers need not only a definition, but some explanation as well, as to when special outsourcing rules should be applied.
- b. There is a more inherent risk in legal outsourcing than in the more traditional form of sharing work with other regulated legal professionals, and outsourcing lawyers need guidance to avoid it.
- c. Regulatory regimes are different, and lawyers should be clear whether legal outsourcing is permitted under the applicable regimes of the outsourcing lawyer and the service provider, and what kind of caution should be applied when choosing the activity to be outsourced.
- d. Lawyers and their bars have a specific interest in protecting the core values of the legal profession in the case of legal outsourcing, in particular with regard to confidentiality and avoiding conflict of interest.
- e. The protection of the outsourcing lawyer requires the application of specific measures e.g. before undertaking legal outsourcing, it is advisable that the outsourcing lawyer verifies with the external legal service provider that the core values of the legal profession remain protected; the outsourcing lawyer should be made aware of the importance of such measures; and it would also be useful to provide the outsourcing lawyer with a "due diligence" template checklist.
- f. Loyalty towards clients is of paramount importance also in legal outsourcing, and outsourcing lawyers need to be advised how to obtain the consent of the client, and how to keep the client fully informed, and to make the whole outsourcing process fully transparent.
- g. The use of legal outsourcing does not reduce the responsibility of the outsourcing lawyer, and outsourcing lawyers need guidance in selecting a service provider and supervising the service provider's activities.
- h. The increased risk profile of legal outsourcing requires more attention from the bars concerned, and outsourcing lawyers should be advised as to what records should be kept to enable the bar to monitor legal outsourcing activities.
- i. The different risk profile of legal outsourcing requires a review of the professional indemnity insurance requirement for outsourcing lawyers.