



## 5th BILETA Conference British and Irish Legal Technology Association

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### Council of Europe Working Party on Teaching, Research and Training in the Field of Computers and Law (Recommendation No. R (80)3).

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**Abstract:** The Council of Europe Recommendation on teaching Law and Computers is ten years old and is now in the process of being revised. The recommendation indirectly spawned the development of BILETA needs to provide clearer guidance on courses relating to computers and the law in a very different technological environment from that in which it was originally devised. This paper explains the responses to the original recommendation and examines the ideas for its revision.

#### 1. Introduction

##### **The Council of Europe Recommendation R (80)3. and UK national responses.**

In 1980 the Committee of Ministers of the Council of Europe adopted Recommendation No. R (80) 3, a recommendation prepared by the Committee of Experts on Legal Data Processing under the authority of the European Committee on Legal Co-operation. The recommendation draws the attention of the competent authorities to the growing importance of the subject computers and law. It also encourages and supports research, encourages the organisation of training courses and seeks to promote the international exchange of students. Attached to the recommendation is a suggested syllabus which is subdivided into three main topic areas: computer systems, the application of computers to the legal system and professional and normative problems raised by the manufacture and use of computers.

In the UK the direct and indirect responses within the educational sector to this recommendation include: the establishment of national organisations to act as vehicles for the promotion, organisation and dissemination of research in computers and law, the computerisation of law and business departments to provide a modern environment for staff and student development in technology, and the introduction of informatics courses.

I have elsewhere detailed these developments (The Law Teacher, Vol 23 No.3 1989) for the present I will merely summarise the main activities pertinent to the Recommendation.

**BILETA**

The British and Irish Legal Technology Association (BILETA) provides a focus for computing and law developments within the academic community. BILETA was formed with the agreement of the Centre for Computer Assisted Legal Instruction U.K. (U.K. CALI), the Data Base and Communications Group and the Information Technology and Law Group as an umbrella Association to coordinate the activities of these three sub groups.

### **The Nelson Report**

This report of a working party set up jointly by the University Grants Committee and the Computer Board of Universities and Research Council looked into the uses of computers in University education. The report found a disappointingly low level of activities in using computers in teaching in U.K. universities. The result of the report was the establishment of the Computers in Teaching Initiative (CTI) an initiative to promote the development of computer assisted teaching and learning in universities in the U.K.

### **Law Technology Centre**

The CTI initiative was funded by the Computer Board for Universities and Research Councils and University Grants Committee. 139 projects were initiated, several in Law. One such project was the Law Technology Centre which has since provide the model for the establishment of a network of centres , each designed to promote the use of technology in the teaching process within a particular discipline.

## **2. Review of implementation of R(80) 3 within U.K. Law Faculties**

By way of introduction two points should be noted, firstly there does not appear to have been any noticeable increase in the number of computer literate students entering the degree from secondary education and that thus the need for familiarisation will continue. Secondly that among such students there may be a considerable degree of apprehension to be overcome (perhaps because of experiences at school)

In relation to the suggested syllabus within Recommendation (80) 3 there appear to be a number of possible models that have been adopted in its implementation. Three of the most common are considered here;

- a) A separate course purely devoted to computer skills and applications (the "bolt-on" option wherein the course stands separate from the possible areas of application of computing skills) - the main problem of such a course being the difficulty of overcoming student doubts as to the relevance and usefulness of such courses to the degree as a whole.
- b) The full integration of the skills etc. into a particular degree course on methodology. The basis of such an approach is the belief held by some that the use of computers and their programs can provide much insight into the way in which law is structured.
- c) To maintain a separate course but one in which particular aspects of the course are taught in a manner which relates to particular substantive subjects.

The content of the recommended syllabus reflects two basic strands, they are the use by lawyers of the technology, the normative issues raised by computers. What has become significant in the U.K. has been a third aspect, that of the use of computers in the teaching of law. Mthough many faculties now offer Computer and Law courses and some offer Computer/Information Technology Law as an

option some effort has been expended in the UK to attempt to develop computers as teaching vehicles. The BILETA subgroup concerned with Computer Assisted Learning has attempted to promote the development and use of interactive programs through the distribution of sample programs and authoring systems as well as the holding of workshops on authoring systems. IBM provided funding and expertise to enable the Faculty of Jurisprudence at Queens University to produce LEXICAL, an authoring system specifically designed to enable law tutors develop interactive programs in law.

### **3. Recommendations for amendments of R (80)3**

At its 12th meeting in 1987 the Committee of Experts on Legal Data Processing had agreed to establish a working party to consider a revision of Recommendation No. R (80) 3. The first meeting of this working party took place in November 1989, the members of the working party being Prof. H. Fiedler (West Germany), Prof. E. Giannantonio (Italy), Prof. J Bing (Norway), Prof. P. Siepel (Sweden) and R Jones (UK).

Each member produced a summary of developments in relation to the recommendation as related to his own country. It soon became clear that in many countries universities and polytechnics had instituted informatics and computer and law course of various sophistication. Examples given by the members. included that of Stockholm University where in addition to teaching on information retrieval being an integral part of the compulsory Legal Method course, students are offered a specialist optional course of similar standing to other options and aimed at providing an overview of the field of law and informatics as well as familiarising students with computer and information technology. In Norway a similar option is available as a fifth year option at the University of Oslo. Further discussion then isolated that several research institutes had been created and that in the UK (CTI) and West Germany (CIP) national government funding initiatives had sought to raise awareness of the use of computers within the teaching environment. The West German CIP as an example aimed to provide pools of personal computers for university departments to be used for the teaching and training of students.

Although the original recommendation had lasted through the fast moving decade remarkably well it was agreed that a number of change agents had ensured that a thorough revision of the recommendation was needed, these agents were isolated as being: the development of the PC environment, the new ways in which information technology has percolated society, the new working environment for lawyers and courts and finally the rapidly changing legal issues being raised through the increased use of information technology. These change agents would form the focus of the preamble of the amended Recommendation. (Appendix A)

As to the main body of the recommendation this should primarily encourage the development of courses in the field of information technology and law and to provide a common structure that could facilitate the development of 'European courses' (Recommendations I & VI). Other parts of the recommendation should contain statements of good practice that have been adopted in some countries and could usefully be copied elsewhere. The three main practices considered worthy of duplication being, the statement of a minimal holdings policy similar to the one being developed by the Jackson subgroup of BILETA (Recommendation IV), the establishment of national resource centres similar to the Law Technology Centre in the UK and to the Institutes of Informatics and Computing in Sweden and Norway (Recommendation III) and finally the national resource projects identified as being the West German CIP initiative and the UK CTI program (Recommendation V).

The new suggested study program should, it was felt, clearly divide the subject area into the component parts of information technology law, computers and the law and the use of computers in teaching. Further, guidance should also be given as to those topics thought most suitably dealt with in advanced research projects rather than in the minimum standard package made available for all

law students. The suggested elements of the study program are therefore categorised into; the interaction of law and technology, the computer as a working tool for the lawyer and law student, the legally related applications of information technology and the legal issues related to the use of information technology. (Appendix A suggested elements A1- AW). The study program then isolates a minimum standard in relation to these topics and then itemises the further advanced topics that may be suitable for higher level research. (Appendix A, C-Advanced topics). Within the suggested program the point is emphasised that the implementation of such courses has resource implications in providing law students with computing laboratories and allowing them access to national information retrieval systems and standard professional legal programs possibly within law clinics. (Appendix A, B-Minimum Standard)

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## **Appendix A**

**Strasbourg, 30 November 1989**

**Of The Committee Of Ministers To Member States Concerning Teaching , Research And Training**

**In The Field Of Information Technology And Law**

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity among its members;

Considering the increasing number of ways in which information technology affects society and the need for the law to adopt new strategies and perspectives to meet the legal implications thereof;

Considering that the development of information technology provides a new working environment for the lawyer, and contributes towards changes in business practices and public administration, including a more efficient administration of justice;

Considering that legal education should acquaint lawyers with these rapidly changing legal issues and working environments,

Recommends the Governments of member States to:

- I. encourage and support the introduction and further development at university level of teaching and training programmes based on the elements and standards annexed to the present recommendation; (1)
- II. encourage and support research in the field of information technology and law;
- III. draw the attention of the competent authorities to the importance of creating one or more national academic resource centres specialising in matters of information technology and law;
- IV. recognise that information technology has added laboratory elements to legal teaching and training and that, in consequence, new demands for physical and human resources have to be met;

V. invite the appropriate bodies, and particularly those responsible for permanent education, to organise training courses for legal professionals and to recognise any professional qualifications thus obtained;

VI. encourage the competent authorities, where appropriate, to take into account periods of studies carried out abroad in this field as part of the studies required for the granting of degrees and diplomas and to promote international exchanges of students.

Suggested elements of a study programme in the field of information technology and law

## **A. General outline**

I. A presentation of information technology as it is related to law, in particular the interaction of law and information technology reflected in, for example, needs for new legal concepts, standards, procedures, law making strategies and system design and planning.

II. The computer as a personal working tool for the law student and for the legal professional comprising matters such as personal computing, telecommunications, expert systems, data bases and working methods , e.g. organisation of systems and data.

III. Legally related applications of information technology comprising matters such as

- legal information storage and retrieval,
- administrative systems (e.g. court administration, criminal justice systems, land registration),
- decision support systems in public administration and law making,
- electronic data interchange (EDI) in trade, administration and transport,
- electronic funds transfer (EFT) for banking and financial transactions.

IV. Legal issues related to the above applications and in other uses, of information technology, such as

- vulnerability and security, computer crime data protection,
- regulation of telecommunications and the information market,
- automation of public administration, freedom of information,
- contracts, licenses, intellectual property rights.

## **B. Minimum standard**

The minimum standard of an introductory course should acquaint students with the basic principles of information technology, the legal issues related to the application of information technology and the legally related applications of information technology.

In implementing this minimum standard, attention should be paid to the availability of computing facilities for the students. In particular, there should be possibilities for:

- the use of national legal information retrieval services,
- the use of standard professional legal programs,
- the illustration of various legal aspects of applications of information technology, for instance the problems of legal data quality control in matching computer files.

## **C. Advanced topics**

Whilst recognising that topics specified within the general outline may be the subject of advanced

treatment, certain other areas of study may be considered as particularly suitable for advanced research. These may be categorised as being within the broad areas of:

- theoretical issues of artificial intelligence (AI) involving representation and reasoning strategies for law (legal materials), -
- technological developments within networking, personalised and integrated work stations, programs,
- interdisciplinary issues relating to system design, system analysis and organisational analysis,
- normative issues concerning the proper scope and application of public and private law to the area of information technology.