IE – ECIJA DIGITAL LAW OBSERVATORY

LEGALTECH Focus Group Report

April 13, 2023

1. Definition of the concept of "legaltech"

There are many opinions and approaches to how this concept should be defined. This paper does not aim to develop them all or to produce a technical definition. For this reason, we will take a pragmatic perspective grounded in the current state of affairs of legal departments and the experience we have had so far in Spain.

We can say that the term "legaltech" refers to the application of technology to the management of different types of legal matters dealt with in different institutions, i.e., in legal departments, law firms, administrative bodies and the justice system.

These technological tools have the following purposes:

- Efficiently managing different types of legal tasks (i.e., court files, legal matters, administrative files, among others).
- Controlling and managing legal data and information.
- Providing a better service to the client.
- Serving as a means of collaboration between legal teams and clients.
- Reducing costs and execution times.
- Reducing human error in the drafting of contracts or other legal documents.
- Automating high volume, low- to medium-complexity tasks.
- Freeing lawyers from repetitive work that adds little or no value, allowing them to focus on more complex tasks.
- Providing structured information on contracts and other documents of a legal nature, making it easier to analyze them.
- Facilitating tracking based on KPIs, metrics or other performance indicators for contracts, procedures or other legal matters.
- Managing legal entities, appointments, powers of attorney, corporate bodies, transfer of shares, etc.
- Mitigating legal risks.

Although there are tools and solutions with great disruptive capacity in the legal sector in the short and medium term this is not expected to occur, since these disruptive tools are not being adopted by the industry as a whole at this time.

Technologies that, by virtue of their nature, could have the capacity to disrupt today's legal sector include:

- Blockchain
- Artificial intelligence
- Computable law
- Smart contracts

Digitization of services provides the basis for a changing legal ecosystem.

Technological disruptions

Short term
- Cloud computing and advanced enterprise networking platforms allow for enhanced collaboration, including knowledge and document management, shared problem solving, and document production
- Advanced analytics enables automated structuring and filing of documents
- Machine learning/statistical analyses provide the basis for advanced document analysis, including extraction and comparison of key terms, assessment of risks, automated e-discovery
- Distributed ledger technologies enable new forms of cooperation, such as self-executing/self-enforcing peer-to-peer smart contracts

Longer term

Sources: McKinsey ("Four imperatives for the next-generation legal department")

However, technological advances are occurring faster and faster, so we cannot rule out the possibility of a disruption of the legal sector occurring sooner than expected.

At the moment, legaltech tools, while not radically transforming the industry, are substantially improving the way lawyers practice the profession. Despite the fact that the impact of these changes is being felt somewhat later than expected, due to the hype generated over the first few years, it is undeniable that a technology implementation project that is well thought out from the beginning and well executed has the capacity to generate a lot of value.

Thus, we can say that we are moving from one stage, where hype-filled stories abounded, to a very different stage where success stories of companies that have done well and are getting their return on investment (a *sine qua non* to be able to say that the project has been a success) are coming to light more and more frequently. We are witnessing, to cite a few examples, projects executed by legal departments in Spain where hundreds of thousands of contracts per month are automated, where international teams of more than 200 lawyers are able to manage the life cycle of contracts digitally and collaborate in real time in multiple jurisdictions in a centralized manner and where, by means of centralized information panels, the different types of legal matters of multinational companies (industrial property, administrative permits, legal entities) are managed through a single tool.

We are moving from hype to ROI, and that's why we feel that this is an ideal moment for legal departments to take their first steps towards their digital transformation, reassured by the fact that it has already been proven to work, but also with a double caution: (i) there is still some distortion in the expectations of

what can be achieved and what cannot; and, (ii) only a project that is very well planned from the beginning will bring the long-awaited ROI.

Taking all of the above into account, the use of technology should be aimed not at automating the most complex things we do during the day (although that is quite attractive), but at those things that take time away from us and prevent us from focusing on what is really important.
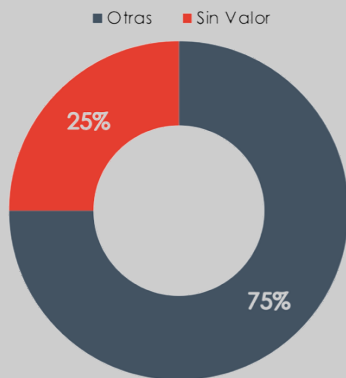
25% of in-house lawyers' time is spent responding to requests for updates, preparing reports and searching for documents and emails.

The total amount of daily time spent on mundane tasks, although it is often not so evident, significantly affects the productivity of legal departments. The sum of all the time we spend on these types of tasks can consume as much as 25% of our time.

That is why the implementation of legaltech tools should focus on the automation of legal tasks that meet the following three characteristics:

- High volume/repetitive.
- Low complexity.
- Little added value.

It's expected that, as technology progresses, it will also be possible to consider automating legal tasks of medium or even high complexity. There may be some tools available today that achieve this to a certain extent, but in most cases they have problems with the reliability of their results, which prevents them from being so easily adopted. The technology that could one day make this automation of more complex tasks possible is artificial intelligence.

Legaltech tools not only have the function of automation, but also of the management and visualization of data in the legal matters we digitalize through their use. Thus, it should be taken into consideration that legaltech is not only intended for high volume, low complexity and low-value tasks, but also for the management of ad-hoc, medium- or high-complexity and high-value matters—but without automating them.

Another important distinction that has been discussed is that the term "legaltech" refers exclusively to the phenomenon of technology being applied to law, and not law being applied to technology. This distinction is quite obvious, but since the emergence of this term, it has sometimes been used to refer to a legal advisory service regarding the legal implications of new technologies (although this is becoming less frequent).

Legaltech has also been defined from the perspective that it is a fundamental, but not unique, element of the digital transformation processes for legal departments. The implementation of technology in a legal department is not the only factor necessary obtain the desired efficiency from a digital transformation process. To obtain ROI, it is just as important to:

- Improve processes.
- Incorporate industry best practices.
- Adaptation and change in the way people work.

Thus, it can be said that it is a misperception to think that legaltech is, in and of itself, the solution to all the problems and inefficiencies present in a legal department. There are many ways to achieve efficiency and improve response times without the need to implement technology. Therefore, it is highly recommended to conduct a prior analysis of the situation of each legal department to understand the state of progress or maturity of the activity where the changes are to be implemented. Once this information is available, it is necessary to draw up a roadmap to follow in which it is clear what steps must be taken prior to implementing technology, so that the expected return on investment is actually achieved. Jumping into implementing technology without doing this could result in the selection of the wrong tool, a slow implementation process plagued with setbacks and a low level of adoption by the teams, all of which directly impact the expected return on investment.

For example, there is no point in automating processes if they are inefficient, or implementing a contract automation tool without having the templates in place, or selecting a contract lifecycle management tool with a complex contract negotiation module when the contracts to be managed are mostly

standard-form contracts and do not require negotiation. So, if the starting point for implementing legaltech is poorly planned, no matter how much time and effort is invested throughout the process, we will never reach the desired ROI levels.

The innovation process in the legal department is supported by the sum of three factors:

Team of professionals + Processes + Tools (legaltech -> digital reflection of the process)

It has also been concluded that, although there may be a notion that in order for

technological tools to be categorized as "legaltech", they must include some sophisticated component (such as artificial intelligence or blockchain), in practice, most of the tools used in legal departments do not have this, and they still add great value. Thus, even if it can be said that there is currently hype in the legaltech industry, this statement should be understood today as applying exclusively to elements such as AI or blockchain applicable to the legal world—since there are a good number of types of legaltech tools that get no hype—and that the discussion about them should now focus more on how to increase ROI. A clear example of this is contract lifecycle management tools.

Contract lifecycle management ("CLM") tools are currently the most in-demand by legal departments despite the fact that their implementation tends to be one of the most complex. This is mainly because:

- The number of contracts a company may manage could be quite high.
- Contract requirements for legal departments can come from different areas of the company (such as purchasing, human resources, business, corporate or compliance, among others).
- Contracts are often subject to several stages of internal approvals depending on a variety of factors.
- The information contracts contain is very valuable to the company, so its proper management adds a great deal of value.
- Negotiation processes for certain contracts may be complex.
- There are obligations in the contracts that require monitoring by different areas of the company.

Elements to be considered for the implementation of such a tool include:

- Type of contracts to be managed via the tool (purchasing, sales, legal, etc.).
- Contracts that can be automated.
- Internal processes to be followed at each stage of the contract lifecycle.
- Contract templates to be used.
- Negotiation playbooks.

- Library of authorized clauses.
- Internal approval flows.
- KPIs, metrics and performance indicators, both for contracts and for the contract lifecycle management process.

2. Generación de contratos:
Se automatiza la generación de contratos partiendo de plantillas inteligentes.

4. Firma electrónica:
Integración con proveedores de servicios de firma electrónica.

6. Administración y Business Intelligence:
Se permite la visibilidad y seguimiento de las obligaciones de las partes. Paneles de información y BI para la mejora de la toma de decisiones.

1. Solicitud de Contratos:
Se simplifica el proceso de solicitud de contratos por parte de los clientes internos mediante la creación de portales legales y sistemas de "self-service" para determinados contratos.

3. Revisión, aprobaciones internas y negociación con la contraparte:
Se automatizan los flujos y procesos de aprobaciones internos. Se utilizan espacios digitales, librería de cláusulas y *"playbooks"* para la negociación de los contratos.

5. Almacenamiento:
Permiten el control de versión de contratos, su almacenamiento centralizado, búsquedas avanzadas y mecanismos de permisos de acceso a carpetas y contratos establecidos por individuo o equipos según distintos roles de seguridad.

There are different ways to assess which types of legaltech tools are still affected by a certain hype, and by contrast, which ones have already passed that stage and proven that they add value wherever they are implemented.

Factors indicative of this include:

- Length of time they have been operating in the market.
- Size of the companies offering such tools (whether they are mostly startups or already well-established companies).

A very clear example of this type of analysis is the Legaltech Hype Cycle periodically published by Gartner. Based on a series of parameters, this analysis displays legaltech tools in a curve according to their level of maturity, adoption in the industry and the degree of over-expectation that exists around them.

Source: Gartner ("Hype Cycle Legaltech").

There have been numerous cases where, as a reflection of this hype, <u>there has been an over-promising on the part of vendors of certain types of tools, generating oversized expectations in clients that were later not satisfied. This is harmful, not only for the vendor, but also for the industry in general, since it will produce in the client a justified distrust toward other legaltech tools.</u>

Being aware of which tools are still "young" and affected by the resulting hype, and which have really been tested by the industry and have accumulated a solid number of success stories, is essential for anyone who is about to lead a project implementing legaltech tools.

Among the legaltech tools available, the ones designed for contract lifecycle management are the most in-demand at present. However, they are also the ones that require the most planning and work to be implemented successfully. This is why it is advisable to seek advice from consulting firms that are specialized in the field.

How does the need to implement legaltech solutions in legal departments arise?

It usually involves a <u>corporate digital transformation process</u>, which may entail a restructuring of the company's organization chart to make it more efficient. The internal culture (= *Want*) is key to be able to launch this type of project. In other words, the option of digitalizing the

legal department in particular is a consequence or result of a more general, company-wide digital transformation initiative.

Categoría	Algún impacto/Impacto significativo 2021	Muy preparado para manejarlo 2021	Algún impacto/Impacto significativo 2020
Creciente importancia de la tecnología jurídica	77%	33%	76%
Enfrentamiento a un creciente volumen y una mayor complejidad de la información	77%	32%	72%
Satisfacción de las expectativas cambiantes del cliente/dirección	76%	36%	74%
Capacidad para adquirir y retener el talento	76%	31%	73%
Énfasis en la mejora de la eficiencia/productividad	75%	31%	73%
Crecimiento de los proveedores alternativos de servicios jurídicos	74%	32%	68%
Aumento de la exigencia de especialización/disminución del trabajo generalista	74%	30%	70%
Competencia de precios/estructuras alternativas de honorarios/contención de costes	74%	29%	72%
Internalización del departamento jurídico	69%	29%	67%

■ Algún impacto/Impacto significativo 2021
■ Muy preparado para manejarlo 2021
■ Algún impacto/Impacto significativo 2020

Sources: Wolters Kluwer 2021 Future Ready Lawyer.

In these cases, what usually happens is that the decisions regarding the type of tools to be implemented and the process to be followed for implementing them are directed and managed by the area of the company in charge of doing so for the rest of the organization. Therefore, it is necessary to "sell" the <u>new work philosophy</u> to the team.

There are, however, occasions in which the legal department is the pioneer in starting this process.

The triggers of this process in the legal department are usually the following:

- To change the perception of the legal department as a "cost center" such that, by proactively reducing costs through the implementation of technology, the department is able to provide other areas of the company, in real time, with data, metrics and other valuable and strategic information contained in contracts or other legal documents for data-driven decision making.
- To reduce risks caused by human error by automating various error-prone tasks.
- To be able to have real-time visibility of all matters dealt with by the legal department and to provide feedback on their current status to their internal clients.
- To have data, metrics and other performance indicators to show the workload and response times of the legal department.
- To be able to measure performance levels and KPIs in order to determine whether or not the service levels required of the legal department are being met.

- To avoid being left behind in the push for initiatives by other departments.

Legal departments often need to implement technology to increase efficiency levels in different functions. For reasons of economic and human resources available, it will not always be possible to execute all projects at the same time, meaning that prior planning will be required to prioritize the different initiatives. To this end, it is important to identify quick wins, that is, to generate positive results in the shortest possible time. Consequently:

- The return on investment will start to be seen faster.
- The legal team will be convinced that the technology implementation project really adds value.
- Confidence will be generated before stakeholders that the legal department has made the right decision regarding the need to implement technology, has correctly chosen the specific tool, and followed the implementation process.
- Resistance to change will be reduced, thus facilitating the adoption of the implemented tools by end users.

It's also important to mention that, just as a successful technological implementation would produce all the positive effects mentioned above, the failure of an implementation project will also produce quite negative effects. For example:

- Additional costs would most likely be incurred, thus compromising the expected return on investment.
- The legal team and stakeholders may lose confidence in the project.
- The legal team and stakeholders are also likely to lose confidence in future initiatives of this nature.
- In general, there would be an aversion to change with respect to the implementation of legaltech in the legal department and in the company in general.

Thus, just as a successful project would facilitate the approval, implementation and adoption of subsequent projects, a failure would block (at least for some time) any similar future initiative.

This will require designing processes to ensure that all information is properly managed. Of course, the figure of the **supervisor** will also be necessary to guarantee this.

How is a project of this type sold internally by the legal department?

This is precisely one of the main challenges for legal departments and is usually backed by the following arguments:

- Contribution to the corporate strategy on the part of the legal department.
- Existence of a specific need in the market (for example, the outbreak of a pandemic).
- Significant improvement in response times.
- Reduction of the legal department's internal costs.
- Reduction of expenses related to professional fees paid to external advisors.
- Improved work quality and reduced human error.

Below are several examples of legaltech applications:

- Contract lifecycle management.
- Management of legal matters.
- Online dispute resolution platforms.
- Case law analysis systems.
- Document management systems (DMS).
- Online contract preparation or legal documentation services.
- Regulatory compliance management.
- Online intellectual property registration applications.
- Background screening/vetting tools.
- Management of third-party legal service-providers.
- Privacy compliance management applications.
- Litigation management systems.
- AI analysis of contracts or legal documents.
- Corporate governance.
- Management of legal files.

Process to be followed for legaltech implementation:

Step 1: What do we do?

We have to take into account that this first step requires internal work, which will be carried out according to the time available (internal resources). Therefore, it is advisable to incorporate this into the staff's performance objectives: both for the project setup and for its maintenance and progress.

Within the corporate strategy, to determine the requirements (minimum, adequate and optimal), we have to identify all the workflows in order to:

- Diagnose them to detect improvement points.
- Find and propose solutions.

- Identify the internal and external tools that should be used.
- Integrate all existing corporate tools and applications (e.g., SAP) as well as the roles and functions necessary for their correct functioning.
- This <u>must be done on an ongoing basis</u>. The following points should be reviewed:
  - Compatibilities between tools.
  - Verification of the coverage of the operational needs of the legal department and the business.
  - Monitoring of the internal service demand (internal clients of the legal department).
  - Expected intensity of use/demand.
  - Internal capabilities available.
  - Estimated ROI needed vs. desired.
    Percentage of assumable legal risk (for cost optimization).

Step 2: Vendor assessment.

In order to select the most suitable vendors in each case, we must take the following <u>elements</u> into account:

- Corporate moves such as mergers, sales, acquisitions and new launches. These make the legaltech vendor ecosystem map quite dynamic. For this reason, it is highly recommended to have an internal back-up of all information and documents that are managed through the different tools.
- Change and progress of tools: We must know and ensure the vendor's ability to adapt. Thus, the vendor we choose must have a proven track record of constant innovation and improvement of its products and services. Otherwise, we run the risk of getting stuck with a tool that was the most advanced at the time, but soon after, as a result of its passivity, it lagged behind its competitors.
- Identification of the company's real commitment to the maintenance and development of its products.
- Be careful of over-promising! Are local adaptations tailored to our situation possible?
- Identify the owner of each tool or process.
- Beware of the <u>*emulation effect*</u>! We must not lose sight of the particularities of our business and our company.
- It is crucial to <u>guarantee the sustainability of the system</u>: both its supply and use (disuse means the failure and death of the project).
- The result is NOT immediate, as it takes <u>time to mature</u>. And also implement a <u>continuous improvement process</u>.
- <u>Consistency</u> with the output resulting from automation <u>must be guaranteed</u>.

Step 3: Take advantage of the developments of other internal projects to reduce the cost of implementation.

This way, we can achieve savings and avoid incurring new costs. This is where

"windows of opportunity" come into play:

- Microsoft 365 environment.
- Google environment.
- Trello and Jira (project management).
- SAP.
- Salesforce.
- Oracle.
- Adobe.

Step 4: Convince the IT department:

It is absolutely essential to work hand-in-hand with IT.

For the entire project to work optimally, it is advisable that the IT department be present from the outset in order to ensure that their requirements for the tool are taken into account.

Often, it will even be necessary for IT to participate in some of the vendor meetings so that they can ask the necessary technical questions.

Step 5: Define the system governance.

It is very important that there be well-defined roles within the company for the management of this type of project. A project manager is usually appointed to lead the project and make the decisions that will be required throughout its duration.

Step 6: Project implementation.

During this stage, all the processes, forms, data structure, automations, templates and other elements that were identified as part of the solution in the previous phases are incorporated into the tool.

Step 7: Test the system and implement a continuous improvement procedure.

To do so, it is advisable to identify and recruit "power users" within the organization.

Step 8: Sell the new system internally to encourage its use within the organization.

There is no point in implementing a tool successfully if no one uses it. Internal activities should be conducted to promote its adoption. There are countless cases where legaltech tools are underutilized or completely ignored.

Step 9: Reading and analysis of KPIs (automatically measurable) to monitor system performance.

This way, by implementing <u>dashboards</u> to monitor system performance and/or implementing <u>ticketing systems</u> to measure and prioritize the workload generated, as well as internal client satisfaction, we will be able to measure the **quality** of the system by comparing its <u>efficiency</u> with its <u>speed</u> of execution/resolution.

Step 10: System progress.

Implementing the tool is only the first step. It will almost always be necessary to make adjustments and improvements. Once KPIs and other performance indicators are in place, it will be easier to identify bottlenecks in the processes and solve them. The same KPIs that showed us what the problem was will also help us to verify whether or not the solution we provided was effective.

Where are we headed (the next five years)?

These new capabilities will push the legal department to evolve from "<u>certifying the impossibility</u>" of being able to do something (from a business perspective), to "<u>show me how to do make it possible.</u>"

It will become more and more important to have the ability to <u>record the full traceability of the legal department's work</u> through a <u>ticketing system</u> that allows for measuring its performance and, in doing so, showcasing the department's work.

<u>Active participation in business meetings</u> will also aid the legal department in gaining visibility. This will entail a cultural transformation within the legal department.

We could also expect to see legal departments implementing certain types of tools across the board, such as:

- Document managers.
- Contract lifecycle management.
- Legal matter management.
- Management of legal entities and boards of directors.
- Litigation management.

<u>Source</u>: International BAR Association (Task Force on the Future of Legal Services)

Acknowledgments: