This newsletter is intended to be a communication vehicle between members and for clients of Lawlink’s member law firms.

This association, which started European and is increasingly global, brings together dozens of lawyers with the aim of ensuring adequate follow-up of their clients on the basis of two of the privileged elements of the client lawyer relationship: trust and quality.

This newsletter aims to be a link and a way to build a strong professional relationship in a business world without borders.

We want to give space to interventions of our members in the area of law being independent as free professions.

We are an organization that privileges freedom and plurality of opinions among colleagues from different countries with different sensibilities but with a single purpose: to serve the best possible all those who seek us to assist them in the best conditions and respect for the principles that govern the profession of a lawyer.

The editors
What does LAWLINK provide

Law Link E.E.I.G. itself does not offer legal services. Throughout our members’ offices, our structure is capable of offering you all-round service, from immediate, prompt and reliable advice to complex litigation. The shared professional experience of our members has allowed us to define the actual demands of today’s clients. We have summarized them as follows and we stay open to any suggestions clients would want to make in order to improve our services.

1. **Confidentiality and trustworthiness**
   We are bound by very strict ethical rules imposed by our respective national Bar Associations. Throughout our organization, clients will find convenience, trustworthiness and personal relationship.

2. **Precise analysis of the situation**
   Clients legitimately ask for precise advice which takes into account not only the legal aspects of the matter, but also the financial and economic implications of their acts and decisions.

3. **Efficient communication**
   Our independent member offices are dedicated to our clients’ needs and respond to them with the necessary promptness. We insist on high standard service that is furthermore rapid and flexible. The system of communication between the members allows us to stay in contact permanently and to assure fluent transmission of information.

4. **Availability**
   The member offices assure availability to the clients and their needs. They are at your disposal.

5. **Cost effectiveness and information exchange**
   Our members strongly emphasize the exchange of information, advising clients while taking into account the financial aspects of their projects. Costs and the potential marginal benefits of legal action to come to the best possible outcome are compared.

What is LAWLINK

Law Link E.E.I.G. is a European Economic Interest Grouping established in 1995 and is registered at the chamber of commerce in The Hague/Netherlands (“Kamer van Koophandel” Den Haag under dossier No. 27261380).

It adopted the legal figure of European Economic Interest Grouping (EEIG) under European Community (EC) Council Regulation 2137/85.

With members from twenty four countries and over forty law firms, Lawlink covers all Europe and South America with its activity.
Law Link News

Lawlink members meet in annual general meetings with the presence of all law firm members and meet in board meetings to coordinate work relations among them and to discuss relevant matters of the profession. The board is composed by a member per country.

The Lawlink general meeting in 2017 took place at the begging of last June in Athens under the organization of the local partner Ioannis Charaktiniotis. Representing law firms from all over Europe and a partner from Brazil the members established the strategy for the next year. New members from Poland and Russia were accepted.

![Photo of members at Greek Supreme Court after a meeting with the Judge Vice President](image)

According to decisions previously taken each year aside the General meeting of Lawlink a visit to a court house will take place. This year the group had a working session at the Supreme Court of Greece where they were received by the Vice-president of the court that the opportunity to explain the competence and the experience of the Greek judicial system. The group visited the court rooms and felt the sensation of a working session

At the meeting the new website was evaluated and a decision of creating a newsletter was taken. Financial decisions were also defined as the financial report and budget for the next year was approved. Evert van den Hout was re-elected as president, while Alessia Ali and Angela Beckmann were elected members of the Cash Committee. Monika Kobylińska remains as the managing director.

The Board of Directors took place in Banbury, England between November 9th and November 11th 2017. A new member from Romania was accepted at the meeting.

The next annual meeting will take place in Budapest, from May 30th to June 3rd 2018.
It’s a fix: the dangers of online sales restrictions!

By Catherine O’Riordan, Associate Spratt Endicott solicitors

The shift towards internet shopping has generally been welcomed by consumers: it provides increased choice, convenience and the ability to compare prices. Many suppliers, however, are concerned that the substantial discounts offered by online sellers will result in a race to the bottom. Suppliers may, quite understandably, wish to control the prices at which their goods are resold, for example by imposing: (1) a complete prohibition on online selling; (2) a prohibition on displaying prices online; or (3) minimum resale prices. The Competition and Markets Authority (CMA) has made it clear in a series of recent case studies and other publications that attempts to control resale prices in this way are quite likely to amount to price fixing, which is unlawful under domestic and EU competition law. You will see from the case summaries below that the fines imposed by the CMA can be substantial. Add the management time and legal fees spent dealing with intrusive investigations (which may include dawn raids) not to mention the reputational risk and it will be obvious that the consequences of getting it wrong are severe.

Recent cases: Online supply of golf clubs

In August 2017 Ping Europe Limited (Ping) was fined £1.45 million by the CMA for preventing two retailers from selling its golf clubs over the internet. The CMA required Ping to bring the online sales ban to an end and not to impose the same or equivalent terms on other resellers. Ping may require online sellers to meet certain conditions, provided they are compatible with competition law. The CMA did acknowledge that Ping had been pursuing a genuine commercial aim of promoting in-store custom fitting but took the view that this could have been achieved through less restrictive means.

Domestic light fittings

In June 2017 a supplier of domestic light fittings was fined £2.7 million by the CMA. The supplier set a maximum level of discount which its resellers were allowed to offer off the recommended resale price. It was an unwritten condition of the internet licence agreement which resellers were required to sign that failure to comply with the pricing policy would result in the removal of image rights. The supplier also threatened to put resellers’ accounts on stop if they failed to increase prices within 24 hours of a request to do so. In this case, it was notable that although the supplier had taken care to avoid communicating the policy to its resellers in writing, the CMA reviewed internal correspondence and recordings of telephone conversations in detail.

Commercial catering equipment and bathroom fittings

In May 2016, following an investigation, the CMA fined a commercial refrigeration equipment supplier £2.3 million and a bathroom fittings supplier £786,668 for engaging in resale price maintenance. The refrigeration supplier imposed a minimum advertised price and threatened to charge higher cost prices or cease supplying goods altogether to resellers who sold below this price. The bathroom fittings supplier issued online trading guidelines to its resellers, which referred to a “recommended” online price. Resellers who sold below that price were threatened with higher cost prices, withholding of supply and withdrawal of image rights. The effect of those threats was that the “recommended” price was in reality a minimum price.

Lessons learned

The CMA has helpfully extracted a number of key principles from the above cases. Suppliers should not attempt to interfere with a reseller’s ability to set its own prices for the supplier’s goods, regardless of whether those goods are sold online or through other channels. The CMA is actively monitoring retail price maintenance in the online space and is prepared to take enforcement action against infringers. Resale price maintenance policies cannot be disguised by not committing them to writing or by hiding them within an apparently legitimate document such as an image licence. CMA warning letters must be taken seriously: failure to respond appropriately may result in an uplift in any fine. The consequences of breaching competition law can be very serious and include a fine of up to 10% of worldwide group turnover.

Further reading Guidance, warning letters and case studies can be found on the CMA website at https://www.gov.uk/government/collections/resale-price-maintenance-information-for-businesses

*Disclaimer: While everything has been done to ensure the accuracy of the contents of this article, it is a general guide only. It is not comprehensive and does not constitute legal advice. Specific legal advice should be sought in relation to the particular facts of a given situation.
Poland's PiS takes control of judicial watchdog

Contribution from our partner from Poland
Monika Kobylinska

The Law and Justice (PiS) party has elected its own candidates to the country's judicial oversight body. The decision to purge the supposedly impartial body has sparked a political crisis and drawn the ire of Brussels.

Poland's ruling Law and Justice (PiS) party took its first step on Tuesday toward taking control of the country's top judicial body.

The PiS-controlled lower house of parliament approved the party's list of 15 candidates to sit on the National Council of the Judiciary (KRS), the body intended to oversee judicial impartiality. In protest against the new measures, the entire centrist opposition boycotted the vote and refused to present its own candidates.

The controversial change in the law, which has been denounced both domestically and internationally as unconstitutional, saw those powers transferred from judges to lawmakers.

PiS, however, maintains that the overhauls are necessary to combat deep-seated corruption in the judiciary.

Despite the PiS' insistence that the judicial oversight body remained haunted by its communist past, outgoing KRS judge Waldemar Zurek described the new reforms as "frightening".

Borys Budka, a former justice minister and member of the opposition Civic Platform, said the vote marked the end of the separation of powers between politics and the rule of law.

Lawyer associations in Poland also called on their members to refrain from applying to the new KRS.

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25 laws you do not learn at law school. Drawn from the book Murphy's Law for lawyers, of the writer Arthur Bloch.

1. Things can be made foolproof, but they cannot be tested on clients. (Naeser)
2. The customer who pays the least is the one who complains the most. (Drew)
3. The most persistent calls have to do with less important matters. (Matsui)
4. Ten percent of clients will provide you with ninety percent of your problems. (Mendelson)
5. The right to be heard does not imply the right to be taken seriously. (Humphrey)
6. If you postpone your will for the necessary time, you will not need it anymore. (Schaffer)
7. Behind every great fortune there is a great crime. (Balzac)
8. If you are good, you will be assigned all the work. If you are extraordinarily good, you will be fired from work. (Owens)
9. No document can be read clearly after 4:40 pm on Friday. (Jerome)
10. After spending an hour to correct a sentence, someone will suggest that the entire paragraph be deleted. (Kiffi)
11. In any document, the most obvious error will go unnoticed. (Moore)
12. The most disastrous omission will not be perceived until all parties have signed. (Culbert)
13. A stupid question can ruin an hour of excellent interrogation. (Gilbert)
14. The judge's jokes are always funny. (Bloom)
15. Where there is a will, there will be a lawyer. (Sanderson)
16. If you postpone your will for the necessary time, you will not need it anymore. (Naeser)
17. Never trust a lawyer to say something has just happened to him. (Mishlove)
18. The more times a client changes lawyer, the worse their case will go. (Gross)
19. Insurance covers anything, except when it happens. (Muller)
20. Neither life, nor freedom, nor any possession of any person, is safe before a lawyer. (Jacquin)

Contribution from our colleagues from Net Iure
Decisions of the European Union Court of Justice of labor issues

Court of Justice of the European Union on vertical part-time work and unemployment benefit (Case C-98/15), a nursing worker and risk assessment at work (Case C-531/15), equal treatment between (Case C-409/16), return of parental leave and right to return to work or equivalent work or similar work (Case C-174/16)

Judgment of the Court of 9 November 2017
Case C-98/15
Reference for a preliminary ruling - Directive 97/81 / EC - Framework Agreement UNICE, CEEP and ETUC concerning part-time work - Clause 4 - Male and female workers - Equal treatment in social security matters - Directive 79 / 7 / EEC - Article 4 - Vertical-time part-time worker - Unemployment benefit - National legislation excluding periods of contribution from days not worked to determine the duration of the benefit

Judgment of the Court of 19 October 2017
Case C-531/15

Judgment of the Court of 18 October 2017
Case C-409/16
Reference for a preliminary ruling - Directive 92/85 / EEC - Article 4 (1) - Protection of the safety and health of workers - Nursing worker - Risk assessment of the workplace - Challenge by the worker concerned - Directive 2006 / 54 / EC - Article 19 - Equal treatment - Discrimination based on sex - Entry into the police school of a Member State - Which imposes on all applicants for admission to that competition a requirement of minimum physical stature

Judgment of the Court of 7 September 2017
Case C-174/16
Reference for a preliminary ruling - Social policy - Directive 76/207 / EEC - Equal treatment for men and women in matters of employment and occupation - Discrimination based on sex - Entry into the police school of a Member State - Which imposes on all applicants for admission to that competition a requirement of minimum physical stature - Incompatibility - Consequences
The General Data Protection Regulation and how it affects Non-European companies

The General Data Protection Regulation (GDPR), which was approved by the European Union Parliament on April 2016, at first glance, seemed to be effective only within EU borders. However, it is worth noting that this new regulation — to be enforced as of May 25, 2018 — also applies to organizations outside the EU that handle personal data of EU residents. Therefore, this matter deserves the attention of all companies in this industry, especially regarding the following issues.

The GDPR unifies the way companies should manage personal data and privacy, giving back to EU residents the control over their own personal data collected for commercial — or political — purposes.

The main goal behind these normative changes is to constrain the commodification of personal data, reinforcing the idea that this group of information should be considered just merchandise but, above all, a fundamental right and freedom of natural persons, who have the right to the protection of data concerning them.

It imposes a new behavior to companies that from now on must follow what the GDPR prescribes regarding processing personal data from EU residents.

According to GDPR’s Article 4.2:

‘processing’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

As previously emphasized, the GDPR is also mandatory for companies outside the European Union that offers, whether requiring payment or not, goods or services related to EU residents’ personal data, processing and holding this data, regardless of the company’s location.

In today’s global and digital context, this is not an uncommon scenario. E-commerce, social media advertisement, cloud computing services, and numberless internet-related business activities, among others, when involves the use of personal data from EU residents result in the application of GDPR’s rules.

These companies will have to comply with GDPR requirements such as appointing a person in charge of data processing — who is responsible for all personal data processing operations within the company — and, in some cases, designating an EU located representative who will represent the company in the event of inspection from competent authorities.

Oftentimes, these data processing companies (controllers and processors) will not only manage personal data directly collected under the data subject’s explicit consent, but they will also have to handle personal data required for contracts and agreements to which the data subject is a party, as well as to ensure compliance with legal obligations imposed on themselves, to safeguard vital interests of data subjects, and in many other scenarios.

Where an individual’s consenting is required for personal data processing, it’s worth to note that such consent should be a “freely given, specific, informed and unambiguous indication of the data subject’s wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.”

Furthermore, the GDPR creates new rights for EU residents that can be enforced against companies. Rights of a data subject include:

- Right to remove personal data at any time and using the same means by which the data subject has given their consent;
- Right to ask for and receive information about the processing of their personal data by the company;
- Right to access their personal data and receive information about how this data is processed, as well as for what purpose the company collects or processes personal data, all the recipients of the personal data, and whether their personal data will be subject to automated decisions;
- Right to rectify and erase personal data, as well as to withdraw their consent;
- Right to restrict the processing of their personal data when processing is unlawful or the company have failed in erasing the data subject’s personal data;
- Right to personal data portability, allowing the data subject to ask for and receive all the personal data they have provided.
In addition to the compliance to the rights above, companies must keep track of all activities related to processing of personal data, set technical measures to ensure an appropriate level of security for the processing of collected personal data, and notify EU authorities and individuals about any personal data breach.

GDPR also allows the transfer of personal data to a third country when such country ensures an adequate level of protection. This takes into account, but is not limited to, the rule of law, respect for human rights and fundamental freedoms, relevant legislation, and the existence and effective functioning of one or more independent supervisory authorities.

Otherwise, in the absence of adequacy, GDPR allows the transfer of personal data to a third country if the controller or processor provides for appropriate safeguards, and on the condition that enforceable data subject rights and effective legal remedies are available, or in specific situations under Binding Corporate Rules approved by national authorities.

Competent authorities have full power of investigation over controllers and processors, including request for information, access to a company’s facilities and demand that a company execute positive actions to comply with all the rights and obligations mentioned above.

Any company that fails to comply with GDPR requirements on the processing of EU residents’ personal data is potentially subject to severe penalties, including administrative fines starting at 10 million EUR and prohibition of processing personal data.

In the light of the above, it should be stressed that all companies that handle and process personal data must be aware of GDPR’s new rules and, when applicable, consider drafting new contractual clauses to ensure that transactions and operations involving the use of personal data remain legal under the new European rules.

Lila Machado, Associate Zaroni Advogados

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**The attraction of virtual currencies**

The growing interest in crypto currencies has increased as income earned from your transaction - which has bitcoin as the most famous and valuable copy - is not provided for in most tax laws. If it is true that crypto currencies can generate different types of taxable income, it is concluded that they escape. In theory, gains obtained by the purchase and sale of virtual currencies or their exchange at the exchange rate at the time of their exchange for real currency may be considered as an increase in capital, a return on capital or an entrepreneurial income. to pay taxes? Because the law typifies in a closed form the situations that are under the tax jurisdiction in the capital gains generated. And the crypto coins are not one of them. Because virtual currencies are not a social part, nor do they constitute a right to receive any amount. In addition, the valuation of crypto currencies does not rely on any underlying asset, since its value is merely determined by the supply and demand of the same, “nor can it be considered a derivative financial product. Thus, it is concluded that this is not a taxable reality. And the same is true of their consideration as capital income.” In this category are taxed the legal fruits ie the rights produced harm the substance of the producer. In the present case, the income produced is obtained by the sale of the right, and therefore cannot be taxed. In principle, income earned on the basis of the exercise of an activity and not on the basis of the origin of the income obtained is taxed. Bitcoin recorded a strong appreciation in 2017, having recorded a record $18.67 thousand in December last year.

António Rodrigues, MFQuadros & Associates