> "The greatest danger for most of us is not that our aim is too high, and we miss it, but that it is too low, and we reach it."
>
> *- Michelangelo*

Software Implementation in Law Firms as a Change Process

Executive summary

In troubled times, change is omnipresent. And as if this was not enough, digital tools are entering our lives at a quick pace. In many ways, they make our everyday work easier and discharge us from burdensome tasks. In some ways, they transform our work context for the worse as they establish mechanisms of control where we used to cherish our personal freedom. In any case, digitalization means adjusting to new work patterns.

Law firms whether they like it or not, cannot escape digitalization. Sometimes grudgingly, they start looking for a software that facilitates client collaboration, then buy and introduce something – only to be disappointed as the solution does not seem to work properly. Contacting the software provider does not always help, people start to complain that things do not run as smoothly as they used to, and collective frustration is the result.

This paper aims to examine why software implementation in law firms so often falls short of expectation – and what can be done to turn software implementation projects into good experiences.

In short, software implementation projects will only be successful when it is clear from the outset that the software must do more than help a law firm do what it is doing right now, only better. Rather, introducing a software must be seen as a chance to rethink value chains and processes of collaboration – and to redesign them fundamentally. In order to do this, a diverse team has to carefully formulate a goal and define requirements before the actual software selection and development process can start. Implementation needs structure; a structured process, in turn, needs a project manager with a clear mandate.

Yet, structure does not go without culture: times of change are times of conflict, and law firms should, before initiating a software project, make a honest evaluation of potential resistance to change and have some open discussions on this topic, or even, have some external help. As resistance against change is to be expected, law firms need a concept for dealing with doubting professionals. External change managers can help: they listen, report, translate, apply discipline, and mediate.

Eventually, whether a software implementation process fails or succeeds depends much on the narrative that is developed by the respective law firm: if change is introduced and conceived as a burden, the firm will usually struggle with the software implementation; if change is welcomed as an opportunity to improve inefficient work processes and to review supposedly good processes in order to make them even better, the firm will usually come out of the process in a rejuvenated shape.

A. Introduction

Various global developments simultaneously challenge and change our every-day life and also our work life. Law firms and legal departments are part of this dynamic. While change is happening in many areas, the driving factors in law firms are special.

I. Change is omnipresent in troubled times

In spring 2020, many companies witnessed a digital revolution: within a few days, they had to adjust their whole modus operandi to remote working and virtual internal and external communication. What was possible due to the COVID-19 pandemic, is unthinkable under normal circumstances. Attempts at digital transformation usually meet with doubt, resistance and protest. These barriers show strong momentum in law firms and legal departments, and digitalization therefore often follows a relatively slow dynamic. However, legal work is also currently updating. And it's not only changes in legal requirements that call for digital solutions. The legal market itself is undergoing a structural change one could call a "industrialization of the law"[1]: legal service providers enjoy increasing success, offering niche and innovative solutions for legal issues on a high-quality level, challenging the traditional law firm business model. "Law" being traditionally a long-established, rather stable affair, built on the foundation of legislation and jurisdiction, it is reemerging differently, just as the way legislation is generated changes rapidly in a digitalized and globalized world.

"Whoever considers « buying a new software », is actually starting a strategy process."

- David da Silva, Elicio Consulting

II. Change driving factors in law firms

In law firms, the conditions for initiating and implementing change are different from those in other companies and businesses and also in legal departments. Legal departments, as parts of bigger companies, follow a different logic than law firms. The workflows are more homogenous which leads to a high interest in standardizing and optimizing them. These conditions encourage the implementation of software as software increases efficiency.

Whilst all kinds of efficiency-boosters obviously are equally attractive for law firms, their common fee model based on billable hours presents a substantial challenge, as more efficiency, at least for the billable part of the work, could be perceived as a possible threat of less billable hours. Law firms usually draw a clear distinction between "work", meaning billable hours, and other activities (non-billable hours) that are seen as bothersome and time wasting. Software has the potential of accelerating both. For example, analyses show that law firms using technologies for online payment and online client communication increase the volume of casework and thereby the revenue per lawyer significantly.[2]

What follows in the end is that law firms might even have to change their revenue concept in order to meet the expectations of clients while at the same time adjusting to young generation's idea of what a good work environment should look like. Two of the most important trends that are expected to impact law firms are the clients' changing expectations and the need to acquire and retain talent.[3]

There is much more room for individual approaches

[1] *Prof. Dr. Stephan Breidenbach / Florian Glatz*: Legal Tech Lösungen – Ein Zwischenstand, Rethinking Law 3/2020, pg. 4.
[2] Clio, 2020 Legal Trends Report, pg. 25 ff..
[3] *Wolters Kluwer*, The 2021 Wolters Kluwer Future Ready Lawyer Survey Report, pg. 7.

concerning workflows and working styles in law firms than in legal departments. Digitalization jeopardizes this autonomy at least in part, as it entails an elevated level of standardization. Furthermore, law firms sometimes see themselves less as companies than as platforms for individuals offering legal services. New technology generally does not instantly increase the annual profit but is perceived at first glance as coming with higher costs – hence, the immediate benefits for the partners are not always obvious. The fact that the annual profit is distributed among the partners at the end of the year so that the firm starts each year with a blank sheet runs contrary to a real enterprise spirit. Business models that involve software-driven processes require continuous investments, something that cannot be taken for granted in every law firm.

"In law firms, the management mainly consists of lawyers who are mostly not taught to run a company."

- *Jeroen De Man, De Groote – De Man*

These special characteristics of law firms leave little internal incentives for initiating change. Internal factors leading to change might be:

- the willingness to grow and a strife for more efficiency, notwithstanding the reduced number of billable hours,

- the need to gain control over possible sources of errors and to diminish them.

However, the most important factors leading to change are external ones that force law firms to keep pace and adapt:

- new regulations regarding data security and compliance;

- the courts promoting digitalization (i.e. in Germany the special electronic mailbox for lawyers [beA], the DPA-deposit in Belgium, or the RPVA in France);

- customer (esp. corporate legal departments') expectations with regard to data communication, 24/7 real time digital file access, cost reduction, and improved efficiency[4];

- the willingness from customers (CLDs) to reduce their costs while improving your efficiency (see the FRL WK study).

- established interfaces that external partners use such as online portals or marketing tools;

- factors stemming from the software itself: expiring

licenses, software breakdowns, extensive update and maintenance work, and security dangers such as hacker attacks;

- the rising competition of legal service providers who can offer standardized services at low costs;

- the next generation's growing expectation to work in the most convenient and least burdensome environment possible;

Some of these factors have been emphasized during the COVID-19 pandemic as if under a magnifying glass. Mobile work and digital communication have become essential requirements to uphold the business. Some law firms have been forced to implement software solutions from one day to another, realizing that change does not end here.

B. Software projects are not the end, but the beginning of change

The decision of initiating a software project, of digitalizing and automatizing procedures, is not the end of a change process, it rather is its beginning. It is necessary to identify the requirements as well as the future needs the software should fulfill before designing a call for tender. The subsequent implementation is an iterative process, raising questions regarding the firm's strategy.

I. Why software projects in law firms often fail

When software projects in law firms fail, this is often due to the firms' structure and working culture. A second source of failure can be the way the project is designed and initiated.

In law firms that lack a real enterprise spirit, lawyers do often not see themselves as businessmen and -women. They have a clear priority on their legal work where knowledge of legislation and jurisdiction take a central part. Innovation and a forward-looking vision are traditionally not required characteristics of lawyers. Hence, some lawyers tend to perceive tasks outside of their purely legal work as a bore. Their daily workload and their lack of time for tasks other than legal ones prevent many lawyers from addressing software projects as the latter always require a substantial investment of time and energy.

"Law firms lack a mindset that would make them interested in how their business is working."

- *Carine Kesteloot, VDV Advocaten*

Lack of enterprise spirit and the heterogenous, individual ways of working probably are the key reasons why software projects fail. This might also have to do with a levelling effect of most legal software: a range of tasks that used to be office management responsibility shifts (in a very doable way) to the lawyers themselves. Not everyone may approve of this new equality between legal and non-legal staff. Also, if the top partners do not show any inclination to use the new software, there will not be a sufficient tone from the top and other persons will also not feel motivated to do so. In order to actually make a change, all members of the law firm should show interest in the software's basic features and should take their time to get to know it.

> "For lawyers, it is difficult to change the role from an advisor to a pupil."
>
> – *Carine Kesteloot, VDV Advocaten*

The structure of law firms as partnerships also makes decision-making more difficult than in other companies. Every partner has a say in the process and so decisions are often made on the basis of a minimal consensus instead of aiming for a tailor-made solution.

Impediments to innovation

Janina Erichsen lists five main impediments to innovation in law firms:

1. revenue models based on the billable hour,
2. the partnership as the dominant corporate structure,
3. a lack of (recognition for) staff with expertise in non-legal matters,
4. general conservatism,
5. the impossibility of including non-lawyers as partners/shareholders.[5]

Even worse, most of the employees who will have to work with the software are not part of the decision making. In the end, it is up to them to implement what others have decided. This choose/use-mismatch results from the lack of structure for the choice and implementation process. Here, law firms tend to take the second step before the first and decide about which tool to acquire instead of drafting, discussion and communicating a business and technology development plan first.

Concerning the question which software is needed, the responsible persons often start from what they would need at present to facilitate their widely analogue way of working. But if you digitalize a bad analogue workflow, you get a bad digital workflow. A new software, however, should meet the needs of a digitalized workflow. This future workflow must be defined and analyzed and further developed before a software may be designed on this base.

> "The problem is that during the selection process, the decision makers often look at the status quo and not at the future situation."
>
> – *Manfred Bachmann, Wolters Kluwer*

> "They want the software to do exactly what they are doing right now."
>
> – *Hans Vandenbroeck, Wolters Kluwer*

Some projects also fail due to exorbitant ambitions. Law firms are misled to combine the introduction of a new software with other change processes, i.e. the comprehensive digitalization of files. Overly ambitious projects are in danger of failing, just because the people involved give up, overwhelmed by the amount of work that comes with it.

Another classic impediment can be the lack of teamwork orientation deeply ingrained in the traditional lawyer's mindset: the tendency to keep

[5] *Janina Erichsen, Möglichkeiten und Limitationen der Digitalisierung der Rechtsberatung in klassischen Kanzleien, Rethinking Law, 3/2019, pg. 59.*

(expert) knowledge private instead of sharing it. The self-image of being a scholar working in a private little closet often emerges in law school and is kept throughout the professional career.

> "We call it "the dilemma of the universal genius": the sometimes presumptuous lawyer's attitude of "I can wrap my head around just any problem and fix it" runs contrary to the necessity of working in interdisciplinary, accessible teams that we need to foster."
>
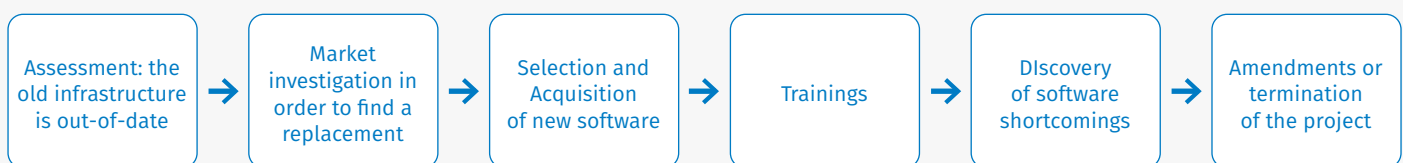> *- Gereon Abendroth, Osborne Clarke*

When the software has been chosen and the implementation phase starts, the employees and lawyers should learn in special trainings how to use the functionalities they need to work with. Instead, they often get an unspecific training to learn about all the functions of the software, even those they will never use. The implementation phase also often suffers from the lack of a constructive feedback culture and a genuine willingness to engage with something new. If something does not work as expected, the different actors point a finger at each other, instead of solving the problem with a solution-oriented approach.

> "Law firms often think that they already know what they need at the outset of a process. This usually is a misconception."
>
> *- Gereon Abendroth, Osborne Clarke*

Figure 1: IT Project Processes

IT-project: conventional process

Assessment: the old infrastructure is out-of-date → Market investigation in order to find a replacement → Selection and Acquisition of new software → Trainings → DIscovery of software shortcomings → Amendments or termination of the project

IT-project: recommended process

Assessment: the old infrastructure is out-of-date → Description of how workflows should be structured in the future → Definition of potential for automatization and digitalization with regard to future workflows → Market investigation → Software-development and/-customization in collaboration with the software provider → Implementation, Trainings, Feedback, continuous optimization

II. Predicaments and dilemmas

If software projects fail, it is rarely linked to a specific actor impeding voluntarily the process out of incapacity or unwillingness. It is rather that the different actors are trapped in their respective roles and dilemmas.

1. (Founding) Partners: want to preserve, need to adapt

At first glance it might seem as if the law firms' (founding) partners who look back at many years of experience and are now in their harvest period might tend to be less interested in IT and less willing to change. On the other hand, there are many reasons for them to have a more elevated change affinity than their younger colleagues: they have a better overview of the market and the dynamics of competition, and they are interested in having more (budgetary) control over the work of younger lawyers and non-legal personnel. Work-simplifying software applications also make their firm more attractive for future employees. As a result, many partners are open to more comprehensive solutions and simultaneously, are less deterred by the costs of new software, as they also see the long-term benefit.

"Older partners have a better and more accurate perception of the competitors and are therefore more open to «bigger solutions»."

- Dominique Cassiman-Gilis, ServiSoft

In addition, there could also be another cultural predicament playing a role: as lawyers are used to diving deeply into the legal problems they want to solve, they aim to understand everything about the software as well. This tendency might lead to conflicts between partners as well as between partners and the software provider.

2. Younger Lawyers: lead, convince – and doubt?

The younger lawyers are, due to their age and experience, generally more accustomed to working with IT-solutions and are easier to convince to give a new software a try. Members of the Generations Y and Z expect a lot of their working environment: it has to be as efficient and as little burdensome as possible. On the other hand, they are more engaged in every-day case work and oftentimes have less energy and capacity to engage in a software project.

Furthermore, besides motivation and general openness towards IT-solutions, specific know-how about structuring an implementation process and dealing with resistance is necessary to stir the project towards success. Unlike the (founding) partners, young lawyers often lack the authority to take control over the implementation process and to convince their reluctant colleagues.

"The partners build up the structure based on what they know from their time as associates. They rarely question the structure they have been working with. This also applies to software implementation. It's a state of mind, which depends on the people leading the law firm."

- David da Silva, Elicio Consulting

3. Non-Legal Personnel: Implementation without say in the process?

Handling the files on an everyday basis, the non-legal personnel are the ones who must eventually come to grips with a new software. While the non-legal personnel employees often have a clear focus on their respective working field, their bigger picture of the whole firm might be less precise. This group is usually excluded from the selection process and the benefits of a new software are not always sufficiently communicated to them, although they are often important opinion influencers within the law firm. Furthermore, in the beginning of the implementation phase, extra work will come up, for example due to the conversion of files. For a while, digital and analogue tools sometimes lead a parallel existence and must both be attended to.

What makes the situation even worse is the fact that the disadvantages of software-introduction often seem obvious to the non-legal staff: their work will be standardized and centralized, and they will have less flexibility and individuality. In different departments, similar workflows might be established, irrespective of individual needs. Their work becomes more measurable when a software tracks, for example, the runtime of a workflow. It is very likely that in digitalized law firms just like in legal departments, the use of performance metrics will be of interest for the leading partners.[6]

[6] KPMG, Global Legal Department Benchmarking Survey 2021 Report, pg. 26 – for the legal department context.

The loss of freedom, flexibility and individuality provokes resistances against software projects because the advantages are not clearly seen. There are, however, plain advantages: with the increase of standardized processes, it is easier to switch between the firm's departments because they all have basically the same way of working. This means more mutual support as well as flexibility regarding substitutes in case of vacation or illness. Also, many people see the extra knowledge gained through working with the software as a clear asset on their CV.

C. Change: Steps

As a process change has been described with a multitude of models. For the purpose of this paper, we focus on two ways of describing change that have, over the years, been recognized in all sectors and industries.

1. Kurt Lewin: Unfreeze – Change – Refreeze

As a forefather and founder of Change Management, Kurt Lewin in the 1940s developed a model based on the idea that change is the transition from a static, frozen phase through a dynamic process into a new static phase. The change process is divided into three stages. The starting point is a frozen situation where change is needed but not easy to achieve. The first step, unfreezing, consists of motivating the persons concerned to substitute their old behavior by the desired one. They must understand why change is needed and why it is urgent. This step is necessary to overcome resistances and to create an atmosphere where change is possible. The second step is the change itself: new ways of working and behaving are introduced and implemented. This step involves uncertainty and fear because the status quo is changing. Hence, communication and support are crucial during this step.

The third and last step consists of stabilizing and solidifying change by refreezing the achieved

situation. The new ways of working and thinking are established in everyday work as a new norm. This step is important to make change sustainable and to prevent the persons involved from falling back into their old routines which could eventually lead to conflicts.

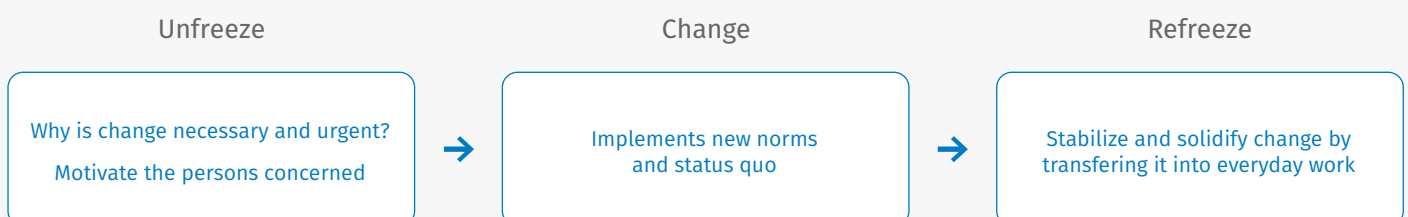### 2. John P. Kotter: Change as an 8 Step Process

In the 1990s, John P. Kotter identified eight common mistakes that often appear in change processes. Based on his research, he developed a change process with eight steps that address these frequent mistakes.

The first step involves creating a sense of urgency. Concentrating on a window of opportunity aligns people around a common idea and clarifies the direction in which change should lead. These windows of opportunity can be external factors such as COVID-19, hacking, new data security regulations or a server replacement. The second step consists of building a guiding coalition. This coalition should be composed of members from different hierarchical levels, representing different functions and needs. In the absence of a diverse guiding coalition, change is usually enforced by the higher management. However, working in hierarchical structures makes change burdensome instead of accelerating it.[7] The guiding coalition's task is to form a strategic vision. According to Kotter, a strategic vision must be

- communicable,
- desirable,
- creating a verbal picture,
- flexible,
- feasible,
- imaginable, and
- simple.[8]

Based on this vision, the fourth step consists of enlisting a so-called volunteer army, a broad group

Figure 2: Unfreeze Change Refreeze

Unfreeze	Change	Refreeze
Why is change necessary and urgent? Motivate the persons concerned	Implements new norms and status quo	Stabilize and solidify change by transfering it into everyday work

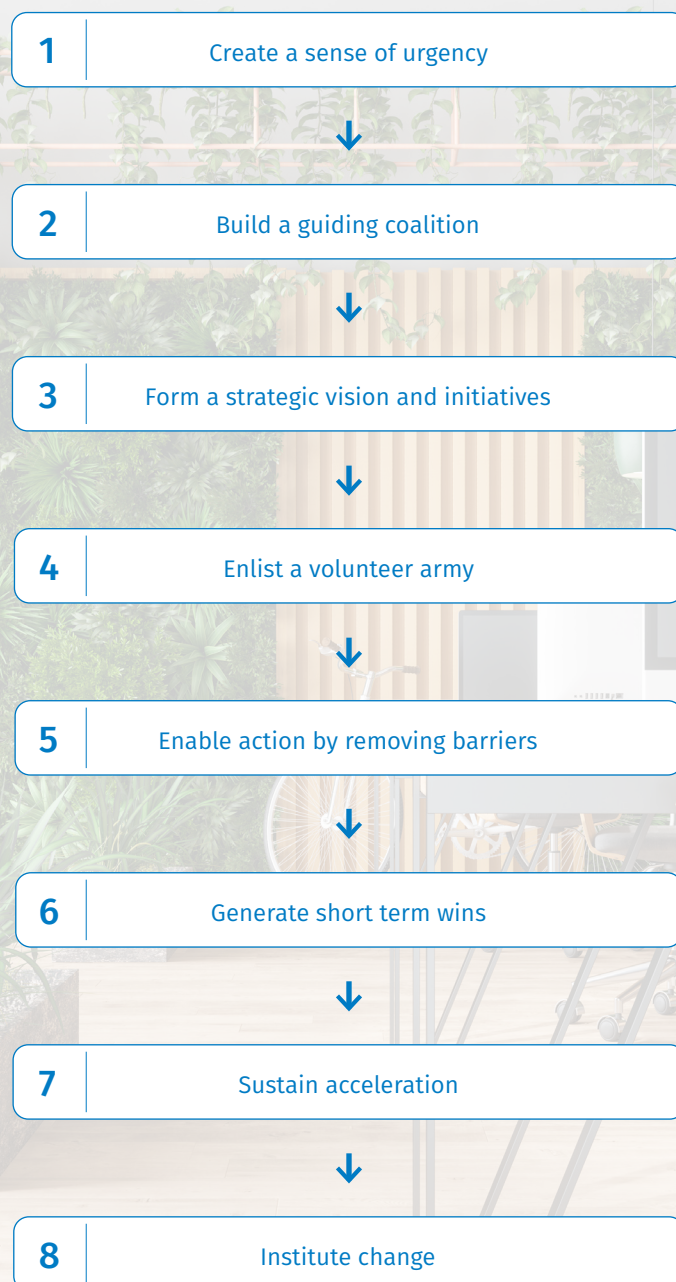[7] John Kotter, 8 Steps To Accelerate Change In Your Organization, 2018, pg. 13.
[8] John Kotter, 8 Steps To Accelerate Change In Your Organization, 2018, pg. 16.

of people that choose to be involved in the process, instead of having to be convinced. This is the moment when a team of highly motivated evangelists swarms out into all corners of the law firm. Subsequently, inefficiencies and bureaucratic barriers must be removed in order to facilitate change. This step relies on the principle that with a desirable vision change, the absence of barriers provided, will happen mostly by itself. Short term wins should be generated, collected, and communicated. This will energize the "volunteer army" and thus accelerate the process. Communicating success also helps to convince

hesitant colleagues.[9] When the first short term wins are achieved, i.e. when a former file archive has been cleared and can be used as a coffee lounge, it is important not to rest on them but to keep change alive and to accelerate the pace, until the final goal is reached. The eighth and last step consists of instituting change by connecting new routines with the organization's success. In practice, this could mean to actually celebrate a more smoothly running client communication. Such a connection will convince people to commit to new routines and mechanisms over the long term.[10]

1	Create a sense of urgency
2	Build a guiding coalition
3	Form a strategic vision and initiatives
4	Enlist a volunteer army
5	Enable action by removing barriers
6	Generate short term wins
7	Sustain acceleration
8	Institute change

[10] *John Kotter, 8 Steps To Accelerate Change In Your Organization, 2018, pg. 30.*

D. Change: Persons

The outcome of a change project depends very much on the distribution of roles and responsibilities during the process.

I. Who needs to be in charge of what? Role distribution in law firms during software implementation projects

In change projects, a clear definition and communication of responsibilities is crucial. Decisions can only be made when it is clear who is deciding what. In software and digitalization processes, establishing a team with diverse members has proved itself effective. This task force should represent all functions and generations of the firm, such as partners, senior lawyers, associates, and members of the service units (office management, accounting, invoicing, etc.). An innovation- and software-friendly mindset is also important. The task force should accompany the whole process from the selection of the software through the testing phase until the implementing, customizing and optimizing phases respectively.

At a Glance: Competencies & Functions

Competencies/functions within the project task force:

Partners: should be equipped with budgetary decision power, are responsible for the kick-off impulse. Partners do not need to be involved with every step but have to be available as a point of contact.

Senior lawyers: should have a very good knowledge of the firm's history and internal procedures, and ideally also bring broad experience from other law firms. Senior lawyers could also represent the rather skeptical group of colleagues.

(Junior) Associates: should represent the next generations' expectations as to how a modern work environment should be designed, they will provide useful input about pain points in the daily work routines.

Staff (office management, accounting): often know the user perspective on standards in other law firms, will provide useful input about pain points in the daily work routines.

The institution of a project task force does not only help to clarify responsibilities and tasks clear, but also to ensure that people from every part of the firm are involved in the process and invited to participate. Their respective point of view is vital to the change process sustainability.

As said above, much depends on the management's guidance: without the right tone from the top, the task force will not be able to convince their skeptical colleagues. The task force needs the full backing of the management who must formally implement the change and show themselves aware of their exemplary role within the process. With this support, the task force will be able to overcome the resistance of people who insist on using the old tools.

In some firms, it might also be useful to integrate the perspective of a true project opponent. If the project task force manages to consider this person's doubts and probably even to convince her or him, it gains a powerful and credible ambassador.

"Software-selection is a challenging project: a head of accounting would pick tools that refurbish the administration; a senior partner would choose a software that facilitates reporting; a junior partner would select a tool that helps him to complete his daily routines more quickly: everyone chooses according to their preferences. To end up with the right software, the choice must be made by a broad team representing the whole law firm. And this team should accompany the whole implementation process."

- David da Silva, Elicio Consulting

II. External roles and internal roles

Changing a structure always involves changing a culture, too. In digitalization processes, the change of workflows and the establishment of new, automated business models can mean that hierarchies become flatter, and that the work itself becomes more project-like. These cultural changes should be coordinated and accompanied.

However, lawyers are usually not trained in HR-management. As a result, law firms often hire external consultants to compensate for this lack of management skills. Those external consultants can easily be held responsible for flaws in the process.

A constructive approach is to designate a project leader, who can be internal or external, depending on the firm's size, and a change manager, who should be external and coordinate his activities closely with the internal responsible persons.

In addition to a project leader there must be project proponents in all law firm divisions who can act as role models, contact persons, and human suggestion boxes.

"We have made a good experience with identifying "champions and evangelists" amongst all user groups early on in the project: people who are convinced of the project's merits and who are not afraid of spreading the gospel."

- Gereon Abendroth, Osborne Clarke

"The larger the firm, the more important it is to engage an external project leader. In a structure with 10 persons, the partner does pretty much everything, so he might have an inclusive vision. But as soon as the law firm is larger, an internal project leader will think too much about his department and not enough about the rest of the firm. A third party, in contrast, has to consider the whole firm."

- David da Silva, Elicio Consulting

At a Glance: Roles

A Project Leader (internal or external, depending on the law firm's size)

- shows an IT-friendly mindset,
- has an intimate knowledge of the work context of the specific law firm (and, preferably, of other law firms),
- understands the particular requirements and expectations as well as the potential of the implemented software,
- is familiar with legal and with IT-terminology
- – which makes them competent.

Their task is to

- coordinate the task force for innovation/project team,
- spread enthusiasm for the simplifying effects of the new software,
- brief software-trainers and explain application-related details in one-on-one meetings with users,
- communicate with internal and external IT-consultants to fix bugs,
- prepare management-decisions on standardization matters, and
- identify potentials (and limits) for (further) standardization.

An external Change Manager

- is not part of the firm's hierary,
- does not have an internal reputation to confirm or to fight against,
- gains their authority through change management- and communication-competence,
- does not need to fear sanctions when addressing difficult issues
- – which makes them credible.

Their task is to

- help with the cultural transformation that goes along with an IT-implementation project,
- listen to the users on different hierarchical levels,
- identify skepticism and mental reservations,
- help to (re)define roles and responsibilities,
- share best practices from other projects, and
- mediate team conflicts in an early stage.

Champions and Evengelists amongst all user groups
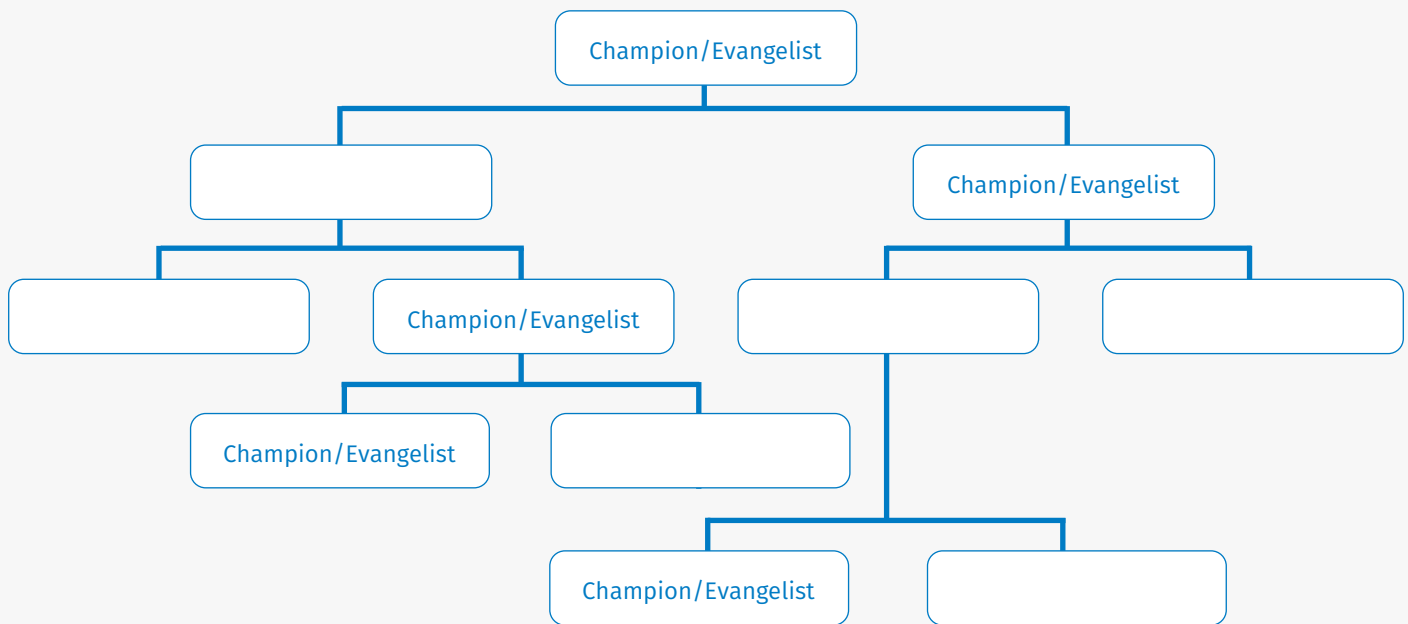
III. Never underestimate end users

Implementing software means changing the everyday business. Therefore, it is crucial to let those persons who will eventually have to change their routines participate in the process (this also includes the senior partner who works with the software). Otherwise, they will feel frustrated by the decisions made over their heads and block the implementation. Being included in the whole implementation process will motivate them to support the change. A guided testing phase can help users to integrate the new software into their daily routines. This testing phase also ensures that functionality problems are detected and resolved in time, so that end users are not left alone with them.

"We have made a good experience with identifying "champions and evangelists" amongst all user groups early on in the project: people who are convinced of the project's merits and who are not afraid of spreading the gospel."

- Gereon Abendroth, Osborne Clarke

People assigned an active role in the implementation process usually do this on top of their daily work. Ideally, full or partial relief of their other tasks will enhance their engagement in the process.

With the idea of efficiency in mind, some law firms tend to combine a digitalization project with the implementation of a new software. But from the perspective of end users, this might mean that the overall change becomes overwhelming. All operations – or at least so it might feel – in their daily business would have to be relearned. 'One project at a time' is the more promising approach. When the first project proves a success, this will motivate those involved to initiate and support a second one.

"The larger the firm, the more important it is to engage an external project leader. In a structure with 10 persons, the partner does pretty much everything, so he might have an inclusive vision. But as soon as the law firm is larger, an internal project leader will think too much about his department and not enough about the rest of the firm. A third party, in contrast, has to consider the whole firm."

- David da Silva, Elicio Consulting

E. Change: Time(s) and Structure

There are times when change is easier to initiate and implement.

I. Choosing the right time

Choosing the right time can help create the necessary sense of urgency that will pave the way to change. The right time has come when there are both push and pull factors calling for change. Push factors can be the conviction that digitalization will transform the business model and the working environment for the better: there will be better leverage effects and economies of scale, flatter hierarchies, more process autonomy and automatization of burdensome tasks.

Pull factors, in contrast, are usually part of one of the following three categories: the risk of nonaction, the necessity to adapt or to renew, and a window of opportunity.

A risk of nonaction arises when the current software no longer meets the requirements of the law firm, or when competitors with faster, more flexible and digital business models threaten the firm's market position.

> "In some way the breakdown of the old software was helpful. There was basically no chance to repair it. In consequence, our starting point was a complete standstill for one and a half days. The need to change was obvious."
>
> *– Sibylle Günther, BRP Rechtsanwälte*

The demands of business partners (i.e. corporate legal departments) and customers change rapidly. When clients ask for easy and fast access to data and files on shared platforms, the law firm has to react in order to retain its clients. 91 % of corporate legal departments have already asked (or plan to ask within three years) the law firm they are considering to describe the technology they are using.[11]

A window of opportunity often opens when the law firm welcomes new personnel: a partner who used to be a software opponent leaves the firm. Or else, a new partner joins the firm, sharing his good experiences acquired at a more technologically advanced law firm. Last but not least, a law firm's software equipment has an impact on its employer attractiveness which is not neglectable.

II. Planning and structuring change processes

A famous proverb says, "a fool with a tool is still a fool". For software projects, this means that it is not enough to buy a tool that transforms an analogue process into a digital one and then hand it over to end users. Instead, it is necessary to analyze and challenge analogue processes, envisioning their future shape before translating these processes into digital versions. Only then, the search for solutions, implementation and end-user training can follow.

Rather:

Redefine and extend processes of value creation into the digital sphere	>	Develop/customize a software-based solution for a digital workflow

Than:

define potentials to optimize analogue workflows	>	(partly) digitalize analogue workflows

The implementation of a new software is a multi-step process:

1. **Task Force:** First, build an innovation/project task force. This team should be composed diversely, as explained in Chapter D.I.

2. **Needs and Goal Definition:** This task force then identifies the firm's needs and defines a goal (i.e. to digitalize key components of the client acquisition process). Guiding questions can be:

   a) what should the process look like in the end?

   b) which aspects have to be improved?

   c) what has to become more efficient?

   d) what has to become more convenient?

   e) how could an improvement be measured?

   Take a close look at the processes you plan to digitalize.

3. **Preparation of the selection process:** Prepare the selection process. Compare different offers on the market according to your firm's individual requirements. How should the software be configured to meet the law firm's needs? Collect feedback in the firm's different user groups. Then form smaller groups on specific issues to re(de)fine their respective specific requirements.

[11] *Wolters Kluwer, The 2021 Wolters Kluwer Future Ready Lawyer Survey Report, pg. 8.0.*

4. **Selection Decision:** Align user expectations and the software potential when deciding which software to implement.

- Talk to the providers to get a sense of what potential the software has and which expectations it cannot fulfill. This helps you and your team to manage your own expectations.

- Share all the necessary information for the implementation with the software providers.

- Set up a schedule or time frame for the implementation process.

- Commission a proof of concept to ensure that the software really meets the identified needs of the law firm.

5. **Implementation:** The fifth step is the implementation phase itself. With the help of the project leader and the change manager, implement the new software:

a) Organize the technical part of the implementation phase:

  - Data conversion

  - Data migration

  - Fault finding, troubleshooting

  - Planning for go-live

A structured and transparent plan allows people to come onboard and also helps you communicate the achievement of goals and short-term wins.

b) Design both general and user-specific trainings:

  - The trainings must be carefully adapted to individual needs. Too often, end users only receive general training from which they will remember only what they are interested in. What is remembered will be different for each person – as a consequence, every user will use the software differently (with divergent results) and eventually blame this on the software.

"For software-trainings to be successful, they must be carried out by experts who know the work context of the different user groups from their own experience."

- Tobias Heining, Osborne Clarke

- A volunteer group of key users should be trained intensely as an expert group or "volunteer army" in the words of Kotter. They need to get a high level of knowledge of the software, so that they can pass their knowledge on to other employees.

- Form tandems with one IT-experienced user and one less experienced one to allow a regular exchange on the software and its functionalities. This helps to remove both technical and mental obstacles.

c) Provide an easy access to technical support. The members of the task force can help, but support should also be guaranteed via the software provider.

d) In order to sustain change and acceleration, do not hesitate to apply discipline:

  - Establish mechanisms that prevent users from going back to old routines (i.e. communicate that the digital file is the leading one, and that the paper-based file will disappear at a predefined point in time, abolish old telephones etc.). Force people to use the same files, folders, and mechanisms. Technically block the possibility of saving documents in old folders eventually to ensure a smooth and successful transfer to the new system. If continuing to use the old system is an option, there is no urgency to try out the new one. The resistance against it will grow more and more. An external change manager is the most suitable person to communicate these mechanisms.

  - Ensure personal attendance at training sessions.

  - Keep or even accelerate the pace. Do not take too much time for the implementation lest the process loses its necessary dynamic.

e) Identify, understand, address and deal with resistance (see below F).

6. **Feedback/Adjustments:** One to six months after going live, collect feedback, fine tune and make adjustments according to end users' experience.

III. Provide for flexibility

One big advantage and main goal of digitalization and automatization is standardization. In many cases, this can help make the work more efficient. Law firm professionals can get rid of burdensome and boring tasks and will have more time for interesting and challenging work. However, at the same time, the idea of producing (partly) standardized products runs contrary to the self-conception of lawyers and to routines that some lawyers might hold dear. Therefore, the implementation project should allow some liberties and leave room for individual approaches.

Different people have different paces and ways of working. Everyone should be granted the time needed to adjust to the changes. There should be a period of transition, allowing the interim adherence to old and beloved routines. Also, it is important to pick up people where they are and find a way to evoke a voluntary willingness to participate and support the project.

It can be helpful to clearly determine the areas where flexibility is possible and those where standardization is absolutely needed. For example, administration and accounting need more standardization than the internal file structure in different departments, as long as general guidelines allow everyone to be well-oriented.

Despite the understandable need for flexibility, the implementation project should still follow a clear timeline. After a defined period of transition, application of the new software should be uniform, as a parallel existence of two systems would clearly jeopardize the success of the software project on the long run.

And last but not least: times of change are times of conflict. For a change project to run smoothly, it is essential that there is a constructive communication culture established in the law firm. When this is not the case, it makes sense to book a communication training and to organize communication workshops at least with those who will be primarily concerned by the change project.

Structuring an IT-implementation process

1. Compose an innovation/project team (task force)

2. Identify the needs/define a goal

3. Preparation of the selection process: compare different offers on th emarket

4. Align user expectations and software potential and make a decision on which software to implement

5. Implement with the help of experienced Project Leaders and Change Managers

6. Collect feedback, fine tune and make adjustments
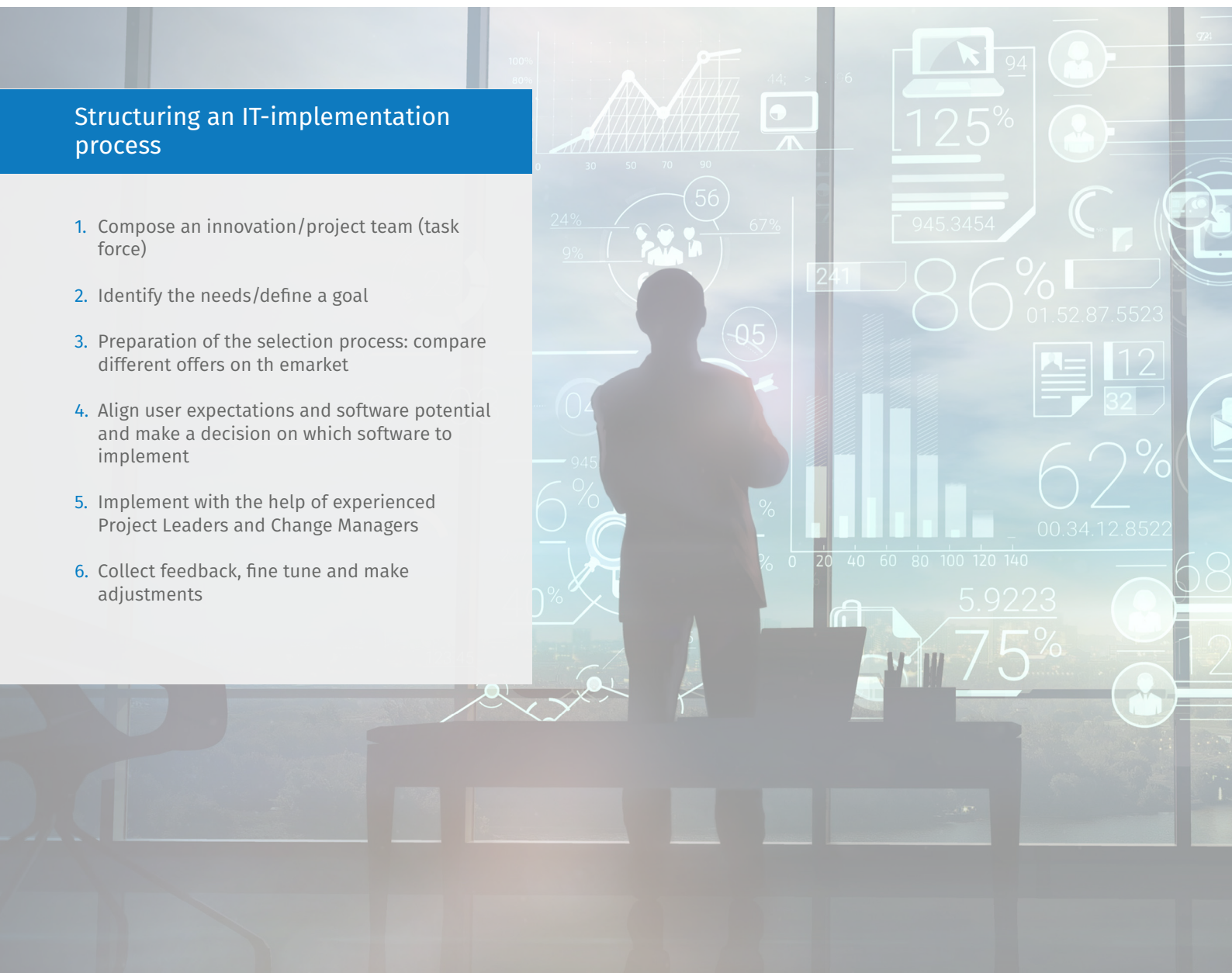
F. Dealing with Resistance

I. Why do people oppose projects? – Software implementation as a threat

"People don't like change, it makes us insecure."

- Jeroen De Man, De Groote – De Man

If there is one thing common to all change projects, it is that they all meet resistance. The scope and the degree of resistance might vary. But it is clear that change challenges our habits and routines. It makes life, at least in the short term, less convenient.

Regarding software projects, there are four main categories of contention:

- People do not see the necessity to change: "Everything worked sufficiently well so far – so, why change it?"

- People fear the impact the software change could have on their professional identity: "Standardization as a necessary component of new software projects will put an end to some of our grown liberties to which we have become accustomed."

- People doubt that IT is a reliable solution: "There will be gruesome technical issues."

- People do not take the time to reflect on their work environment and do not take the time to organize things differently: "Please do not bother me with software questions!"

"According to my experience, people do not resist change out of obstinacy, they rather don't believe that they can become (even) more efficient with the help of software."

- Tobias Heining, Osborne Clarke

II. Why do people at law firms oppose projects?

Resistance against software projects in law firms may (at least in part) be due to some characteristics of the legal profession. While lawyers usually work in a very independent and autonomous way, in software projects, they are forced to follow a process they did not initiate, and of which they probably are not convinced. Unlike non-legal employees, lawyers are not accustomed to follow a lead. In addition, working

in the field of law suggests working with stable structures as the law itself embodies predictability and stability. Consequently, there is a high resistance towards software change in law firms.

It is important to keep in mind that there is a widespread tendency among software users to expect that the new software should help them do exactly what they are doing right now and to have as little impact on their daily work as possible.

In order to better understand the sources of resistance, we need to differentiate between different groups of lawyers and employees.

1. (Older) Partners

Partners who are older and more experienced than other lawyers might have worked with the same software and the same routines for 20 or 25 years. Unlike the younger generations, they do not regularly have to get accustomed to new software. To this point, a change manager can help to raise the partners' awareness of their responsibility to serve as a role model. With the help of customized trainings, the partners should understand the gain in efficiency that using the new software would mean, as it is hard to argue with this fact.

It is also important to overcome possible misconceptions about how the partners' actual work routines will look like with the new software. For example, in one firm, a partner thought that in order to work with the digital file, he always needed to keep different windows open at the same time. With his one screen this seemed hard to handle. When he was made aware of the possibility to use different screens for different windows, he began to engage in the software project.

"Reservations are closely linked to the actual use: the reservations will remain as long as you make little use. They will be eliminated by using the software intensely."

- Jan Wehner, Gruendelpartner

2. (Younger) Lawyers

Younger lawyers usually are very absorbed by their everyday work. They do not want their day-to-day routines to change as this will cost them precious time. Their resistance grows when they have to invest time and energy to fill out time sheets, to organize digital documents etc. They also have little capacity to attend intense (and oftentimes unspecific) trainings

and to adjust and get used to new software. Instead, they need efficient and highly user-specific trainings. They should learn the key functions of the software that makes their everyday work instantly easier and smoother – a good example is a remote access to documents and applications without having to install software. At the same time, they usually have sufficient affinity for software to teach themselves functions beyond the usual scope of the software that they find helpful.

3. Office Management/Paralegals

The advantages of software for office managers and secretaries are very clear: the software takes care of monotonous and exhausting work. Therefore, while some people might fear the software's controlling potential, the readiness to change is usually relatively high. However, the adjustment period can nevertheless be stressful and challenging. If there is a general willingness, it should therefore not be overstrained.

Resistance of office managers and paralegals often stems from either a superficial approach to the new software (i.e. "this document does not look like it used to") or from more general concerns, such as losing one's job when more efficient, software-driven processes are established – a fear that is to be taken seriously.

Non-standardized trainings focusing on users' questions will likely conquer any first resistance. It might be difficult, however, to overcome any subsequent (second) resistance. Here, it may help to establish transparency about the firm's strategies and to emphasize that growing law firms generally need every qualified person, albeit not necessarily in the exact same function as before.

4. Internal IT-department and external IT-consultants

For the internal IT-department, a new software, in the first place, means administrating two different tools during a transitional phase. Because of the additional time and energy this requires, is it important to have a clear perspective on how long the transitional phase will take.

Inside the internal IT-department, there will probably occur discussions about the way the software needs to be set up. Here, it is helpful to clarify which purpose exactly the software should fulfill and to define clear responsibilities between the external provider and the internal IT-department.

A lot of law firms employ external IT-consultants not

"If something is not going as planned, internal IT-people do not want to take the blame."

- Hans Vandenbroeck, Wolters Kluwer

only to look after their hardware, but also to advise them in software matters. As those consultants often have a vested interest and could torpedo a new software project, their perspective should be taken into account as early as possible when considering a new software project.

III. Reasons behind resistance and ways to deal with them

New software, in general, promises the chance to do things differently and more efficiently. But this positive change does not happen from one day to the other – an investment of time and energy is needed. Wrong expectations about immediate positive impact can lead to uncertainties, application errors, conflicts, and frustration.

In order to deal with resistance, experts agree that inclusion, communication and dialogue are crucial.[12] A professional, systematic handling, adjusted to the specific background of each reservation, is most likely to have the desired effect. Already during the preparation phase, it has to be kept in mind that the standardization caused by the software (visual appearance and format of pleadings, recitals and preambles, factures, written power of attorney, file structure, etc.) will lead to conflicts about individual leeway. On the technical side, the software should provide enough flexibility, i.e. regarding the file structure that should be adjustable. On the communicative side, professional moderation helps to deal with these conflicts.

There should always be room to express and address feelings and doubts coming up throughout the implementation phase. If the impending loss of autonomy provokes anger, the increasing autonomy in other areas should be emphasized: own working routines become more efficient which means more time for challenging, non-automatable tasks. Someone who is disappointed and does not trust the practical performance of new procedures should receive detailed and patient support in building up trust, i.e. with individual coaching. Whoever is afraid of leaving old habits and beloved routines, needs to be led gently and cautiously towards new routines, i.e. in specific workshops designed for end users, ideally at a time when users already realize that the new software is actually working.

[12] Maximilian Mense, Fail forward, but responsibly! The 10 Common Pitfalls in Legal-Tech-Projects – Wie Legal Tech Projekte gelingen (können), Rethinking Law, 1/2020, pg. 22..

The following set of measures could be suggested by a change manager:

- User-specific trainings: allow for small groups and a user-specific approach in software-trainings instead of a one size fits all-strategy.

- Encouragement: encourage critical minds to speak up and allow a controversy in specifically organized meetings to share feedback on how to work with the software.

- Ambassadors: convince a little group of the advantages of the software and let the group convince the other users.

- Learning-tandems: let the users form tandems consisting of more and less technophile users – this can strengthen individual relationships across departments and generations.

- Internal help desk: set up an internal help desk composed of energetic, convinced, and skillful members of the staff to lower the threshold when looking for help.

- One-on-one meetings: If individual users show high level of resistance offer one-on-one meetings for detailed explanations (including background information – "why do we do it this way and not another way?").

- Convincing stories: find and tell success stories that convey a three-dimensional understanding of the project's positive effects.

Even though these measures and actions are important to get everyone on board, there is a risk of wasting time and energy to overcome very few, individual reservations instead of focusing on the change process and supporting those who are willing to engage in it. Therefore, it is important to sustain the pace in spite of the doubters and promote change with the help of the motivated volunteers.

"Now we use the former archive room as an office– this made the advantage of digitalization quite graspable for all staff members."

- Sibylle Günther, BRP Rechtsanwälte

"Do not focus too much on the (usually few) people who resist but put an emphasis on motivating the people who are willing to give it a try. This will help you to keep focus."

- Carine Kesteloot, VDV Advocaten)

G. Summary

Introducing or changing software is a challenging and complex process. At the same time, it is an opportunity, not only to become a more efficient and modern law firm, but also to grow together as a team and to recreate a team spirit by improving workflows together. It is this team spirit that helps to overcome the challenges associated with software implementation processes. Everything is easier when it is fun: ideally, people fall in love with the software and start pushing the implementation process by themselves. Playful competitions can add another motivating aspect.

When initiating a software change, the mindset is crucial: change is not a film with a beginning and an ending. It is a series with many seasons, and it is almost never fully accomplished. Rather, it can lead to new questions and provoke other change projects in other areas. It can be the start of a whole strategy process turning the law firm upside down. That is why it is even more important to take one step at a time and to carefully structure the process.

"The software can be the spine of the law firm, connecting all the departments around a common process, a use with a common denominator."

- David da Silva. Elicio Consultina

H. Appendix: Interviews

Jeroen De Man: Communication matters and should be institutionalized – the Internal Communication Officer

Wolters Kluwer: Jeroen, as the founder of De Groote - De Man, you are looking back on seven years of continuous digitalization. Meanwhile, your firm operates with approximately 30 lawyers and only two and a half office management positions. This ratio is quite extraordinary and is the result of numerous successful change processes. How do you go about organizing change?

Jeroen De Man: Having decided what will be the next step on our way to further digitalization, the most important ingredient of a successful implementation is always careful preparation. And the main element of this preparation must be to place yourself in the position of the user and to ask yourself: what would be my personal issues? This usually leads to a change of perspective. When we prepare the implementation of a new software or software component, we always want to make sure that we have a feeling for the questions – and we try to already produce some of the answers. Preparation also means to communicate only when you are ready.

Wolters Kluwer: Textbooks on change management tend to be quite unspecific when communication is concerned: the widespread recommendation is to communicate as much as possible, but in practice, you might wonder what this actually means. Would you share your experience with us?

Jeroen De Man: Of course. It is a big challenge for a change project if the impression occurs that the change-triggering software does not work properly. Then, the atmosphere quickly deteriorates, the new software is a convenient scapegoat. Therefore, we try to explain every step that we make, especially the why, and we make room for questions and for doubts. In fact, we have recently established the function of an "Internal Communication Officer". She is not a partner and her role is to take care of and to review all of our internal top down communication following the question: is there room for doubt, can there be a misunderstanding? This way, we focus not on quantity, but on the quality and precision of change communication. We started to do that with the emergence of the COVID-19 pandemic as there were a lot of questions and we had to react. And we are very happy to have her: contrary to what one might think, lawyers are not experts for communication matters, and we do benefit from communication expertise, especially in states of insecurity.

Gereon Abendroth, Tobias Heining: How to conduct a careful pain point analysis from within the firm

Wolters Kluwer: Gereon, Tobias, your main field of practice is to develop and implement legal tech solutions at Osborne Clarke. What is the usual starting point of change projects?

Gereon Abendroth: In contrast to what a frequent impression might be, the implementation of a new software tool is not the beginning of a change project. Change projects begin much earlier – they start when our management board questions parts of our business model.

Tobias Heining: Yes, exactly, it is hard to say when change actually begins. We are permanently trying to digitalize our services. Sometimes, we realize that digitalization of one workflow opens a door to a completely new facet of a business model or creates a connection between two services that we had not seen before.

Wolters Kluwer: So, change begins in the think tank and is then carefully rolled out?

Gereon Abendroth: Yes and no. Yes, we do have a think tank that is composed of different legal and non-legal functions and is constantly checking our potential for digitalization. And at the same time no, I would not say that change begins inside a closed box. On the contrary, we have tried to institute a change-friendly mindset over the whole firm with a gamification approach.

Wolters Kluwer: How did you do that?

Gereon Abendroth: We thought it a good idea to make use of our firm's competitive spirit and created an innovation hub. The question was how problems in our own everyday work or in the work with our clients could be better solved by using software. Everyone in the firm was allowed to participate and join a team of people working on a problem they had identified. We were very pleased to see that more than 130 people from all units participated in the competition. In the end, we had almost 30 teams present their ideas in short video pitches. Then, everyone in the firm could invest "Osborne Coins" into the idea they liked most. We had set out a budget for the winner project to be realized. Now, we have a new tool for coordinating pitches that our business development is very happy with.

Wolters Kluwer: What did you learn from this initiative?

Gereon Abendroth: In essence, we learned two things: first, if you want a thorough pain point analysis that comes from within the firm, ask the users directly and give them an incentive and some leeway to describe the problem from their point of view and to work out a solution. And second, try to find a way to also involve those who do not actively participate. In our approach, it was the crowdfunding idea which guaranteed that everyone would at least take a look at the video pitches. As a side effect, this project really strengthened collegial bonds.

Design thinking teaches us that it is always beneficial not only to put yourself into the shoes of a software user or a client, but to actually ask the person directly.

Tobias Heining: Also, this method allows you to detect and focus on the real problem you are trying to solve. In many situations, we are anticipating what the problem is because we are focusing on the most obvious effects while overlooking the actual cause beneath the surface.

Gereon Abendroth: When I hear someone in a project team say, "we have considered all perspectives", I tend to think that this might be a very lawyerly "déformation professionelle" – that we think we already know what another person wants. Instead, we should directly involve those who are concerned.

Wolters Kluwer: When you experience resistance against change projects, what is usually the reason and how do you deal with this?

Tobias Heining: First of all, people usually do not resist change out of obstinacy, they rather think that they have already found out what works best for them and that they cannot become (even) more efficient with the help of software. When this is the case, there is only one way to overcome resistance: communicate, listen, explain and - above all - let them practically experience how it works. In the discussions with people who resist change (and you will find them on all hierarchical levels) you have to shift the focus from the liberties they are afraid of losing to the benefits they will get from giving a new software solution a chance. And you have to help people gain self-confidence in accepting and adapting to new way of doing things. In the end, I am convinced that digitalization should free us from burdensome tasks and help us to concentrate on more challenging and joyful matters.

Gereon Abendroth: I fully agree.

David da Silva: Change is not imposed; it is built and accompanied over time thanks to a positive narrative

Wolters Kluwer: David, you have been advising law firms in change projects for more than 20 years. According to your experience, what does it mean for a law firm to implement new software?

David da Silva: Changing software is like moving into a new office building – with all its ups and downs. This means that you should carefully form a positive narrative. If everyone moans about having to leave a beloved building, then the whole project will lack a positive spirit. When, on the contrary, people welcome the thought of moving into a new building and look forward to more space and more light, then they might also start to like the idea of leaving old habits behind and making the most of the opportunity to rearrange their environment according to their taste. This is what the future users of the software should feel, and this is the objective of the project owner.

Wolters Kluwer: This is an interesting analogy. Why then would you say those relocations sometimes fail, even when they are framed with a positive narrative?

David da Silva: There is a very simple answer to this question. In my experience, the main reason for a software implementation process to fail is a mismatch between those who choose the software and those who will use it in the end.

Wolters Kluwer: Could you please explain this a little further?

David da Silva: Sure. Usually, there is a team that defines the requirements that a software ought to fulfill. And unfortunately, this team is usually small, not representative of all the firm's professions and it will formulate those requirements from its own point of view. A financial director will look for a reporting tool that makes his life easier, the partners will make a choice according to their preferences that might not be a good solution for their associates or the paralegal staff. And what makes this even worse is the fact that they choose depending on what they are familiar with and what the law firm already possesses. But they do not need the same thing again, they need something better, something that helps them develop their productivity, facilitate new operational process implementation, and cover client demands that are just about to emerge.

Thus, a software needs to be chosen by a team representing the whole law firm. The most important perspective within this team is the one of the future users. Neither the partners nor the IT-people should play the leading role in this stadium: The partners will not necessarily be those who will use all the modules of the software, for example the creation of files or the management of deadlines. And the IT-department should have its say but later on, answering the question which of the preselected tools is in accordance with the safety regulations and IT environment. And this team should accompany the whole process of implementation.

Wolters Kluwer: So, the first source of failure can be the selection process. If, however, the law firm manages to choose an adequate tool, what else can cause failure?

David da Silva: Choosing a new software is much like buying a car. You should be extremely focused on the users' needs, especially for the training. A car driver who listens to music from his phone and just needs to know how to set up a Bluetooth connection will soon be bored if you explain the different functions of the radio to him. And even worse: he will immediately think that he cannot trust you as an instructor and will lose attention (and then probably miss important aspects of the training). To put it briefly: not everyone is using the tool in the same way. Out of the 100 functions of a new software, a good training will only explain those 20 that are relevant for a specific user group – and for a different user group, 20 other functions.

Wolters Kluwer: Now we have looked at sources of failure. How about the positive potential of implementing new software for law firms?

David da Silva: There is some obvious potential lying in the software itself: digitalization will generally help us to get rid of processes that nobody liked and to focus on interesting tasks instead.

Besides this obvious factor, software implementation is a great opportunity to recreate a team spirit and to share a process of improving together. Different departments within the same firms tend to have different processes and often the processes are also different within pools of professionals. This is why it is important to bring everyone together on a common process to gain efficiency. Involving a consultant makes sense because a consultant knows what works outside and can suggest process modifications more easily than somebody with subordination ties within the firm.

Finally, the implementation of the software is not the end. We must continue to cultivate a spirit of innovation within the law firm to find or develop the most suitable processes by using existing features and developing them in collaboration with the software vendor. Let me bring this to a simple formula. Software implementation in law firms: this is not a film, this is a series.

Interview Partners

Jeroen De Man

Partner and Founder

De Groote - De Man

Gereon Abendroth

Partner and Head of Innovation
Osborne Clarke GmbH

Managing Director
OC Services GmbH

Tobias Heining

Director Business, Clients & Strategy
Osborne Clarke GmbH

David DA SILVA

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As a mediator and negotiation consultant, she offers a well-structured dispute resolution practice and effective negotiation support, focusing both on the public and business sectors. Moreover, as a supervisor, she supports individuals and groups in processes of self-reflection and transformation. For mediation, negotiation and conflict management, Elena Mika also works as a trainer and coach.