Global Privilege and Professional Secrecy Guide - Germany

07 - Artificial intelligence

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# Does the law of privilege or professional secrecy protect inputs by lawyers into generative AI tools and the resulting outputs?

In December 2024, the German Federal Bar Association issued guidelines concerning the use of generative AI by lawyers. The guidelines point to the fact that the use of nonconfidential AI tools entails the risk that lawyers violate their obligation to maintain professional secrecy. When using generative AI tools, lawyers have to ensure that they do not divulge client information. In addition, inputting information into generative AI tools would most likely be regarded as providing the respective information to a third party so that privilege no longer applies (see section 4 above).

The guidelines of the Bar Association also state that, due to their professional duties, the lawyer is obliged to carefully review the outputs of generative AI tools. As a result of the review, the outputs are protected in the same way as legal advice provided by a lawyer without the assistance of AI.

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