Effect of the pandemic in the training of the lawyer and lawyer employment

Efecto de la pandemia en la formación del abogado y el empleo del abogado

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Abstract

The aim of the article was to explore the challenges which people encountered within deployment for lawyer job and working as a lawyer during the quarantine, transition to distance learning and work, as well as to formulate author's proposal. During the study was used dialectic method of cognition of legal phenomena, method of rational criticism and forecasting. The article analyzes various problems of occurring during distance learning, proposed ways to solve them, offered forms of learning after lift of quarantine restrictions and draws attention to the need to leave distance learning for certain categories of the students. It is proposed to improve legislation in relationship with information law, IT legal regulations, protection of personal data. Attention is also drawn towards the need to study the influence of distance learning and work on mental and physical health of the people.

Keywords: distance education/learning, distance work, lawyer, pandemic, quarantine.

Resumen

El propósito del artículo fue investigar los desafíos que enfrentan las personas para obtener la profesión de abogado y el desempeño del trabajo como abogado en relación con la introducción del confinamiento y la transición a la educación y el trabajo a distancia, así como formular propuestas de autor. En la investigación se utilizaron el método dialéctico de cognición de fenómenos legales y el método de crítica racional y pronóstico. El artículo analiza las causas de diversos problemas en la educación a distancia, sugiere formas de resolverlos, presenta propuestas sobre las formas de educación después de la abolición del confinamiento y llama la atención sobre la necesidad de dejar la educación a distancia para ciertas categorías de estudiantes, se propone mejorar la legislación que regula las relaciones en materia de información, ley de tecnolog ías de la información, protección de datos

personales. También se llama la atención sobre la necesidad de estudiar el impacto del aprendizaje a distancia y trabajar en la salud mental y física de las personas.

Palabras clave: educación a distancia, trabajo a distancia, abogado, pandemia, confinamiento.

1. Introduction

Mankind has not yet encountered such large-scale of pandemic as in 2020. The pandemic has made adjustments to the educational process around the countries in the world and forced to move them to distance learning. However, differences between living standards have intensified the problem of different access to education.

Scientists surveyed 210 students and teachers in India about their attitudes about distance learning and came to next results:

> The study through the online survey reflected as people felt that the face to face interaction can buildthe confidence of learner, however ICT based education could help to explore the new edges of education. Most of the people said that online education has less exposure to real-time implementation for practical knowledge. ... During the investigation, the zoom app was widely used for online education, and the users were concerned about data security and privacy. Poor internet connectivity, student's learning estimation, and lack of concentration during online classes are the major problem faced by the teachers and students. … There were 51.43% of participants never used information communication technology based education before the COVID-19 pandemic that revealed the lack of motivation, training, and engagement of students and teachers (Kumar, Singh, Bhatnagar, Gupta, & Upadhyay, 2020: 7710).

Tools play important role in assimilation of material by students. These include videoconferences, Skype, webinars, Youtube channels etc. Scientists conducted a survey of 50 experts – employee of higher educational institutions about possibilities of videoconferencing in educational and scientific activity, and what preliminary work is needed to carry it out.

> Becauce humans receive most of the information visually, that is why visual contact with a virtual audience must be maintained to create a pleasant atmosphere and conditions for open communication. It is worth mentioning that distance technologies and their innovative tools will certainly be integrated into the educational process and modify it. At the present stage, this process has the following characteristics:-the advantages are determined by the low cost of maintaining; the absence of any geographical and time limits; the great possibilities of using multimedia materials; mobility, a wide range of means of control; easiness of updating content and flexibility.-the constraints are characterized by the duration of the initial development; requirement of a certain level of information

competence, modern technology and changing of the general culture in the field of education (Golubeva, Ulanova, Kurenkova, Kuprina, Shvetsova, Dmitriyev, 2020: 4238-4239).

Teachers have different opinions about students turning on their cameras during distance learning.

> Emergency remote education has also produced physical problems in students, like eye pain, headache and back pain. Anyway, without a doubt a song sanction that affects mental health and pedagogical interactions in the classroom. In summary, the results show that pedagogical interactions favor passivity of the students, since there is little dialogue between the teacher and the students. Because of this, the cameras tend to be off. The reasons that argue that students are directly related to «Zoom fatigue», «classes in slippers »and structural problems of connectivity, physical health and mental health (Elgueta, 2020: 6).

None the less important is the preservation of electronic documents used in the educational activities and work of a lawyer. Given that this is a huge amount of information, reliable storage is a must have.

> Modern cloud service providers allow you to replace existing data centers, servers, and software applications of higher schools with a "cloud" presence, eliminating thetraditional "physical" presence of this infrastructure in higher education. … The use of cloud computing capabilities in the work of higher education institutions allows not only to structure information and make it available at any time for all participants of the educational process, but also contributes to the organization of rapid collaboration of students in the framework of the project at a distance from each other (Vaganova, Chelnokova, Smirnova, Mukhina, & Ponomareva, 2020: 4846-4847).

Even before the pandemic people actively communicated through social media. With the transition to remote form of education, social media has been since more actively used for educational purposes and communicating between students and teachers.

> The majority of the students think that ease of use has impact on cooperative learning and can increase students' educational achievement. Statistics also show that this variable positively influences other areas, such as interactions between research students and their lecturers and supervisors, the exchange of information, cooperative learning, and knowledge sharing between research students and their lecturers and supervisors (Alhussain, Al-Rahmi & Othman, 2020: 2594).

However, social media is just a resource, which can be used both for educational, or even other purposes, which may be even criminal. Scientists warn of abuse on social networks and vulnerable sites.

The pursuit of the rapid and inexpensive development and sale of educational services and products leads to many problems -the use of false, fake or inferior content, theft of intellectual property, plagiarism, uncontrolled spam, identity theft and others. Unliketheunfairtrade in ordinary productsand services, which harm only a few members of the society, online training affects large community groups of working age (Kasakliev, Cheresharov, Grancharova & Hadzhikoleva, 2020: 2582).

Social media, internet resources, interactive tools are just the means, for which results people use them, will have such results. Due to the lack of strict control, human qualities (conscience, decency, tolerance, friendliness) come first. Humanity lives in the Internet space and will use IT technologies, so it is important to develop a strong security system.

The pandemic has made its adjustments not only in the activities of educational, but also the professional activity, including the work of a lawyer. Employers have faced the problem of doing business under severe quarantine, which has made near impossible for employees to perform their duties in a normal way. For lawyers, attorneys, notaries, judges, and other legal associated people, quarantine restrictions also changed performance of their official duties as usual. Given that the work of courts is associated not only with the consideration of civil cases (consideration of which has been slowed down in a certain period), but also with the consideration of criminal cases (the court must promptly decide on detention, application of other precautionary measures, etc.), functions of a lawyer in term of suporting the case in court became difficult. Employers reviewed the lawyer's job functions and automated it as much as possible.

Automation of processes in different areas has accelerated due to need to comply with quarantine measures. Scientists paid attention to the following.

The unique dimension provided by human senses, is gettingreplicated scientifically, bringing far more accuracy. This is surely going to disrupt the human dynamics within industry, causing a potential displacement (employment) of humans. Such future employmentwould mean Human Resource professionals would have to work on creating new chemistry in the organizational culture, where both human intelligence and AI, not only coexist but also compete and collaborate. … The truth is that technology is moving ahead on many skills, whichwas propriety of human earlier, on the other hand creating demand for new skills. Tobe future ready, organizations need to prepare themselves throughthe employmentstrategies of skill enhancement, new skill development and re-skilling of its human intellect, making these an inseparable part of business processes (Khatri, Pandey, Penkar, 2020).

One of the examples replacing human with artificial intelligence is chatbot. Scientists are considering help of chatbots in a professional and educational area.

Chatbots represent a new type of human-machine interface in natural language. … Chatbot technology can be seen as an important innovation for e-learning: in fact, they are proving to be the most innovative solution to bridge the gap between technology and education (Zahour, Benlahmar, Eddaoui, Ouchra, & Hourrane, 2020: 2479).

Chatbot is useful for providing standard reference information, makes it easier for a person to search the needed information in a large array of information on the website. However, chatbot cannot replace human communication, advice, clarifying questions, alternative solutions, understanding and support that people receive during conversation with a person, not a chatbot.

2. Issue

The pandemic has threatened the normal functioning of entire countries in various fields, including education and providing legal services. The challenge of a pandemic needs to resolved not only by finding alternative options for performing identical functions, but also by preserving (preferably improving) the quality of the results received. In addition, the impact of working and learning conditions in the new environment on people's physical and mental health is important. This article raises a number of problems in the area of education, which are associated with the introduction of distance learning (problems of technical, organizational, psychological, medical areas) and suggests ways to solve them. It also raises questions in the work of lawyers in the new environment, emphasizes the need to develop and improve legislation in the field of regulation of IT technologies and related areas.

3. Methodology

The article is based on research by scientists from around the world on the impact of the pandemic on educational processes, and the impact of digitalization on employment. The study used the method of rational criticism in the analysis of scientific works, the method of forecasting was used in the formulation of author's proposals. the study also used a dialectical method of cognition of legal phenomena.

4. Data analysis and results

In this article we will consider two areas: distance education and distance work as a way to continue the development and formation of a lawyer in non-standard conditions.

5. Distance education

Distance education is a solution for situations where quarantine measures are applied. It is often noted, that the world will not be the same and distance education partially will remain after the quarantine. Researchers have drawn attention to the advantages and

disadvantages of distance education. It is important to understand what the problems are and how they can be solved. The author divides the problems into different areas, which we will consider.

Technical issues: lack of quality internet or hardware, inability to work with new software. With unresolved technical problems, the work cannot be productive. At the same time, problems can be solved in different ways. Inability to work with new interactive tools is eliminated by participation in appropriate trainings or self-education. As for technical problems, in the absence of sufficient financial resources in the family, the issue can be solved by obtaining a loan to solve technical problems, or cooperation with others to purchase the hardware, obtain quality Internet connection, and so on.

Issues in organizing: the teacher must rationally distribute the workload of different types, given that students will perform tasks in electronic form. With the introduction of quarantine, all training went online, which led, first of all, teachers to review work programs, methodological literature for adaptation to new needs. The need to create presentations on lecture topics, the use of other resources and tools contributed to professional development of teachers. The institution must also inform students of the new requirements of the educational process and help students organize their work. How deeply the teacher should be involved in helping the student's self-organization depends on the teacher (his personal attitude to students, admiration for the end result, for the quality of the student's work, etc.).

Issues in psychological area: the success of distance learning depends on the discipline, attitude to learning in new conditions and understanding that because of the form the received knowledge should not deteriorate in quality. Distance learning grinds self-discipline - a psychological attitude to learning, to the fact that the teacher is not able to control as in the classroom and the student's legal consciousness must control it.

Teachers have a different attitude to whether the students camera is on or off during class. Does it affect discipline? In most educational institutions, the switched off camera is considered as absence from classes. However, turning on the on camera (as if a student is present during an offline audience) does not indicate that the student is listening to a lecture rather than doing his or her own business or (when online) is playing a computer game on a nearby monitor. Students may not turn on the camera for various reasons: the desire to sleep or go to other room, but create an illusory presence in lectures, psychological discomfort in front of the camera, complexes about their own appearance, clothing, renovation in the apartment, various family relationships and inquisitive relatives can put student in an awkward position, pets, technical reasons and more. Some of the reasons can be eliminated without unnecessary hassle - to install an attractive background screensaver, choose a classic outfit, train the camera speech, choose an attractive angle. If the family has a tense relationship and other family members do not allow the student to focus and be alone at the time of the study, then under good weather, you can be on the lecture in the park (not very convenient, but there are no nearby conflicting relatives).

In order for a student to explain the real reasons for turning off the camera, it is necessary that he has confidence in the teacher and a desire to discuss this issue. In my practice, there was an offline situation when a student explained to me that he had a problem speaking in front of classmates and he asked to give him independent work or listen to him individually after class. I suggested that we fight with his phobia together, and it was agreed that he would supplement a few sentences on various issues in class. During the classes, I emphasized, as student N have rightly remarked during other speeches, and of course I've mentioned the speeches of other students as well. With each subsequent lesson, student N became more and more involved in the discussions, and after a few sessions there was no difference between his speeches and the speeches of other students (at least in my classes). A student who does not turn on the camera is not always a student who has bad intentions, and not always a student who is willing to openly explain the reasons to the teacher.

Also, distance education involves increasing the time spent by students and teachers in front of the monitor, which can lead to psychological fatigue. The onset of psychological fatigue is influenced by a person's mental attitude to online communication (into the camera).

Problems of medical character: with the continued risk of psychological fatigue, emotional burnout during the time spent by the student and the teacher in front of the monitor increases the load on vision and musculoskeletal system. Therefore, there is a need to separate study of the consequences for health (physical and mental) from distance learning.

Allowance to distance learning for people with health problems requires a separate study. However, for such people, on the contrary, distance learning may be more useful because it will make education more accessible. Educational institutions should develop an educational direction for people who cannot get an education offline (not only because of problems with their own health, but, for example, due to the need to care for a sick family member, etc.) and introduce for distance learning. This requires proper regulation of the list of categories of persons who can receive education at a distance, and the list of specialties for which acquiring knowledge is possible with distance learning.

Also, with the end of the quarantine, it is advisable to partially leave distance education in those subjects where teachers use electronic and paper sources of information in lectures. For most disciplines, the right to lecture remotely is acceptable and even appropriate, as not all classrooms are technically equipped and lecturing via online conference allows the teacher to display the required court decision or law and all students simultaneously read the document, which can't be achieved in the classroom. After all, one student can already read the document twice and get bored, and the other cannot download the document yet, which makes it impossible for everyone in the audience to quickly and efficient process the document and move on.

However, it is not necessary to save up on teachers and it is not necessary to put all of the student groups into one classroom for reading the lecture. This reduces the quality of the lecture, because the student listens passively (like a radio), when reading a lecture to the classroom number of students, the teacher has more opportunities to capture students, discuss with a larger percentage of students and students have more opportunities to ask questions. Training for 500 people and lecture for 80 people are different. It is not necessary to turn lectures into trainings so to not worsen the quality of education.

Subjects where physical objects (for example, in criminology) are studied during lectures and practical classes are necessary for face-to-face classes, as future lawyers must acquire knowledge based on the realities they will encounter in practice. The highest quality computer designs will not convey one hundred percent of the situation, the details that the investigator will encounter in the work. Although computer development is helping law enforcement agencies to solve crimes every year, a lawyer will work not only with computers and robots, but also with people and things. Therefore, the learning process should be as close as possible to actual real-life practice.

b. Distance work

Features of remote work of the teacher are considered in the previous paragraph. In this section we consider the remote work of law related professions (judges, prosecutors, notaries, lawyers, jurists).

The developing use of the Internet in the work of a lawyer took place before the pandemic. Quarantine restrictions have accelerated the process of greater automation and autonomy in work. Due to remote work, electronic documents became more used.

For a lawyer there is an opportunity to develop such areas as information law, IT law. The issue of personal data protection, etc. has become hot topic. However, in addition to the benefits for lawyers, such changes have created new challenges, because in case one party violates the terms of the electronic contract, the lawyer will have to prove in court the violation of his client's rights, including electronic evidence (electronic contract, pre-trial electronic correspondence, electronic signature and belonging to its signatory, etc.). It is therefore important that national legislation clearly regulates the procedure for working with electronic documents.

With the start of quarantine, most businesses switched to electronic document management, which increased the demand for qualified electronic signatures. It is clear that quarantine has made its adjustments for each country, as each country has its own level of development, and, for example, in Ukraine (based on the experience of which the author of this article relies mainly) and in France before the pandemic there was a different level of implementation in education and production of information technologies processes.

Given the fact that there is a relationship in disputes in which the limitation period has lasted or is absent (time limit for applying to court for protection of the infringed right), there is a need to ensure long-term preservation of information in electronic format and protection against viruses, which can block or destroy information that does not have a paper substitute.

If for lawyers-contractors, the transition to distance work was acceptable (it even has a number of advantages - no need to spend time traveling to the office, working in a comfortable environment, although it requires more self-discipline and responsibility), then for lawyers who are accompanying cases in the courts, remote work has become a bigger challenge.

Lawyers and prosecutors found it difficult to handle cases that required a mandatory court appearance. In addition, the pandemic has led to the abuse of rights by parties, in particular if the case needs to be "delayed".

Thus, in one criminal case, during the trial, the defendant's lawyer initially referred to the defendant's ill health and asked to postpone the hearing. When the doctor summoned to court confirmed that the accused was feeling well and that the hearing could be resumed, his lawyer said that he and his wife had taken a COVID-19 test and that his wife had tested positive and that he should go into isolation immediately. The court was forced to take a break, because the lawyer left the courtroom and the accused was left without a lawyer. (Decision № 465/8026/18, 2021)

With the establishment of quarantine restrictions, the number of online trials has been increased. At the same time, court hearings in which parties from home join online court hearing, have become popular. The problem for a lawyer in remote support of the case is to get acquainted with the evidence, which must be examined directly, and not in a photo (even in high-quality 3D format). What was problematic for the court and the participants is the availability of material and technical base. And for certain categories of cases, where the judge has to make sure that the person's true will is expressed in cases that are inseparably related to the person (for example, some family disputes), a face-to-face meeting is important. It is unlikely that the transition to remote work in law enforcement, court, prosecutor's office will be effective (even if it will be possible in the future). After all, it is important for the justice system not to actually consider the case, but to establish the actual circumstances of the case and make a fair decision.

It is difficult for notaries to work remotely, because in order to certify documents they need to verify the validity of the original documents, the authenticity of the will of the person, which cannot be guaranteed by videocall.

Bailiffs can work remotely if an arrest or other action is required via the Internet. However, the actions that need to be taken within visiting the area can only be postponed until the quarantine is eased or taken with increased security measures.

Cybercrime also developed during the period of increased quarantine restrictions. After all, in connection with the online business, information has become more accessible (including that which contains personal data) compared to offline, when a lot of information was on paper. Lawyers investigating cybercrime cases are opening up new types of crimes to study and work with.

Whatever work is done by a lawyer (judge, prosecutor, notary, bailiff, etc.), remote work for some processes during the pandemic may be forced to take place in a admissible amount, in the off-quarantine period - in appropriate amounts.

Remote work creates for the lawyer the need to organize the workplace (not always appropriate "appearance on the air" of family members or pets), good internet connection, self-discipline and self-control. Appropriate technical devices, additional costs for electricity are also required (it is possible to provide in the employment contract compensation by the employer for such costs).

Regarding the replacement of lawyers with chatbots, today it is advisable to use chatbots to provide standard answers to standard questions, which will free lawyers from routine work and allow them to focus on the creative aspects of the legal profession.

In distance work as well as distance learning, it is important that the end result is not inferior in quality to the results achieved by lawyers in offline work.

6. Conclusion

Distance education is suitable for special groups of people with health issues, other social problems and distance learning will allow them to get an education.

After the end of quarantine restrictions, it is necessary to leave a mixed form of education, conducting detailed monitoring of the content of disciplines and through which media students are being taught, and whether those media can be reproduced on the screen without losing the quality of the learning process.

There is an important need in the improving the legislation regarding the mechanism of regulation of relations for the usage of electronic documents, increase the protection of personal data privacy and to determine the relevance and admissibility of electronic evidence in court.

Before making a final decision about the form of education, it is necessary to conduct a large-scale study involving psychologists and other professionals on the impact of distance learning on the mental and physical health of students and teachers. And only after receiving the results of scientific and practical substantiation of the conclusions to

decide on the form of education. Human health (mental and physical) is always the highest priority.

7. References

Alhussain, T., Al-Rahmi, W.M., & Othman, M.S. (2020) Students' Perceptions of Social Networks Platforms use in Higher Education: A Qualitative Research. International Journal of Advanced Trends in Computer Science and Engineering, 9(3), 2589-2603, DOI: 10.30534/ijatcse/2020/16932020

Decision № 465/8026/18, February 10, 2021. Recovered from https://reyestr.court.gov.ua/Review/94884591

Elgueta, M.F. (2020) ¿Hay alguien ahí? Interacciones pedagógicas con cámaras apagadas en tiempos de pandemia. Revista Pedagogía Universitaria y Didác Tica del Derecho, 7(2), 1-7, DOI 10.5354/0719-5885.2020.60556

Golubeva, T.I., Ulanova, K.L., Kurenkova, E.A., Kuprina, N.K., Shvetsova, O.Y., & Dmitriyev, V.A. (2020) Video Conferencing and Webinars: Integration of Online Tools in Traditional Forms of Educational and Scientific Activities. International Journal of Advanced Trends in Computer Science and Engineering, 9(4), 4235 – 4240, DOI: 10.30534/ijatcse/2020/10942020

Kasakliev, N., Cheresharov, S., Grancharova, D., & Hadzhikoleva, S. (2020) Social media in Training -Risks and Challenges. International Journal of Advanced Trends in Computer Science and Engineering, 9(3), 2582-2588, Recovered from http://www.warse.org/IJATCSE/static/pdf/file/ijatcse15932020.pdf

Khatri S., Pandey, D., Penkar, D. (2020). Artificial Intelligence and Future Employment. International Journal of Advanced Trends in Computer Science and Engineering, 9(4), 5272-5277, Recovered from http://www.warse.org/IJATCSE/static/pdf/file/ijatcse158942020.pdf, DOI: 10.30534/ijatcse/2020/158942020

Kumar, G., Singh, G., Bhatnagar, V., Gupta, R., & Upadhyay, S. (2020) Outcome of Online Teaching-Learning over Traditional Education during Covid-19 Pandemic. International Journal of Advanced Trends in Computer Science and Engineering, 9(5), 7704-7711, DOI: 10.30534/ijatcse/2020/113952020

Vaganova, O.I., Chelnokova, E.A., Smirnova, Z.V., Mukhina, M.V., & Ponomareva, E.Yu. (2020) Organizing E-Learning using Cloud Technologies. International Journal of Advanced Trends in Computer Science and Engineering 9(4), 4844-4848, DOI: 10.30534/ijatcse/2020/94942020

Vaganova, O., Ilyashenko, L., Smirnova, Z., Bystrova, N., & Kaznacheeva, S. (2019). Students' creative abilities development in higher educational institution. Amazonia Investiga, 8(22), 701-710. Retrieved from https://amazoniainvestiga.info/index.php/amazonia/article/view/822

Zahour, O., Benlahmar, E.H., Eddaoui, A., Ouchra,, H., & Hourrane, O. (2020) Towards a Chatbot for educational and vocational guidance in Morocco: Chatbot E-Orientation. International Journal of Advanced Trends in Computer Science and Engineering, 9(2), 2479-2487, DOI: 10.30534/ijatcse/2020/237922020