

**General Report of the 1st Study Commission
of the International Association of Judges (“IAJ”) – 2024
“THE EFFECTS OF ARTIFICIAL INTELLIGENCE ON THE JUDICIARY”**

By September 2024, when this report was written, responses to the Questionnaire had been received¹ from the following:

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|------------------------|------------------------------|
| 1. Angola | 21. Liberia |
| 2. Argentina | 22. Liechtenstein |
| 3. Armenia | 23. Luxembourg |
| 4. Austria | 24. Mexico |
| 5. Brazil | 25. Morocco |
| 6. Bulgaria | 26. Netherlands |
| 7. Canada | 27. Panama |
| 8. Cyprus | 28. Paraguay |
| 9. Denmark | 29. Philippines |
| 10. Dominican Republic | 30. Poland |
| 11. England & Wales | 31. Portugal |
| 12. Finland | 32. Romania |
| 13. France | 33. Serbia |
| 14. Georgia | 34. Slovenia |
| 15. Germany | 35. Spain |
| 16. Greece | 36. Sweden |
| 17. Iceland | 37. Switzerland |
| 18. Italy | 38. Taiwan |
| 19. Japan | 39. United States of America |
| 20. Kazakhstan | |

¹ The deadline to send in the responses was July 15, 2024.

In 2024, the 1st Study Commission of the International Association of Judges sent out a questionnaire on the topic of “The Effects of Artificial Intelligence on the Judiciary.” We received 39 responses to the questionnaire. The following is a general report from those responses.

Artificial intelligence (“AI”) is defined broadly as a constellation of technologies that gives a computer system the ability to solve problems and to perform tasks that would otherwise require human intelligence. AI drives many common software applications that judges are accustomed to using, including spam email filtering, spell check in word processing programs, translation applications, and search engines like Google or Bing.

AI includes many different, and often interconnected, subsets and fields, including machine learning, natural language processing, artificial neural networks, and deep learning. “Generative AI,” a specific subset of AI, creates human-like text, photos, and audio or video recordings in response to natural language prompts provided by a human.

1) Do judges in your country utilize artificial intelligence technology (“AI”), and how so?

a) If not, have judges in your country considered utilizing AI, and, if so, in what ways?

The use of AI in judicial systems varies widely across countries, ranging from no use at all to limited, experimental capacities, to more advanced applications. Where AI is used, it is primarily for administrative tasks, legal research, and document management rather than for decision-making. Common applications include speech recognition for transcription, case management systems, and AI-powered legal research tools.

Some countries not currently using AI are exploring its potential applications in the judiciary. The most commonly considered uses of AI technology include AI-assisted legal research, document analysis and summarization, case management, translation of documents, and automation of administrative tasks. Some countries are also exploring more advanced applications such as predictive analytics for case outcomes or AI-assisted drafting of routine legal documents.

Some countries have more advanced AI implementations, including systems for predictive analytics and automated drafting of routine documents. However, even in these cases, AI is used as a support tool rather than a replacement for judicial decision-making. Many countries express caution about AI use, emphasizing the need for human oversight and control. Many countries emphasize that any AI implementation should be to support judges rather than replace their judgment.

Country specific responses are set forth below.

- **Angola** – Judges do not use AI technology. All tasks are performed by human judges. The Angola courts are still fighting for a digital legal system.
- **Armenia** – Judges do not use AI technology and have not considered using it.
- **Austria** – Judges regularly use AI-powered technologies for legal research and AI-powered dictation software. In addition, the courts utilize a chatbot for citizen service inquiries on the Court’s website JustizOnline. The chatbot is able to recognize the questions presented and provide prepared answers to the public. Austria also has some automated procedures where the court’s system can automatically detect any contradictions made by a claimant in connection with an order for payment.
- **Brazil** – Brazil’s judiciary utilizes the Synapses AI platform. The Synapses platform stores, distributes, and connects AI models developed by different courts in Brazil and aims to assist the work of judges and law clerks.
- **Bulgaria** – There are no official use of AI by the judiciary, but judges are free to use the drafting tools of their choice. Some judges have considered using generative AI to draft parts of judgments that are considered repetitive, such as restating legal provisions or standards of case law.
- **Canada** – The use of AI in the judiciary is left to the discretion of each judge, with most using it for legal research, document summarization, transcription of testimony, or routine tasks like email management. Future applications of AI technology could include utilizing AI to classify and prioritize cases for more efficient case management among judges. The judiciary also anticipates that AI will enhance the management of legal files, document classification, and trial supervision through technological tools.
- **Cyprus** – Currently, there are no AI systems in place. The only computer-based system in place is an e-filing system, called “e-justice.”
- **Denmark** – Judges do not use AI technology and there are no current plans to adopt AI technology, except that there are some preliminary considerations of using AI to convert audio recordings to text, for interpretation in court cases, and to make summaries of decisions.
- **Dominican Republic** – Judges use some AI technology to enhance efficiency, speed, and free access to courts.
- **England and Wales** – Judges use AI technology, but any use must be consistent with the countries’ AI Judicial Guidance. The guidance states that potentially useful utilizations of AI technology are: AI tools capable of summarizing large bodies of text; AI tools used in writing presentations; and administrative tasks like composing emails. The guidance states that using AI technology for legal research or legal analysis is not recommended.

- **Finland** – AI technology is not used widely. In general, Finnish judges are critical and cautious concerning the use of AI when handling cases and writing judgments. The use of AI technology is not supported by Finnish IT systems. In individual cases, some judges use AI-powered search engines and translation and dictation tools. Some judges also use AI tools to write first drafts of judgments. The Finnish National Court Administration is considering using AI technology for interpretation and translation in the future.
- **France** – The judiciary uses AI for pseudonymizing court decisions before public dissemination and for directing appeals to the correct chambers. The Court of Cassation is developing an AI tool capable of detecting legal contributions to a judgment or the possible existence of divergences in case law. The Ministry of Justice is developing an AI-powered bodily injury compensation framework to improve the predictability of decisions in that area of law. On an experimental basis, an automated personal data processing device called “DateJust” was created to develop an algorithm responsible for extracting data automatically and using it to determine the amounts requested and offered by the parties. But the DateJust experiment was abandoned in January 2022 due to widespread criticism that the database was biased and dehumanized justice. Magistrates have also considered using AI technology for transcribing hearings, automated sending of invitations, a translation tool for legal documents, a civil mediation tool, a tool to calculate and monitor deadlines, and a tool for determining all applicable criminal penalties.
- **Georgia** – Judges do not use AI technology and have not considered using it.
- **Germany** – Most AI use is at the pilot project stage. AI has been considered for metadata extraction and to search and structure court files.
- **Greece** – AI tools are not used in the judicial system, except in search engines for online legal database systems.
- **Iceland** – Judges use certain forms of AI technology in their daily work, but there are no current plans to adopt AI as a specific tool to assist judicial decision-making, and such possibilities are not actively being explored.
- **Italy** – Use of AI technology is still at an experimental level. AI tools are being used for tasks like managing databases, predicting litigation flows, and improving the predictability of court decisions. Various Italian courts, including those in Bari, Brescia, Venice, Genoa, and Pisa, are testing AI systems aimed at improving the predictability of decisions in civil cases. One of these efforts is the “PredictiveJurisprudence” project, which aims to create a predictive jurisprudence platform for the analysis of specific legal cases. Additionally, efforts are being made to digitize non-digital files, develop centralized data repositories, and use AI for monitoring judicial offices and analyzing case law.
- **Japan** – Judges do not use Generative AI and have not considered using it.

- **Kazakhstan** – The Kazakhstan judiciary utilizes Digital Judicial Analytics software. The Digital Judicial Analytics software contains legal research tools that allow judges to quickly search for court decisions of interest. In addition, the software is trained to understand the essence of court decisions, compare them with each other, identify anomalies, and predict the outcome of civil cases. Kazakhstan also has software that can prepare draft court acts in cases where the judge's discretion is strictly limited by law and there is no evaluation of the evidence or jurisprudence.
- **Liberia** – The use of AI technology by the judiciary is not common. Some judges are beginning to explore using AI technology in legal proceedings, such as AI-powered legal research tools.
- **Liechtenstein** – Judges use only AI technologies that are common in everyday life, such as search engines, spell checkers in word processing programs, or translation tools. Some judges make use of specialized AI-supported tools for legal research or AI-based dictation software.
- **Luxembourg** – Judges do not utilize AI technology, but the Luxembourg judicial administration is currently using AI software to pseudonymize court decisions intended for publication. It is developing a working tool that would assist judges in drafting legal documents by automatically providing legal texts for relevant case law based on the specific context of the case at issue.
- **Mexico** – Most courts in Mexico do not use AI technology, but courts in three states (Mexico, Queretaro, and Tamaulipas) reported using AI technology.
- **Morocco** – The judiciary is currently utilizing electronic case management tools and an electronic notification system. The judiciary is considering AI technology for data processing and analysis, decision support for magistrates, such as predictive analytics and case-based recommendations, automation of routine administrative tasks, such as scheduling hearings and case management, and AI-assisted training modules.
- **Netherlands** – The IT organization of the Dutch judiciary does not support the use of AI or AI-related tools. In individual cases, there is some use of AI-powered translation and dictation tools as well as search engines.
- **Panama** – The judiciary uses AI only for the handling of electronic court files, not for decision-making. It may consider using AI technology in other ways to speed up court procedures.
- **Paraguay** – AI technology has not been implemented. The judiciary has been in negotiations to acquire AI software called Prometea, which can automatically prepare judicial opinions through the use of a supervised AI and machine learning system, but it is not yet in effect.

- **Philippines** – The judiciary does not use AI. The Supreme Court of the Philippines is considering adopting AI-enabled transcription tools and AI-powered tools for legal research.
- **Poland** – The judiciary has not adopted any AI systems. Nevertheless, many judges are in favor of having their judicial work supported by AI technology.
- **Portugal** – Judges use AI tools for the translation of documents, transcription of audio recordings, and speech-to-text dictation.
- **Romania** – Each Romanian court uses the Electronic Court Register Informational System (“ECRIS”), which is a database containing information on case files and full court decisions. ECRIS also performs the automatic and random assignment of cases. ECRIS and StatisECRIS store and process data that can generate reports. Speech2text is a program that converts speech into text with high accuracy.
- **Serbia** – Judges do not utilize AI technology. Judges have only considered using AI-powered dictation tools.
- **Slovenia** – There are some AI programs that perform automatic speech recognition in order to change voice files into written documents.
- **Spain** – There has been no official adoption of AI technology. AI is not used as a decision-making tool although some individual judges may use it as an auxiliary tool in their work. There is some debate on the incorporation of AI technology by the judiciary, weighing its pros and cons.
- **Sweden** – Some judges on an individual basis have used ChatGPT to draft decisions. The judiciary has used AI for data analysis, translation, anonymization of documents, and automatic transcription and interpretation. The Swedish National Court Administration has considered using AI to automatically summarize documents, to value disputes, review emails, sort cases, and considered specific AI tools such as DOMSIM, Mimer, Lex Inquisitio, Lexis Nexis, and ChatDOM.
- **Switzerland** – Judges use common AI-powered technologies such as search engines and online resources, but the use of AI by judges is not widespread or institutionalized.
- **Taiwan** – Judges use the following AI tools: Mandarin speech recognition for court transcripts; offline speech input software; a sentencing factor intelligent analysis system; an intelligent analysis system for electronic case files; and an intelligent customer service chatbot. The Taiwan Judicial System is considering utilizing AI to draft judgments for high-volume standard case types, such as driving while under the influence or aiding fraud. Taiwan reports that the judge must first form an opinion on the matter (i.e., “guilty” or “not guilty”), and then the AI tool will draft the judgment. Therefore, the AI system only acts as an aid in drafting the judgment and does not replace the judge’s role in decision-making.

- **United States** – Many judges use common forms of AI technology in their work, such as spam email filtering, spell check in word processing programs, translation applications, and search engines like Google or Bing. The federal judiciary has access to Westlaw Precision, which incorporates new AI-powered features into its existing legal research capabilities. For example, Quick Check Judicial allows court users to upload multiple filings to receive a comprehensive report detailing the validity of the authority cited by both parties, plus relevant legal authority that may have been omitted. In addition, some federal courts are evaluating the utility and reliability of legal research tools that incorporate generative AI technology, such as Westlaw Precision’s AI-Assisted Research or LexisNexis’s Lexis+. Unlike other generative AI chatbots (such as ChatGPT or Google Bard), Westlaw Precision’s AI-Assisted Research and LexisNexis’s Lexis+ only draw upon caselaw and legal authority from within the Westlaw or LexisNexis universe of authorities, which enhances the accuracy and reliability of their outputs, but human review is still required.

b) Is the use of AI in legal proceedings regulated?

Some countries reported that they do not currently have any regulations or guidelines governing the use of AI by the judiciary or use in legal proceedings. However, many courts, governments, and other entities have issued guidelines, rules, or regulations. Some examples of such guidelines, rules, and regulations are set forth below.

In December 2018, the European Commission for the Efficiency of Justice issued the “European Ethical Charter on the use of Artificial Intelligence in Judicial Systems and Their Environment.”² The charter includes five principles on the ethical use of AI in judicial systems:

1. **Principle of respect for fundamental rights:** ensure that the design and implementation of artificial intelligence tools and services are compatible with fundamental rights.
2. **Principle of non-discrimination:** specifically prevent the development of intensification of any discrimination between individuals or groups of individuals.
3. **Principle of quality and security:** with regard to the processing of judicial decisions and data, use certified sources and intangible data with models elaborated in a multi-disciplinary manner, in a secure technological environment.

² <https://rm.coe.int/ethical-charter-en-for-publication-4-december-2018/16808f699c>.

4. **Principle of transparency, impartiality and fairness:** make data processing methods accessible and understandable, authorize external audits.

5 **Principle “under user control”:** prelude a prescriptive approach and ensure that users are informed actors and in control of the choices made.³

On August 21, 2020, Brazil’s National Council of Justice issued Resolution No. 332. Resolution No. 332 provides for ethics, transparency, and governance in the production and use of artificial intelligence in the judiciary.

On December 1, 2023, the Consultative Council of European Judges (“CCJE”) issued CCJE Opinion No. 26 entitled “Moving Forward: The Use of Assistive Technology in the Judiciary.”⁴ The opinion states that its purpose “is to examine the advantages and disadvantages of the use of assistive technology in the judiciary.”⁵ The opinion includes “general principles related to technology in judicial systems:”

The use of technology must, above all, respect the nature of the judicial process. First, many judicial decisions are discretionary decisions, based on the particular facts of an individual case. Secondly, judges play an essential role in the development of the law. They do not merely apply fixed and immutable rules. Judges must be able to correct or add to the law if it falls short or threatens to derail the law’s application in specific cases. Technology must not step into the realm of justice. Technology must not discourage or impede the critical thinking of judges as this can lead to stagnation of legal development and an erosion of the system of legal protection. Technological tools must therefore respect the process of judicial decision-making and the autonomy of judges.⁶

The opinion also provides principles for AI use:

The central aim of these principles is to better secure effective and practical access to justice consistent with judicial independence and the rule of law. They are intended to maintain and enhance judicial legitimacy and confidence in the judiciary. The principles are as follows:

(i) **The rule of law:** technology should only be used to support and enhance the rule of law. It must therefore be designed, implemented and used within and based upon a clear, generally applicable and publicly accessible legal

³ *Id.* at p.7.

⁴ <https://rm.coe.int/ccje-opinion-no-26-2023-final/1680adade7>.

⁵ *Id.* at p. 3 ¶ 7.

⁶ *Id.* at p. 17 ¶ 90.

and ethical framework that is consistent with fundamental rights guaranteed by the European Convention on Human Rights (ECHR).

(ii) **Judicial independence and impartiality:** technology should support the judiciary in carrying out its constitutional role fairly and efficiently. Its design and operation should be subject to such safeguards, including legislation and/or rules of court, as necessary to secure both institutional and individual judicial independence and impartiality at all stages of legal proceedings. Such safeguards should be tailored to the needs of the proceedings whatever their nature. Technology should, specifically, not be used to predict an individual judge's decision-making.

(iii) **Judicial autonomy:** technology may only be used to support and assist courts and the judiciary in the proper management and determination of proceedings. Decision-making must, explicitly and implicitly, only be carried out by judges. It cannot be delegated to or carried out by or through technology. Judicial autonomy must be respected by the use of technology.

(iv) **Judicial oversight:** to maintain its consistency with judicial independence, impartiality and autonomy, judges whether through Councils of the Judiciary or otherwise, ought to be involved in the purchase, design and control of technology. They ought also to concur in its introduction and implementation. This is particularly important where the responsibility for court administration rests with Ministries of Justice or is a matter of partnership between the judiciary and the Ministry of Justice. Provision should also be made for judges to be kept up to date with technological innovation to facilitate their effective involvement and, where necessary, concurrence in the use of new and evolving technology.

(v) **Accessibility and quality:** technology should enhance and improve effective and practical access to justice for all members of society. It ought to promote access to both adjudicative justice, consistently with article 6 of the European Convention on Human Rights, as well as consensual settlement. Promoting accessibility necessarily requires technology to be of a high quality. Where access to technology is impractical, an appropriate equivalent alternative must be made available.

(vi) **Interoperability and continuous improvement:** to fully realise and promote efficiency and effectiveness in access to justice, technology should be interoperable across all parts of the justice system. It should be designed and operated so that it can be subject to continuous improvement.

Mechanisms should therefore be implemented to provide for effective user-feedback on its use.

(vii) **Piloting**: the effect of technology development cannot always be fully assessed in advance of implementation. To guard against unforeseen consequences and to also allow for a proper evaluation of technological innovation, the use of new technology should be subject to piloting before it is fully implemented.

(viii) **Non-discriminatory design and operation**: technology that supports and assists the judiciary should be actively designed and operated so that it is nondiscriminatory. It must be consistent with user-centered design and operation. Consideration of the needs of all users, whether judges, lawyers, members of the public, must be taken into account in order to ensure that the design and operation of technology by the judiciary is fair. Design teams must therefore be interdisciplinary.

(ix) **Transparency and intelligibility**: technological design must be transparent and intelligible to users. This is particularly the case where AI is used and where technology is used to assist case management and judicial decision-making.

(x) **Accountability**: the nature and use of technology should be subject to appropriate accountability mechanisms. Its design and implementation should be capable of being subject to scrutiny by the state, including legislative scrutiny and authorisation, and civic society. Its use in individual proceedings should be subject to scrutiny by parties to proceedings, consistent with principles of due notice, adversariality and judicial accountability.

(xi) **Integrity, security and data protection**: technology should be subject to effective organisational and technical measures, consistent with applicable standards required by any applicable data protection law, to maintain the integrity and security of data used by judiciaries so as to maintain confidence in, and the legitimacy of, the judiciary. Such measures should make provision for differential access controls to such data for judges, court administration, parties, legal representatives and the public.

(xii) **Openness and privacy**: measures to maintain integrity, security and data protection should not compromise the judiciary's ability to secure the publicity principle, including any valid derogation from or limitation upon it to protect privacy or other right or interest, consistent with article 6 of the European Convention on Human Rights.

(xiii) **Funding:** technology, its introduction, maintenance, use by court administration and judges, and updating should be adequately funded throughout its lifespan. Financing should support its effective design and implementation. It should also be adequate to support its effective maintenance by the court administration and continuous improvement. Mechanisms must therefore be in place to provide for the effective capture of operational data to facilitate the assessment of the operation and effect on the judiciary and court users of technology by judiciaries and those responsible for court administration.

(xiv) **Training and operability:** to ensure that technology can be used as efficiently and effectively as possible, the judiciary and court administration should be properly informed about and trained in the nature and effective use of technology used by the judiciary.⁷

On December 12, 2023, England and Wales released judicial guidance entitled “Artificial Intelligence (AI) – Guidance for Judicial Office Holders.”⁸ The guidance was developed to assist judicial office holders, their law clerks, and other support staff in relation to the use of AI by setting out “key risks and issues associated with using AI and some suggestions for minimizing them.”⁹ The guidance states: “Any use of AI by or on behalf of the judiciary must be consistent with the judiciary’s overarching obligation to protect the integrity of the administration of justice.”¹⁰

The guidance sets forth seven points for the responsible use of AI by courts and tribunals, which are summarized below:

- 1) **Understand AI and its applications** – Before using any AI tools, judges should ensure that they have a basic understanding of their capabilities and potential limitations (for example, that public AI chatbots do not provide answers from authoritative databases).
- 2) **Uphold confidentiality and privacy** – Judges should not enter any information into a public AI chatbot that is not already in the public domain. Judges should not enter information which is private or confidential.
- 3) **Ensure accountability and accuracy** – The accuracy of any information a judge has been provided by an AI tool must be checked before it is used or relied upon. Information provided by AI tools may be inaccurate, incomplete, misleading or out of date. Even if it purports to represent English law, it may not do so.

⁷ *Id.* at pp. 17–19 ¶ 92.

⁸ <https://www.judiciary.uk/wp-content/uploads/2023/12/AI-Judicial-Guidance.pdf>.

⁹ *Id.* at 2.

¹⁰ *Id.*

- 4) **Be aware of bias** – AI tools based on LLMs generate responses based on the dataset they are trained upon. Information generated by AI will inevitably reflect errors and biases in its training data. You should always have regard to this possibility and the need to correct this.
- 5) **Maintain security** – Judges must follow best practices for maintaining the judge’s own and the court/tribunals’ security.
- 6) **Take responsibility** – Judicial office holders are personally responsible for material which is produced in their name. Judges are not generally obliged to describe the research or preparatory work which may have been done in order to produce a judgment. Provided these guidelines are appropriately followed, there is no reason why generative AI could not be a potentially useful secondary tool. If clerks, judicial assistants, or other staff are using AI tools in the course of their work for a judge, the judge should discuss it with them to ensure they are using such tools appropriately and taking steps to mitigate any risks.
- 7) **Be aware that court/tribunal users may have used AI tools** – All legal representatives are responsible for the material they put before the court/tribunal and have a professional obligation to ensure it is accurate and appropriate. Provided AI is used responsibly, there is no reason why a legal representative ought to refer to its use, but this is dependent upon context. Until the legal profession becomes familiar with these new technologies, however, it may be necessary at times to remind individual lawyers of their obligations and confirm that they have independently verified the accuracy of any research or case citations that have been generated with the assistance of an AI chatbot.
 - a. AI chatbots are now being used by unrepresented litigants. They may be the only source of advice or assistance some litigants receive. Litigants rarely have the skills independently to verify legal information provided by AI chatbots and may not be aware that they are prone to error. If it appears an AI chatbot may have been used to prepare submissions or other documents, it is appropriate to inquire about this, and ask what checks for accuracy have been undertaken (if any).
 - b. AI tools are now being used to produce fake material, including text, images and video. Judges should be aware of this new possibility and potential challenges posed by deepfake technology.¹¹

Finally, the guidance lists the following potential useful utilizations of AI by the judiciary: (1) using AI tools to summarize large bodies of text; (2) using AI tools to assist in writing presentations; and (3) using AI tools to assist in administrative tasks, such as composing emails.¹² The guidance does not recommend utilizing AI for legal research or

¹¹ *Id.* at 3-5.

¹² *Id.* at 6.

legal analysis. The guidance explains: “AI tools are a poor way of conducting research to find new information you cannot verify independently,” and “the current public AI chatbots do not produce convincing analysis or reasoning.”¹³ The guidance also provides judges with indications that work submitted by litigants may have been produced by AI.

On December 20, 2023, the Federal Court of Canada issued guidelines regarding the use of AI and deciding not to use it, particularly the use of automated decision-making tools to render judgments and orders. Similarly, the Supreme Court of British Columbia issued a directive to the judiciary of that province, recommending that judges refrain from using the ChatGPT platform or any similar platform due to the risk of undermining the integrity of the court and public confidence in the justice system. The courts in Quebec, Alberta, and Nova Scotia require references to case law or legal texts be based exclusively on sources coming from court websites, commonly referenced commercial publishers or well-established public services.

On May 21, 2024, the European Council adopted the EU AI Act (Regulation (EU) 2024/1689), and will be fully applicable 24 months after entry into force.¹⁴ The AI Act provides AI developers and deployers with clear requirements and obligations regarding specific uses of AI. The Act provides in recital 61:

Certain AI systems intended for the administration of justice and democratic processes should be classified as high-risk, considering their potentially significant impact on democracy, the rule of law, individual freedoms as well as the right to an effective remedy and to a fair trial. In particular, to address the risks of potential biases, errors and opacity, it is appropriate to qualify as high-risk AI systems intended to be used by a judicial authority or on its behalf to assist judicial authorities in researching and interpreting facts and the law and in applying the law to a concrete set of facts. AI systems intended to be used by alternative dispute resolution bodies for those purposes should also be considered to be high-risk when the outcomes of the alternative dispute resolution proceedings produce legal effects for the parties. The use of AI tools can support the decision-making power of judges or judicial independence, but should not replace it: the final decision-making must remain a human-driven activity. The classification of AI systems as high-risk should not, however, extend to AI systems intended for purely ancillary administrative activities that do not affect the actual administration of justice in individual cases, such as anonymisation or pseudonymisation of judicial

¹³ *Id.*

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1689>.

decisions, documents or data, communication between personnel, administrative tasks.¹⁵

Kazakhstan amended its Code of Civil Procedure to permit the drafting of judicial decisions by information systems. Finally, some countries, such as Germany, Iceland, the Philippines, and the United States, report that AI is indirectly regulated by their respective constitutions because the constitutions require that human judges exercise the judicial power or that all judgments be personally prepared by the judge, meaning that it would be impermissible for AI to engage in judicial decision-making.

Courts in the Canadian provinces of Quebec, Alberta, and Nova Scotia have issued an opinion requiring litigants to disclose if AI was used and, if so, how it was used. The opinion also instructs litigants that any AI-generated submission must be subject to rigorous human review, including cross-checking the submission with reliable legal databases to confirm that the references and their content are accurate. The courts in Canadian province of Manitoba and the Yukon territory have issued a directive requiring that when AI technology is used in proceedings, the parties must indicate what type of AI was used and how it was used.

In the United States, existing court rules, such as Rule 11 of the Federal Rules of Civil Procedure, pertaining to filings by attorneys and self-represented litigants, are strong enough to sanction parties and lawyers who fail to check the accuracy of materials produced by generative-AI tools. Additionally, some individual judges have issued standing orders on the use of AI by litigants in proceedings before the court. These judicial standing orders generally require that parties disclose their use of AI to the court and certify the accuracy of any documents prepared with AI technology.

c) Does the use of AI impact the handling of evidence?

Some countries, like the United States and United Kingdom, noted that AI could enhance the ability to process large amounts of data, potentially uncovering relevant evidence more efficiently. However, the benefits are balanced with concerns about the need for transparency in AI-assisted evidence analysis and the importance of maintaining human oversight in evidence evaluation.

AI might also play a role in a judge's evaluation of evidence presented by litigants. In light of AI's ability to produce falsified evidence (such as "deepfakes"), courts might need to be more cautious in evaluating evidence and ensuring that it is authentic. In addition, courts might need new methods to assess the reliability of AI-processed evidence that is submitted to the courts.

¹⁵ *Id.* ¶ 61.

2) What are the pros and cons of having judges utilize AI?

The responses recognize both significant benefits and serious risks. On the positive side, AI is widely seen as a tool to enhance efficiency, consistency, and access to information. Many countries highlight the potential for AI to speed up case processing, improve research capabilities, and assist in managing large volumes of data. Particularly, AI tools can assist judges with administrative tasks or tedious, repetitive tasks, thereby allowing judges more time to focus on complex tasks and allowing judges to handle higher caseloads. AI research tools can also enhance adherence to existing precedents, resulting in more well-reasoned and consistent decision-making. Some responses also suggest that AI could contribute to more objective analysis and potentially reduce human biases in certain aspects of judicial work.

However, these potential benefits are balanced against several concerns. A primary worry is the risk of over-reliance on AI, potentially undermining human judgment and the nuanced understanding that judges bring to cases. Overreliance on AI by judges could result in a less human judiciary, eroding public confidence in the courts. Overreliance on AI could also make judges' mental processes more passive, which could lead to errors, because AI tools have the capacity to "hallucinate," *i.e.*, provide false or erroneous responses.

There are also significant concerns about bias in AI systems. If an AI system has biases in its training data, the system can reproduce or even amplify those biases, leading to unfair decisions. Mexico reported that the use of AI in parole cases has shown biases, especially against minorities.

There are also transparency concerns. AI systems lack transparency regarding how specific decisions are made. A lack of transparency regarding how the AI systems are designed and used could also harm public confidence in the judiciary.

Privacy and security concerns are also frequently mentioned. The use of litigants' personal data by AI systems raises privacy and confidentiality concerns. AI tools generally need to collect large amounts of data from the parties involved in a process, which may lead to revealing undue or inappropriate personal or private information.

Finally, AI systems also raise accountability concerns because AI systems are not accountable to the public in the same way as judges. Many responses emphasize that while AI can be a powerful tool, it should complement rather than replace human judgment in the judicial process.

a) What are the possible effects of AI on the administration of justice?

The potential effects of AI on the administration of justice are seen as far-reaching and potentially transformative. Most countries anticipate significant improvements in efficiency, including faster case processing, improved consistency in decision-making, and enhanced access to legal information. These improvements in speed and efficiency could lead to the quicker resolution of cases, assisting courts in managing their caseloads and providing litigants with speedier access to justice. AI is also expected to streamline administrative tasks, potentially freeing up judicial resources for more complex matters. Some responses suggest that AI could contribute to more uniform application of the law and potentially improve the overall quality of judicial decisions through better information access and analysis. These improvements in the administration of justice could lead to strengthened faith and confidence in the judiciary.

Efficiency improvements due to AI use could also lead to reduced costs for the courts. By performing administrative or repetitive task for judges, AI could allow courts to save some administrative costs, but some commercial AI tools may require licenses or additional technology training.

AI tools can also provide greater access to the courts. AI research tools can provide the public and unrepresented litigants with greater access to court decisions, statutes, and legal precedents.

b) What are the possible effects of AI on judicial independence?

The potential impact of AI on judicial independence is a significant concern. The proper and effective use of AI by the judiciary can assist judges in making more informed and well-researched decisions, which can bolster judicial independence. But an overreliance on AI by the judiciary could harm judicial independence by discouraging judges from relying on their own experience, moral judgment, and values in decision-making and eroding or disempowering the judge's ability to exercise discretion. Too much standardization through the use of AI could reduce a judge's ability to tailor decisions to the particular circumstances of each case. A judge could turn into a mere supervisor of the AI tools as opposed to being the decision-maker in the case. This could lead to justice governed by the private creators of the AI software as opposed to judges. Therefore, any implementation of AI by the judiciary should ensure that the judge retains power as the decision-maker and is free to depart from the analysis or recommendations provided by AI.

The use of AI data-collection tools by litigants could also harm judicial independence. Such tools allow litigants to discover trends among judges and utilize that information for forum shopping. The use of these tools could make judges more cautious about certain decision-making or even cause judges to sacrifice their independence in an effort to counter the discovered trend.

3) Should there be limits on the use of AI by judges, and, if so, to what extent?

There is a strong consensus across the responses that AI should be a tool to assist judges rather a replacement of their decision-making role. Many responses stress the importance of maintaining human judges as the ultimate arbiters, with AI serving in a supportive capacity. There is a widespread recognition that certain aspects of judicial decision-making, particularly those involving complex ethical considerations or the interpretation of nuanced human behavior, should remain firmly in the domain of human judges. Some countries also emphasized that litigants have a fundamental right to a decision by a human judge.

Most responses stress the need for clear guidelines and ethical frameworks governing AI use in the judiciary. Additional limitations suggested include: (1) ensuring that AI use by judges is optional – no judge should be required to utilize AI tools; (2) implementing protections against the unauthorized disclosure of personal data, thereby ensuring privacy protections; and (3) providing transparency to the public regarding the design and use of any AI systems by the judiciary. Some countries also recommend that AI should be prohibited or more heavily regulated in certain proceedings, such as criminal proceedings or proceedings involving minors.

In addition to limitations on the use of AI, countries also stressed the need to train judges in the proper use of AI and to make them aware of the potential dangers of AI technology. Finally, some countries have suggested that the adoption of AI technology by the judiciary should be gradual. AI is a new technology that is neither fully understood nor perfectly mastered, so any adoption of AI by the judiciary should be approached with caution.

In sum, most countries agree with the principle expressed in the EU AI Act that states: “The use of AI tools can support the decision-making power of judges or judicial independence, but should not replace it: the final decision-making must remain a human-driven activity.”

Judge Marilyn L. Huff

President of the First Study Commission

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