2024 Questionnaire of the 1ˢᵗ Study Commission IAJ

The effect of artificial intelligence on the judiciary

Kazakhstan:

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

Answer: Yes, they do.

1) On the basis of the information system of the judiciary "Torelik" with the use of elements of artificial intelligence, the IT product "Digital Judicial Analytics" has been developed.

This service is actively used by judges and allows you to find any information in the text of court acts since 2018.

To quickly search for court decisions of interest, you can select a region, court, judge, case category, etc. as analytical filters.

The system demonstrates the number of judgements found on a particular request, as well as which and how many of them were appealed in appeal and cassation procedures.

Access to the required information allows the judge to orientate himself/herself in the judicial practice of the case before him/her.

The programme is also trained to understand the essence of court decisions, compare them with each other, identify anomalies and predict the outcome of civil cases.

If you enter the text of a lawsuit into the search engine, the system will automatically find all maximally similar cases, court decisions and the results of their appeal.

In addition, the programme shows decisions that are clearly out of the court practice.

In the future, similar programmes may become available to the public and lawyers.

2) The second IT product is robotisation of non-complex processes.

Based on clear decision-making algorithms, the robot prepares draft court acts in cases where the judge's discretion is strictly limited by law.

For example, giving a sanction prohibiting a debtor from leaving the country.

Despite the labour-intensive checks of all documents, there is no legal complexity in the decision-making process.

The judge does not evaluate the evidence, does not apply jurisprudence and does not examine the rules of law.

According to the law, within 3 days he must verify the existence of a debt exceeding 40 Monthly calculation indicator (about 250 EUR) and proper advance notice to the debtor.

If both of these conditions are met - it authorises, if not - refusal.

Thanks to the integration of the relevant databases, the robot prepares a draft of such a sanction within a minute of receipt of the material.

At the same time, the responsibility for signing the judgement remains with the judge. Constitutional requirements are not violated.

Thus, on the one hand, the courts are relieved of routine work, and on the other hand, judicial errors are minimised.

For legislative regulation of this issue, amendments have been made to the Code of Civil Procedure (Article 133-2, paragraph 1-1), providing for the possibility of creating draft judicial acts by the information system.

At the same time, it is important to realise that the technologies we are introducing will not replace the human judge.

It is only an additional tool to help ensure uniformity of court practice and quality protection of the rights of participants in the process.

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

Answer: See the answer above.

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

Answer: The use of AI in Kazakhstan has not yet received the necessary legal regulation.

However, the first foundation for this has been laid in the civil procedure legislation. In 2019, the CPC includes Chapter 11-1. "Peculiarities of electronic court proceedings".

Part 1-1 of Article 133-2 of the CPC provides that draft procedural documents of the court may be prepared using the automated information system of the court.

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

Answer: There is no direct impact.

However, with the help of AI-enabled IT products, the judge is able to study court practice, including the evaluation of evidence in similar cases in the type of cases.

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

Answer: The undoubted advantages are that a judge can study court practice in a relatively short period of time, including familiarisation with the legal positions of higher courts on certain categories of disputes, which ensures its uniformity.

At the same time, the use of AI frees up more time for the judge to analyse the case file and evaluate the evidence.

Thus, the judge's labour load per case is reduced.

The disadvantages are mainly of a technical nature and are related to the imperfection of algorithms of the AI, instability of the work of the IS "Torelik", as well as issues of information security.

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

Answer: When using AI, it is impossible to completely rule out miscarriages of justice. It should be remembered that AI only analyses the information available to it and, on the basis of preset algorithms, produces possible solutions to a particular problem.

Therefore, the decision on a particular case is always made by the court.

In case of frivolous use of AI, professional degradation of judges cannot be ruled out, which may have a negative impact on the authority of the judiciary and the state of justice.

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

Answer: The use of AI should not be mandatory in order to avoid possible restrictions on the independence of judges.

It should be considered only as an additional tool for processing data to determine the direction of judicial practice in a given category of disputes, helping to avoid violations of its uniformity and errors in the application of the rules of law.

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

Answer: Restrictions on the use of AI assistance by judges may be conditioned by specific objectives and limits of judicial discretion.

For example, in cases involving the rights, freedoms and legitimate interests of minors, socially vulnerable segments of the population, etc., where it is necessary to proceed from the criteria of reasonableness and fairness.

Proposal for 2025 topic: Please submit your proposals for possible topics to be treated in 2025 together with the answers to this questionnaire.

Answer: For consideration in 2025, it is proposed to discuss the "scandalisation" of justice, when "public opinion" disseminated on social media and in the media becomes a tool to pressure the court to make a certain decision or leads to the use of "punitive" measures against judges.

*****