

IAJ Meeting 2024

Questionnaire of the 1st Study Commission IAJ-UIM: “The Effects of Artificial Intelligence on the Judiciary”

Questionnaire answered by Liechtenstein

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

Judges in Liechtenstein use only AI-powered technologies that are common in everyday life, such as search engines, spell checkers in word processing programs or translation tools. Some judges also make use of specialized AI-supported tools for legal research or AI-based dictation software.

Overall, judges in Liechtenstein are very cautious about using AI, primarily due to concerns regarding data protection and confidentiality.

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

See above.

A major project to digitalize the judicial system is currently in progress. This includes the introduction of digital files, the mandatory use of an electronic platform for the parties involved, and the automation of routine tasks. It is currently not possible to specify exactly whether and to what extent AI technology will be used in the implementation of this project.

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

There are currently no regulations regarding the use of artificial intelligence in legal proceedings.

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

See above.

Given the potential for manipulation of AI-generated evidence, judges may have to pay more attention to the authenticity of evidence in the future.

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

Pros

AI can analyse large volumes of legal documents and information quickly, more efficiently and accurately, identifying relevant facts and laws. This simplifies the preparation for hearings and helps judges make higher-quality decisions. By saving time and resources, it could also reduce the costs of court proceedings, as fewer staff would be required.

AI can also detect patterns or inconsistencies in evidence that might be overlooked by humans, and it can assist in investigating digital evidence, such as recovering deleted files.

Additionally, AI systems can help judges make decisions more consistent by ensuring that similar cases are handled in the same way, enhancing objectivity and reducing inequalities in the legal system, which ultimately promotes justice.

Cons

AI systems can analyse data, but they lack the ability to exercise human empathy or replicate human values, which could be problematic in cases that require emotional or ethical judgments. The absence of human discretion might undermine trust in the legal system, as many people rely on humans to deliver justice.

There's no clear regulation on who is responsible if AI makes a mistake, which could become quite complicated.

Additionally, AI systems often operate as “black boxes”, meaning their decision-making processes are neither transparent nor easy to comprehend. This lack of clarity can make it difficult for judges or the public to understand how a decision was made, potentially undermining trust in the legal system.

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

AI can automate administrative tasks, such as managing court files or scheduling, and speed up court proceedings by quickly processing large volumes of information, extracting relevant data, or carrying out legal research.

Current language models are capable of more efficient recording of court hearings, and automated transcripts can be refined by an additional AI system for grammatical and stylistic correction. AI can also be used for real-time translation.

For the risks and cons of using AI systems, including the loss of empathy, transparency problems, and the “dehumanization of jurisdiction”, see above.

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

AI can help judges to make more objective decisions without external influence by analysing large amounts of data neutrally. This can strengthen the independence of the judiciary by making decisions less influenced by personal prejudices.

However, there is a risk that judges might rely too much on automated decision-making systems, reducing their role to simply approving AI recommendations, which could compromise judicial independence.

Additionally, increased utilization of AI solutions in the judicial system could lead to dependence on the companies providing these technologies, which might indirectly influence judicial decisions and threaten judicial independence - for example, through the way in which AI systems are designed, trained or updated.

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

Yes, there should be limits on the use of AI by judges. Limitations are essential to uphold the integrity of the judicial system, protect judicial independence, and ensure that jurisdiction is not only administered efficiently but also fairly and transparently.

AI can support judges by helping them gather relevant information, such as searching extensive databases, analysing legal documents, and providing information on specific cases or legal issues. It can also assist in translating legal documents or summarising lengthy legal texts into more comprehensible language, and in drafting legal documents, either by generating text or offering suggestions. But AI should never be the final decision-making authority. AI can never be a substitute for the human being. Therefore, limitations must be in place to ensure that judges continue to make their decisions autonomously and independently. Any draft decision created by using AI must be questioned, reviewed, and, if necessary, changed by the human.

AI should operate within a closed internal system to ensure compliance with data protection and confidentiality obligations. It must be guaranteed that no confidential data is leaked or uploaded to AI tools whose confidentiality is not guaranteed. AI systems whose decision-making processes are not transparent or difficult to understand should not be used. Judges must be able to interpret the AI outputs and incorporate them into their decision-making process.

Finally, a legal framework should be established to clearly regulate the use of AI by judges, defining explicitly how and when AI can be utilized. These framework conditions should also be regularly reviewed and updated.

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