

ELSA Legal Debates - Model Case

Artificial intelligence should be used in legal systems

Artificial intelligence (AI) is often defined as a device/a number of devices programmed with the ability to mimic cognitive functions commonly associated with the human mind, including learning and problem solving. The scope of the use of AI, as pointed out by various tech giants, can be programmed to include tasks such as automated search of case law databases, performing due diligence, filling out forms, reviewing contracts or even drafting sample documents.

Rapid advances in technology influence the legal systems worldwide to rethink long-established practices. With this in mind, The European Commission for the Efficiency of Justice (CEPEJ) adopted the European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and their environment at the 31st plenary meeting in Strasbourg on the 3rd/4th of December 2018.

The Charter is designed to serve as a framework of principles which can guide policy makers, legislators and justice professionals when they tackle the evolution of AI in judicial processes. The principles introduced in the Charter are: respect of fundamental rights, non-discrimination, quality and security, transparency, impartiality and fairness.

An in-depth study on the use of Artificial Intelligence in judicial systems, prepared by Mr Xavier Ronsin, First President of the Court of Appeal of Rennes, scientific expert (France), and Mr Vasileios Lamos, principal research fellow at the Computer Science department of University College London (UCL), scientific expert (United Kingdom), and with the contribution of Ms Agnès Maîtrepiere, judge, member of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of the Council of Europe (France) was published alongside the Charter.

The study found that many European countries seemingly already developed a functioning approach to using AI, especially in terms of legal support, while others still seem to focus IT management first and foremost.

France has reported to use AI analytics software for analysis (excluding criminal cases) and as a search engine.

The United Kingdom reportedly uses AI software for analysis; especially for criminals with a risk of reoffending.

Latvia also stated it was exploring the possibility of adapting AI for administrative purposes in justice. On the other hand, economically developing countries are still focusing solely on minimal IT management in the digitalization of court proceedings.

The public response to the topic raised with the Charter was mixed, while some greeted the innovation with curious mind, others argued reshaping of the currently established practices may lead to negative outcomes.

Kenneth A. Grady, Adjunct Professor and Research Fellow at Michigan State University College of Law found that “AI in the legal industry is in a much earlier development stage than in most other industries. There are many reasons for the lag, some technical, some financial, and some cultural(...)All of this increases the cost. Add to that the costs of building and training the AI systems.”

Megan Miller, a senior consultant with Edge Legal Marketing, on the other hand states that “(...) there’s no need to fear artificial intelligence. You have already experienced it on some level, and as with most emerging technologies, there will be time for us as consumers to adapt and thrive. For marketers in the legal industry, keeping on top of the changes in this amazing technology and selecting the right tools to support our marketing strategies will be the keys to success.”