

CCBE Position Paper on AI

Thomas Wahl

News

In March 2020, the Council of Bars & Law Societies in Europe (CCBE) published a [position paper](#) outlining its considerations on the legal aspects of artificial intelligence (AI). The CCBE voices several concerns over the use of AI in the following areas directly concerning the legal profession:

- AI and human rights;
- The use of AI by courts;
- The use of AI in criminal justice systems;
- Liability issues;
- The impact of AI on legal practice.

According to the CCBE, lawyers should be further involved in future AI developments, e.g., additional studies and reflections at the EU and Council of Europe levels, because both access to justice and due process are at stake.

Regarding human rights concerns, the CCBE paper calls on AI developers to act responsibly. This could be achieved by means of ethics codes or new codifications setting out the principles and requirements for the use of AI. The following recommendations are also made:

- Putting AI systems under independent and expert scrutiny;
- Duly informing persons impacted by the use of an AI system;
- Ensuring the availability of remedies for these persons.

Regarding the use of AI by courts, the CCBE underlines that AI tools must be properly adapted to the justice environment, given the risk that access to justice may be undermined by AI tools. Therefore, the following parameters should be taken into account:

- The possibility for all parties involved to identify the use of AI in a case;
- Non-delegation of the judge's decision-making power;
- The possibility to verify the data input and reasoning of the AI tool;
- The possibility to discuss and contest AI outcomes;
- Compliance with GDPR principles;
- The neutrality and objectivity of AI tools used by the judicial system should be guaranteed and verifiable.

The CCBE highlights the sensitivity of the use of AI in the area of criminal justice, which faces several challenges in this context. For example, AI systems should be introduced only when sufficient safeguards are in place against any form of bias or discrimination. All measures of increased surveillance should be carefully balanced against the impact they may have on an open and pluralistic society.

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AI, however, can also help lawyers and law firms cope with the increasing amount of data generated. The use of AI by lawyers is more or less limited to research tools, simplifying data analytics, and, in some jurisdictions, predicting possible court decisions. Nonetheless, AI will change the work of legal professionals and the way legal advice is provided. Challenges also emerge as to the competence of lawyers; they must, for instance, be able to ask meaningful questions about the decisions made by AI and to point out the limits of applicability and utility of AI systems, which cannot remain in a purely technical domain. This necessitates the appropriate training of lawyers.

In its overall conclusions, the CCBE emphasises that the great opportunities and benefits offered by AI also come with a great responsibility to ensure that AI remains ethical and respects human rights. The use of AI poses significant threats to the quality of our justice systems, the protection of fundamental rights, and the rule of law. The development of AI tools must take into account the roles and interests of all actors in the justice system. Against this background, one of the main messages of the position paper is that there is a clear need for the CCBE and its membership to continue monitoring the impact of the use of AI in legal and justice areas.

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