

Operationalizing the European Ethical Charter on Artificial Intelligence in Judicial Systems

The Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) has developed an Assessment Tool to help judicial decision-makers implement the principles of the European Ethical Charter on the use of Artificial Intelligence (AI) in judicial systems.

This comprehensive tool provides practical guidance to ensure the ethical and effective integration of AI technologies while safeguarding fundamental rights and maintaining public trust in the justice system.

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Key Principles of the CEPEJ Charter

1 Respect for Fundamental Rights

AI tools must be designed and implemented in a way that respects fundamental human rights, such as the right to a fair trial, the presumption of innocence, and the right to privacy.

2 Non-Discrimination

AI systems should prevent any form of discrimination between individuals or groups, ensuring equal treatment and fair outcomes.

3 Quality and Security

AI systems must use certified and secure data sources and models, maintaining high standards of data quality and system integrity.

4 Transparency, Impartiality, and Fairness

The processes within AI tools should be transparent and allow for external audits, ensuring impartiality and fairness in the decision-making process.

5 Under User Control

AI systems should ensure that users are informed and retain control over decision-making processes, with the ability to override or intervene in AI-driven decisions.

The Assessment Tool: Putting Principles into Practice

Purpose

The Assessment Tool is designed to provide practical guidance to judicial decision-makers, including representatives of judicial bodies and IT managers, on applying the principles of the CEPEJ Charter when acquiring, developing, or updating AI systems.

Scope

The tool covers various aspects of AI implementation in judicial environments, such as data protection, bias and discrimination, transparency, explainability, and the potential impact on judicial independence.

Application

The Assessment Tool can be used at different stages of the AI system lifecycle, including pre-implementation, post-implementation, and during updates, to ensure ongoing compliance with ethical standards.

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RISKS !!!

Risk of reusable data and/or use of an AI model trained for another purpose

Risk of personal data or trade secret disclosure

Risk of judge profiling and forum shopping

Risk of misleading AI results

Risk of unclear criteria and inadequate weight for criteria for AI processing

Risk of AI replacing the access to the judge

Risk of unclear/unjustified grounds for the judgment

Risk of unfair advantage for one party to the trial

Risk of infringement of fundamental rights or inappropriate arbitration between two fundamental rights

Risk of discrimination or amplification of discrimination

Risk of generation and use of inexistent legal provisions by generative AI

Risk of disempowerment and limitation of accountability of the judge through the use of non-explainable AI

Risk of misuse of AI

Risk of forced use of AI

Assessing Data Protection and Privacy

Personal Data Handling

The Assessment Tool examines how AI systems handle personal and sensitive data, ensuring compliance with data protection regulations and protecting individual privacy.

Algorithmic Transparency

The tool evaluates the transparency of AI algorithms, requiring that the decision-making processes are understandable and can be audited by relevant stakeholders.

Secure Data Sources

The tool ensures that AI systems use certified and secure data sources, maintaining the integrity and reliability of the information used in judicial decision-making.

User Consent and Control

The Assessment Tool checks that users are informed about the use of AI and retain control over the decision-making process, with the ability to override or intervene in AI-driven decisions.

Addressing Bias and Discrimination

1

Algorithmic Bias Identification

The Assessment Tool helps identify potential biases in AI algorithms that could lead to discrimination against individuals or groups, ensuring fair and equitable outcomes.

2

Bias Mitigation Strategies

The tool provides guidance on implementing effective strategies to mitigate algorithmic biases, such as diverse data sets, AI model testing, and regular monitoring and auditing.

3

Ongoing Monitoring and Adjustment

The Assessment Tool emphasizes the importance of continuously monitoring AI systems for biases and making necessary adjustments to maintain non-discrimination and fairness over time.



Ensuring Transparency and Explainability



Algorithmic Transparency

The Assessment Tool requires that the decision-making processes of AI systems are transparent and can be explained to users, enabling accountability and trust.



Explainable AI

The tool encourages the use of explainable AI techniques, which provide clear and understandable explanations for the outputs and decisions generated by the AI system.



External Audits

The Assessment Tool facilitates external audits of AI systems, allowing independent verification of the transparency and fairness of the decision-making processes.



User Control

The tool ensures that users are informed and retain control over the AI-driven decision-making process, with the ability to override or intervene when necessary.



Preserving Judicial Independence

1

Algorithmic Influence

The Assessment Tool examines the potential for AI systems to influence or interfere with the independence of judicial decision-making, ensuring that human judges maintain full control over the process.

2

Judicial Oversight

The tool encourages the implementation of robust judicial oversight mechanisms, allowing human judges to monitor and intervene in AI-driven decisions to maintain the integrity of the justice system.

3

Transparency and Accountability

The Assessment Tool's emphasis on transparency and external audits helps to ensure that the use of AI in judicial systems is aligned with the principles of judicial independence and the rule of law.

Conclusion: Embracing AI Ethically

Benefits

- Improved efficiency and accuracy in judicial processes
- Enhanced access to justice and fair outcomes
- Reduced human bias and error in decision-making

Challenges

- Ensuring transparency and explainability of AI systems
- Mitigating the risk of algorithmic bias and discrimination
- Preserving judicial independence and the rule of law

The CEPEJ's Assessment Tool provides a robust framework for embracing the benefits of AI in judicial systems while upholding the fundamental principles of human rights, non-discrimination, and judicial integrity. By implementing this tool, judicial decision-makers can harness the power of AI technology in a responsible and ethical manner, fostering public trust and maintaining the integrity of the justice system.

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