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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

Revised roadmap for ensuring an appropriate follow-up of the CEPEJ Ethical Charter on the use of artificial intelligence in judicial systems and their environment

*Document adopted at the 37th plenary meeting of the CEPEJ,
Strasbourg and online, 8 and 9 December 2021*

The situation

1. In 2018, the CEPEJ adopted its European Ethical Charter on the use of artificial intelligence (AI) in judicial systems and their environment¹. The Charter lays out the 5 key principles that should be respected in the design and use of AI: (1) Respect for fundamental rights in the design and use of AI tools, (2) Non-discrimination, (3) Data quality and security, (4) Transparency, impartiality, and fairness, (5) under user control.
2. The CEPEJ Charter represents the first step in the CEPEJ's efforts to promote responsible use of AI in European judicial systems, in accordance with the Council of Europe's values.
3. Without offering a miracle solution, the Charter had the merit of being the first reference document to lay down the main principles to be observed when developing AI applications in a manner that complies with Human Rights.
4. To support the implementation of this Charter, the CEPEJ Working Group on the Quality of Justice (CEPEJ-GT-QUAL) presented a Feasibility study for the possible introduction of a mechanism for certifying artificial intelligence tools and services on the basis of the Ethical Charter's principles² at the 34th plenary meeting of the CEPEJ (December 2020) with several possible options.
5. Then, a Roadmap for the establishment of a certification mechanism for artificial intelligence tools and services in the legal and judicial field was prepared, illustrating practical steps for implementing a labelling mechanism³, was presented at the 35th plenary meeting of the CEPEJ (June 2021). In light of discussions with other partners working on AI, in particular the European Commission concerning the draft regulation laying down harmonised rules on artificial intelligence, the CEPEJ decided to postpone the adoption of the Roadmap until the next CEPEJ plenary meeting in December 2021 and instructed its Bureau and the Working Group on Quality of Justice to refine the document.
6. This European Union initiative, even if is yet at a proposal stage, aims to regulate high-risk AI applications, which would include those used in the field of justice and for which certification procedures would be compulsory. It would put the main responsibility for ensuring compliance with fundamental rights on the developers, users and member states through national regulators.
7. In the meantime, the Council of Europe advanced in its work on exploring the feasibility of a legally binding instrument on AI through its *ad hoc* Committee on Artificial Intelligence (CAHAI). A concrete proposal is expected at the end of 2021.
8. Wishing to address the issue for its 47 member States, the CEPEJ-GT-QUAL, as suggested by the CEPEJ Bureau, will further support these processes using AI in the field of justice by developing concrete guidance and expertise for developers, users and regulators. However, it has been proposed to reconsider the added value and sustainability of an independent CEPEJ AI label.

¹ [CEPEJ\(2018\)14](#).

² [CEPEJ\(2020\)15Rev.](#)

³ [CEPEJ\(2021\)5](#).

The way forward

9. Considering the above and instead of further pursuing a fully-fledged labelling initiative, the following course of action made up of five key elements aiming at an increased application of the Ethical Charter on the use of AI in judicial systems and their environment, is recommended:

1. CEPEJ Charter – Assessment Tool

10. Developers and users of AI applications would benefit from more practical guidance on how to apply the five principles laid down in the CEPEJ Charter. For this, a detailed operationalisation of the five principles is necessary. In other words, a detailed description of what needs to be checked and how to ensure compliance with the respective principle.

11. This would give developers a clearer idea on how to audit their applications, ideally already during the development phase. The operationalisation, which could come in the form of guidelines or checklists by category of programs, could also be used by an external certifier/auditor. This operationalisation work has already begun concerning the modelling of decisions⁴. It should be further expanded and lead to a concrete assessment tool of the CEPEJ Charter that can be used independently by third parties. After a thorough application of the tool and a publication of its documentation, the program can receive a label indicating AI charter conformity.

2. Pilot Project on CEPEJ Charter conformity assessment

12. To start the actual use of the Assessment Tool, a pilot project could be useful. Even though the tool shall be applied independently a positive example needs to be set and communicated prominently, which would serve as a practical test of the Assessment Tool at the same time.

13. The operational checklist could be exercised on one (or several) relevant AI program(s), through a pilot project led by the CEPEJ secretariat. The experience and individual steps shall be described in detail and made public to serve as a good example and further promote the AI charter, facilitating the responsible development of AI applications.

3. CEPEJ Artificial Intelligence Advisory Board (AIAB)

14. There are numerous debates concerning various tools using algorithms that are already or likely to be used in the field of justice. The concrete and systematic implementation of AI tools within the judicial systems however is far from being complete. Applications are often pilot projects that are not commonly accepted or developed. In short, the debate would benefit from a comprehensive register of existing AI applications in the judiciary, additionally providing information of experiences on their use.

15. It would be useful to set up a new CEPEJ Artificial Intelligence Advisory Board (AIAB) to monitor the actual emergence of AI applications in the justice sector, discuss current problematics and propose new strategies concerning the use of AI in the justice system respecting fundamental rights. The Advisory Board, which should consist of five experts coming from the judiciary, academia, policymakers, industry and NGO's should meet virtually every 3 months.

16. The Advisory board should report directly to the CEPEJ-GT-QUAL, between and during the WG meetings. The identified AI applications should be further discussed and assessed in different fora, such as the CEPEJ other working groups and networks (e.g. the European Cyberjustice Network). An application of the Assessment Tool could be recommended to programs of interest by the advisory board.

4. Resource Centre on (Cyberjustice and) Artificial Intelligence

17. The existing applications in the field of justice using AI should be registered in a publicly accessible Resource Centre, regularly updated by the advisory board, creating a reliable and exhaustive overview of existing programs. Additional information on the user experience, evaluations, certifications, and labels (if applicable) could be added to entries.

18. This Resource Centre could be merged with the one under development of the CEPEJ Working group on cyberjustice and artificial intelligence (CEPEJ-GT-CYBERJUST) and the CEPEJ European Cyberjustice Network (ECN), forming the "Resource Centre on Cyberjustice and AI".

⁴ CEPEJ-GT-QUAL(2020)4.

19. The Resource Centre on Cyberjustice and AI should become THE first address for all professionals wishing to search, share and discuss relevant information concerning the digital transformation of the judiciary and Artificial Intelligence.

5. Training and awareness raising

20. Increased application of the European Ethical Charter on the use of AI in judicial systems and their environment requires targeted awareness raising and training activities.

21. Experience has shown that awareness raising of the CEPEJ Charter alone is not sufficient for its actual application. It needs to be complemented by concrete training activities. The new assessment tool should be accompanied by a training on how to use it. A training of trainers course could be offered, which should lead to further cascading training activities in interested states.

22. The target group of the trainings should be developers of IT tools, potential users of the applications (judges, prosecutors, lawyers but also persons responsible for (compulsory) certification by other organisations, allowing them to better understand and consider fundamental rights aspects.

The work of CEPEJ on AI

