

CEPEJ-GT-QUAL(2022)3rev

**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE**

***COMMISSION EUROPÉENNE POUR L'EFFICACITÉ DE LA JUSTICE***

***(CEPEJ)***

***CEPEJ ARTIFICIAL INTELLIGENCE ADVISORY BOARD (AIAB)***

***TERMS OF REFERENCE***

***DRAFT***

***Document prepared by the Secretariat on the basis of the CEPEJ-GT-QUAL and CEPEJ-GT-CYBERJUST consultations and revised after joint meeting in Pisa (17 March 2022)***

**Background**

1. In 2018, the CEPEJ adopted the European Ethical Charter on the use of artificial intelligence (AI) in judicial systems and their environment[[1]](#footnote-1) (hereafter the CEPEJ Charter). The CEPEJ 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 fundamental principles. The CEPEJ 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. Even though the principles should remain valid over time, the ambition of the CEPEJ is to treat the Charter as a living document, ensuring that recent developments in the area are taken into consideration in all activities related to the Charter’s dissemination and application.
3. In this regard, in December 2021, the CEPEJ Plenary approved a Roadmap for ensuring an appropriate follow-up of the CEPEJ Charter[[2]](#footnote-2), made up of five key elements:

- developing assessment tools of the CEPEJ Charter, in particular through an operationalisation of its principles ;

- setting up an Artificial Intelligence Advisory Board (AIAB) ;

- creating a Resource Centre on Cyberjustice and Artificial Intelligence ;

- possibly implementing a Pilot Project on CEPEJ Charter conformity assessment ;

- complementary awareness raising and training activities.

1. Setting up the Artificial Intelligence Advisory Board (AIAB) is viewed as a priority because it shall provide expert advice on other elements and advising on next steps, and its members will be the main contributors to the Resource Centre.
2. The present document constitutes the Terms of Reference of the future AIAB. On this basis, a public call for expression of interest on the part of candidates for appointment to the AIAB will be initiated by the CEPEJ Secretariat and disseminated in the relevant forums.
3. **Role and mandate of the AIAB**
4. The AIAB will have the following tasks:

i) monitor the actual emergence of AI applications in the justice sector,

ii) provide expert guidance on the operationalisation of the principles of the CEPEJ Charter,

iii) present to the CEPEJ-QUAL and CYBERJUST the current problematics and advice the working groups on possible new strategies concerning the use of AI in the justice system respecting fundamental rights.

1. **Monitoring of AI applications in the judiciary**
2. There are numerous debates concerning various tools using algorithms that are already or likely to be used in the field of justice. Applications are often pilot projects that are not commonly accepted or developed. The debate would benefit from a comprehensive register of existing AI applications in the judiciary, additionally providing information of experiences on their use. This information will be included in the Resource Centre, which should also include other helpful cyberjustice tools used in judicial systems and thus become “The Resource Centre on Cyberjustice and Artificial Intelligence”.
3. The AIAB will therefore be responsible for proposing a categorisation of tools concerned (in particular for cyberjustice tools considering the important existing number of tools) and collecting information on AI and relevant cyberjustice applications implemented.
4. Both for AI and cyberjustice tools, the AIAB will also be in charge of updating every 3 months the information provided in the Resource Centre. New information and updates should be entered by one or two designated AIAB members under the supervision of CEPEJ-GT-QUAL and CEPEJ-GT CYBERJUST. The collection of information will be done in cooperation with the European Cyberjustice Network when relevant.
5. **Providing expert guidance on the operationalisation of the principles of the CEPEJ Charter**
6. CEPEJ instructed CEPEJ-GT-QUAL to consider the development of specific assessment tools to provide practical guidance to developers/certifiers/auditors/users of AI applications on how to apply the five principles laid down in the CEPEJ Charter. This operationalisation could come in the form of guidelines or checklists by category of tools[[3]](#footnote-3). Expert guidance will be provided by the AIAB in this process, always taking into consideration the more recent developments in the area.

**c. Providing expert guidance on AI and cyberjustice**

1. The AIAB will be asked to provide expert guidance and advice on all issues related to the use of AI in the justice system particularly in relation to ethical perspectives and respect of fundamental rights.
2. The AIAB shall propose and take part in the new CEPEJ strategies concerning the use of AI and cyberjustice in the justice system[[4]](#footnote-4), in particular the development of new CEPEJ tools or actions to ensure increased application of the CEPEJ AI Ethical Charter.
3. In carrying out its tasks, the AIAB shall take into account the work of other CoE committees dealing with AI and cyberjustice issues, as well as the work of other international bodies, in particular with a view to avoiding duplication and promoting coordination of tasks and possible collaboration.
4. **Meetings of the AIAB and organisation of its work**
5. The AIAB should meet virtually every 3 months, according to an agenda prepared by the CEPEJ-GT-QUAL and CEPEJ-GT-CYBERJUST.
6. The AIAB should report to the CEPEJ-GT-QUAL and CEPEJ-GT-CYBERJUST at each of their respective meetings (twice a year). In the meantime, focal points will be designated in each group to liaise regularly and on a as needed basis.
7. **Appointments and composition of the AIAB**
8. The AIAB should consist of five experts appointed by the CEPEJ Bureau following applications received in response to the public call for expression of interest. Balanced academic and professional backgrounds, geographical and gender representation should be targeted in setting up the AIAB. Members of the AIAB could come from the judiciary, academia, policymakers, IT industry, and NGOs. The candidates should satisfy the following minimum requirements:
* studies in law or in political sciences, social sciences, or in mathematics, engineering, technical sciences (development of software etc.) or other related fields;
* strong professional experience in relation to justice or IT, a combination of both would be an asset;
* demonstrated interest for ethics and/or fundamental rights, especially in the area of justice or IT applications;
* knowledge of the functioning and the work of the CEPEJ;
* very good knowledge of English.
1. **Remuneration of members of the AIAB**
2. Members of the AIAB will receive fees for specific assignments in relation with its terms of reference. The amount of the fees is fixed by the Secretariat of the CEPEJ in accordance with the Council of Europe's usual rules and practices in this field and within the limits of its budgetary capacities.

**5. Duration**

1. The AIAB will have a mandate of 2 years, renewable upon the decision of the CEPEJ Bureau.
1. [CEPEJ(2018)14](https://rm.coe.int/ethical-charter-en-for-publication-4-december-2018/16808f699c) [↑](#footnote-ref-1)
2. [CEPEJ(2021)16](https://rm.coe.int/cepej-2021-16-en-revised-roadmap-follow-up-charter/1680a4cf2f) [↑](#footnote-ref-2)
3. This operationalisation work has already begun concerning the modelling of decisions. [↑](#footnote-ref-3)
4. 2022 – 2025 CEPEJ Action plan: “Digitalisation for a better justice”, CEPEJ(2021)12Final. [↑](#footnote-ref-4)