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CCBE Statement on the use of AI
in the justice system and law enforcement
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The CCBE is observing an increased desire to use AI tools in the justice system and the CCBE recognises the potential benefits that such use may bring. The CCBE is also aware of the application of AI tools for law enforcement purposes.

Despite recognising how AI tools can be beneficial, the CCBE at the same time, highlights the need for careful consideration of the risks of their use and their impact on human rights and the rule of law.

AI tools used in the justice system and law enforcement must be adapted to these specific environments. In this regard, it is crucial that the use of AI fully respects fundamental rights, and in particular the right to privacy and family life, the right to freedom of expression, the right to non-discrimination and the right to a fair trial. From the point of view of the legal profession, the use of these systems should not undermine the ethical standards to which the profession is bound, in particular the confidentiality of communications between lawyers and clients which is essential to uphold the rule of law.

The CCBE is convinced that effective human oversight of the use of AI tools in the field of justice is a precondition of a justice system governed by the rule of law and stresses that the decision-making process must remain a human-driven activity. In particular, human judges must be required to take full responsibility for all decisions and a right to a human judge should be guaranteed at all stages of the proceedings.

Moreover, it should also be stressed that such systems must be developed with full respect for the diversity of linguistic contexts and legal traditions in which they are to be used. This implies ensuring that the data in which AI tools are trained and used respects the principle of non-discrimination and the principle of presumption of innocence.

The CCBE believes that any actual or potential risk to the proper and fair functioning of the justice system is a threat to justice itself. The CCBE also considers that the use of some new technologies, such as predictive and profiling AI tools in law enforcement and criminal justice, may pose unacceptable risks in a democratic society. Therefore, together with other stakeholders, the CCBE has called for their ban.

Before any AI tools are used in the justice system and law enforcement, the CCBE calls for a set of defined rules and principles governing their use.

To this end, the CCBE firmly believes in the importance of the work carried out by national, European and international organisations and regulators aiming at defining the required level of transparency and the parameters for the development, deployment and use of AI in the justice system and law enforcement.

Therefore, the CCBE calls on national, European and international authorities and organisations to ensure that:

- **the use of AI tools in the justice system and law enforcement is appropriately controlled and regulated** and that the regulation reflects the specificities of these systems. In particular, these regulations must respect the right to a fair trial and the right to a human judge.

- **the rules governing the use of AI tools are grounded in a clear set of ethical principles, such as the respect for human rights, transparency, accountability and upholding the rule of law, and which are set beforehand.**[1]

- **these principles are turned into use-case specific operational rules and guidelines that must be followed when introducing AI tools into the justice system or law enforcement** to make sure that they do not jeopardise the right to a fair trial. This requires careful consideration and knowledge of the potential risks and benefits of different AI tools, as well as a deep understanding of the ethical principles that underpin the justice system. The risk factors to be considered are complex and depend on specific use cases, as outlined above, including reliability of the AI tool and the tasks involved.

CCBE work on AI

Policy papers:
- CCBE considerations on the Legal Aspects of AI (02/2020)
- CCBE Response to the consultation on the European Commission's White Paper on Artificial Intelligence (06/2020)
- CCBE position paper on the Artificial Intelligence Act (10/2021)
- Joint Statement to call on the EU to ban predictive and profiling systems in policing and criminal justice in the AI (03/2022)

AI4Lawyers Project:
- Guide on the use of Artificial Intelligence-based tools by lawyers and law firms in the EU (02/2022)
- Report on opportunities and barriers in the use of NLP tools in SME law practices (11/2021)
- Overview of the average state of the art IT capabilities in the EU (February 2021)

About the CCBE:

The Council of Bars and Law Societies of Europe (the CCBE) represents the bars and law societies of 46 countries, and through them more than 1 million European lawyers. The CCBE responds regularly on behalf of its members on policy issues which affect European citizens and lawyers.

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[1] In the European context, one such example is the European Ethical Charter on the Use of AI in Judicial Systems and their environment by the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe (CoE).