



## Europäische Union der Rechtspfleger (EUR)

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### **Statement of the Europäische Union der Rechtspfleger (EUR) on the topic of AI in the areas of responsibility of Rechtspfleger and similar professions**

*This statement was adopted at the EUR General Assembly in Tallinn (Estonia) on 20 September 2024*

#### **Introduction**

The EUR (European Union of Rechtspfleger) has been working on the topic of AI in the justice system for some time. Various aspects present themselves as noteworthy challenges. On the one hand, it should be noted that AI is intended to independently take over work processes previously carried out by humans. On the other hand, it can still be said, at least today, that the complexity of human thought and behaviour cannot be fully imitated by AI systems.

These initial assumptions have led to the creation of legal regulations in the EU for the use of AI in many areas of social life.

With the AI Regulation of 13 March 2024, a first step has been taken worldwide to classify AI in society.

Based on this legal regulation, the EUR has analysed the possible fields of application in the justice system and the associated consequences.

This has resulted in the following statement.

#### **General considerations**

AI is a development that has already found its way into many areas of everyday life. This also applies to the justice system in EU countries.

AI systems are often not recognisable at first glance. They have been and will continue to be used in the context of digitalisation. One example is research systems whose function is based on comparative searches in databases.

With the introduction of chat GPT, a further development has now been added, which has either already become part of everyday life or can no longer be prevented in the justice system.

The EU's AI Regulation now regulates the use of AI. AI systems are divided into four different risk groups. The use of AI in the administration of justice is categorised as high-risk. This classification places comprehensive requirements on the systems used. Every single step towards further digitalisation in the justice system must therefore be checked to ensure that it meets these requirements.

This will have a significant impact on the legal professions. Work processes will change radically and some areas of work will be completely transferred to the functions of AI.

However, this also means that there is no point in rejecting AI in the justice system. Rather, it is necessary to differentiate the specific areas of application for AI from the indispensable areas of application for human competences in the administration of justice.

However, the administration of justice is a vague term and is not uniformly defined in the EU countries. Many areas of responsibility are assigned to different functionaries. However, it should be possible to standardise democratic legal principles within the EU.

The separation of powers is particularly important here. This assigns the judiciary a control function in politics and society, which must be exercised independently. AI systems are usually developed by private companies. Their use must therefore always be scrutinised to determine what influence they may have on the independence of the judiciary.

## **Rechtspfleger professions and comparable professions**

The profession of Rechtspfleger is not standardised in Europe. Starting in Germany and Austria, a number of professions have developed in the countries that have comparable elements and similar areas of responsibility in the administration of justice. However, it remains difficult to create similar rules if the legal structures are very different. For this reason, the EUR has long been campaigning for the introduction of a standardised profession of Rechtspfleger in Europe with comparable competences and legally guaranteed privileges of independence. In Germany, for example, such rules make it easier to keep AI out of processes involving decisions that have an impact on the social life of natural or legal persons. The same criteria are applied here as for the judiciary.

As long as this requirement has not yet been met in the countries, it will be necessary to analyse each individual step in the workflow of judicial proceedings to determine whether it qualifies as a high risk within the meaning of the AI Regulation. If it is identified as such, it would have to be treated in terms of risk management in accordance with Article 9 of the Regulation. However, this means that even work steps that are seen as harmless at first glance may harbour a consequential risk.

The management of register procedures can serve as an example of this. Commercial registers and land registers serve as legal truth in the legal sense. What is written there is the truth that the society has agreed upon. Entries of ownership relationships or financial encumbrances are existential for natural and legal persons.

In many EU countries, it is the task of judicial officers or comparable professions to responsibly guarantee this truth. However, it must be recognised that this truth does not have the same social status in all countries. However, this does not change the fact that the responsibility for accuracy lies with a person.

AI can now be seen as a possible aid for register management. AI can search the pleadings containing an application for entry in the register, some of which can be very extensive, for relevant data such as the applicant or the amount of money to be secured. The results could then be compiled as metadata to prepare a text for registration. In the final step, these texts then only need to be actually entered.

This last step is undoubtedly a task that should not be carried out by the AI, as it has a direct impact on the persons concerned. The AI has no legal personality and therefore cannot assume any responsibility. However, this actually only means that a human must authorise the release of the entry in order to assume responsibility. The development of the application text

and the automated creation of the registration text could then continue to be seen as non-risky and left to the AI.

It is therefore necessary to weigh up the risk of the AI influencing the person responsible by preparing the case.

Such examples frequently occur in court and public prosecution proceedings. Currently, many of these tasks are carried out by assistants in court administration. These include organising case files, assigning pleadings and maintaining the procedural calendar. All of these processes influence the proceedings themselves. The assignment of people who are responsible for proceedings as decision-makers, i.e. the allocation of individual proceedings (allocation of business), could also influence these proceedings. In the case of the responsibility of judges, this is generally excluded by constitutions or laws (statutory judge). However, this does not apply to other professional groups, including Rechtspfleger or similar judicial officers.

## **Social risks**

Consideration of the use of AI in the support areas of judges, Rechtspfleger and public prosecutors has led research institutes to calculate that up to 80% of the labour force in this area could be dispensed with. However, a reduction is also conceivable in the area of decision-makers because processes are more efficient and they are no longer distracted by support work. Whether these calculations are correct or not is rather irrelevant, as considerable job losses are to be expected in these areas in any case. As this fact does not only affect the judiciary, we are talking about a very large number.

At this point, an offsetting calculation is usually made. It is assumed that a large proportion of this labour force will be needed again in the IT sector. However, this calculation is based on the premise that the redundant labour force is intellectually up to the new tasks. Even if one assumes that some people can be suitably qualified through appropriate training, it must be recognised that this potential does not exist in large numbers or that interest in it can be awakened.

Of course, it can initially be argued that there is currently a considerable shortage of labour in all areas, which can be compensated for by the use of AI. However, due to the expected increase in efficiency, it can also be expected that significantly more labour will be saved than is currently required.

The resulting number of people who are left without work and who cannot be qualified for other tasks will be considerable and create social problems. Consequently, this risk factor must also be considered when weighing up the use of AI.

## **Consequences for the profession of Rechtspfleger**

Professions that will be responsible for the administration of justice in the future (including judges, of course) will have to rethink their tasks.

It will be necessary to break down all task areas into the individual steps of their workflow. It must then be determined which work steps cannot be replaced by AI. The scope of these remaining tasks must be reassessed in order to estimate the personnel requirements.

However, it is clear that the remaining tasks are characterised by the fact that they require human empathy, creativity and a sense of responsibility. Task owners must be qualified accordingly. This will have a significant impact on training and studies. Pure knowledge transfer of legal facts will continue to be necessary, but will take a back seat to human qualities.

## **Conclusion**

From the EUR's point of view, it is now necessary to determine what the individual work steps and tasks of the Rechtspfleger professions are. These must then be qualified.

Here, we will focus on those work steps that must not be left to an AI under any circumstances. However, this does not mean that, conversely, all other work steps are transferable. These must be subjected to further critical scrutiny with regard to the criteria of the AI regulation.

In the appendix to this statement, we publish a list of work steps in the specialist areas responsible for Rechtspfleger and comparable professions at courts and public prosecutors' offices, which is, however, incomplete and needs to be updated.

## **Appendix**

In the following specialist areas at courts and public prosecutors' offices in European countries, people are employed who can be categorised as Rechtspfleger or comparable professions due to their training and skills.

In these specialist areas, task areas are to be identified that are to be categorised as high-risk.

### **Administration of justice**

- Personal assessment of suitability as an employee in the judiciary
- Decision on hiring and firing staff
- Decision on the distribution of work tasks in the courts and public prosecutor's offices
- Communication with bodies outside the courts and public prosecutor's offices

### **Civil jurisdiction**

- Process management and responsibility for the process result
- Conducting and moderating oral negotiations
- Analysing the content of the process input
- Analysis of evidence

### **Voluntary jurisdiction and register law**

- Process management and responsibility for the process result
- Conducting and moderating oral negotiations
- Analysing the content of the process input
- Analysis of evidence

### **Enforcement law**

- Process management and responsibility for the process result
- Conducting and moderating oral negotiations
- Analysing the content of the process input
- Analysis of evidence

### **Criminal law**

- Process management and responsibility for the process result
- Management and moderation of criminal prosecution and execution of sentences
- Analysing the content of the process input
- Analysis of evidence