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(CCJE)

CCJE Opinion No. 29 (2026)

on the use of artificial intelligence (AI)

in the judicial process

I. INTRODUCTION

1. In accordance with the mandate entrusted to it by the Committee of Ministers, the Consultative Council of European Judges (CCJE) has prepared this Opinion on the use of artificial intelligence (AI) in the judicial process.

2. Within this Opinion, AI refers to machine-based systems that, for explicit or implicit objectives, infer from the input they receive how to generate outputs such as predictions, content, recommendations or decisions that may influence physical or virtual environments.[1] It thus encompasses but is not limited to established forms of AI, such as predictive AI (AI that identifies and analyses patterns in data) and generative AI (AI

[1] The definition updates that given in CCJE Opinion No. 26 (2023). It does so, particularly, in the light of Article 2 of the Council of Europe Framework Convention on artificial intelligence and human rights, democracy and the rule of law.

that goes beyond pattern identification and analysis and generates novel text or other content). It also includes developing forms, such as agentic AI (AI that goes beyond generative AI to decide on, and execute, actions to achieve specified objectives with minimal or no human intervention).

3. The judicial process refers to the overall process by which a court handles and resolves a case. This includes all administrative court processes as well as judicial decision making, which is the intellectual and legal activity through which judges establish facts, assess evidence, interpret and apply the law, and reach a decision. Judicial decision making should be carried out autonomously, which means a judge's capacity and responsibility to arrive at that decision on the basis of an independent assessment of the facts and the law, free from undue external influence,[2] including inappropriate technological influence.

4. This Opinion is specifically intended to build on and give further effect to Opinion No. 26 (2023) on the use of assistive technology in the judiciary and the principles that it articulated. It should also be read in conjunction with previous CCJE Opinions, particularly Opinion No. 14 (2011) on justice and information technologies (IT).

5. The Opinion took into account the following instruments, which provide guidance on developing soft law standards and a legislative approach to the governance of AI use in the judicial process:

   - the Council of Europe Framework Convention on artificial intelligence and human rights, democracy and the rule of law (2024);

   - instruments of the European Commission for the Efficiency of Justice (CEPEJ) including European Ethical Charter on the use of artificial intelligence in judicial systems and their environment (2018) together with its instrument on the use of generative artificial intelligence by judicial professionals in a work-related context (2024), Guidelines on the use of generative artificial intelligence for courts (2025), Assessment tool for the operationalisation of the European Ethical Charter on the use of artificial intelligence in judicial systems and their environment (2025), Model technology curriculum for judges (2026) and documents of the CEPEJ Resource Centre on Cyberjustice and Artificial Intelligence;

   - the European Union Regulation (EU) 2024/1689 (EU AI Act 2024)[3] and Regulation (EU) 2016/679 (EU GDPR 2016);[4]

   - the UNESCO Guidelines for the use of AI systems in courts and tribunals (2025).

6. The Opinion also draws on responses of the CCJE members to a dedicated questionnaire for the preparation of the CCJE Opinion No. 29 (2026). The responses indicate that:

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[2] CCJE Opinion No. 26 (2023), para 24.

[3] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828).

[4] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

- AI use in the judicial process remains uneven across member States. It is, however, increasing, including through pilot projects and judiciary-based and managed generative AI tools;

- current uses primarily concern: administrative and technical matters (e.g. voice-to-text dictation, anonymisation, case management), legal research (including case-law and legislation search) and document summarisation. These often rely on the use of commercially available generative AI tools.

7. No questionnaire response indicates support for the use of AI for judicial decision making nor did any suggest that it was being used by judiciaries for such a purpose. AI was understood to be a tool to assist judicial management of proceedings and decision making. There was a clear consensus that individual judges remained solely responsible for decisions taken in proceedings, irrespective of what AI assistance there may have been. It was also noted that judicial misuse of AI may constitute a breach of judicial ethics and, where relevant, of data protection law. It may therefore result in disciplinary action.

8. The existence of binding national legislation specifically focused on the use of AI in the judicial process was rarely reported. Many responses did, however, refer to the relevance of the EU AI Act 2024 and the EU GDPR 2016.

9. Questionnaire responses note the promotion of the safe and effective use of AI in the judicial process was, in some states, supported by draft guidance or guidance issued by Judicial Councils or equivalent bodies. It was also promoted in some states through judicial training, although the nature and extent of such training was variable. Generally, training covered issues such as AI literacy, the risks of the use of AI in the judicial process, its safe use, data protection and confidentiality, and the need to maintain the proper exercise of human judgment where it was used.

10. Finally, the questionnaire responses highlight that few states required judges or courts to disclose the use of AI in the judicial process, although some note that disclosure and transparency were recommended as good practice by CEPEJ.

11. The Opinion is based on a preliminary draft prepared by the CCJE Expert appointed by the Council of Europe, Dr. John Sorabji (Associate Professor, University College London).

II. SCOPE AND PURPOSE OF THE OPINION

(A) Scope

12. This Opinion applies to the use of AI in the judicial process. This includes judicial use of AI and judicial awareness of, and the ability to respond to, the use of AI tools by lawyers, parties and other participants to proceedings. The Opinion's scope is premised on the following.

13. It recognises that the use of AI in the judicial process can be beneficial. Its safe and appropriate use should therefore be welcomed. Such use should enable it to play an increasing role in promoting the rule of law, particularly through improving access to justice. This may be achieved, for instance, through improving:

- accuracy and consistency in judicial decision making;
- equality of arms between parties to proceedings;
- efficiency in the administration of justice, thus helping to promote access to and the delivery of justice in a reasonable time; and
- reducing the cost of the administration of justice, both for courts and judiciaries and parties to proceedings.

14. Use of AI in the judicial process does, however, come with risks. AI use may compromise judicial impartiality and independence, including through undue reliance on AI-generated material.[5] It may have an adverse effect on judicial ethics. Additionally, it may undermine the integrity of the judicial process by, for instance, introducing fabricated or inaccurate outputs ("hallucinations", such as fake evidence or legal authorities) into it. Further, AI tools may go beyond their programmed instructions and obtain unauthorised access to online data. Reliance on AI tools may also introduce bias and inequalities due to disparities in access to AI tools available to judges, lawyers and litigants.

15. Furthermore, the quality of judicial decision making and the transparency of proceedings and judgments may be reduced by the use of AI tools. Consequently, such use may undermine the administration of justice and the rule of law.[6]

(B) Purpose

16. The purpose of this Opinion is to promote the effective administration of justice and the rule of law. It seeks to do so by promoting the beneficial use of AI, while minimising its potentially harmful effects, through the development of a coherent, long-term strategy for judicial governance and the safe use of AI tools.

17. The need for guidance is all the more important in the light of the continuing rapid development of AI, and the fact that it may affect the judicial process by shaping the way information is collected, organised, filtered and presented to courts. AI may, for instance, influence judicial decision making by highlighting certain facts, identifying patterns, generating recommendations, predicting outcomes, or otherwise structuring the range of options considered by judges.

18. As a result, AI may affect judicial decision autonomy, not necessarily by replacing the judge's final decision, but by influencing the cognitive and informational environment within which that decision is formed. The central challenge is therefore to ensure that the use of AI supports, rather than undermines, the judge's ability to exercise independent judgment and to remain fully responsible for the determination of proceedings.

[5] CCJE Opinion No. 1 (2001), paras 10-13, on the nature and importance of judicial independence and impartiality; CCJE Opinion No. 18 (2015) on the importance of judicial independence vis-a-vis the other branches of government; CCJE Opinion No. 3 (2002), para 49, on the importance of judicial ethics and professional standards and the maintenance of a high degree of professional competence. And see generally CCJE Magna Carta of Judges (2010).
[6] CCJE Opinion No. 14 (2011), para 5; CCJE Opinion No. 26 (2023), paras 58-61.

19. The Opinion thus provides guidance on the proper use of AI to help judiciaries secure the rights guaranteed by Article 6 of the ECHR. It is aimed at ensuring that AI use in the judicial process assists judges to exercise the judicial power of the state, rather than become a replacement for it.

20. To give effect to its purpose, **Section III** identifies fundamental principles that should govern the use of AI in the judicial process. **Sections IV–VI** address judicial digital sovereignty, measures to safeguard against AI risk, and the role of judicial training. **Section VII** sets out the Opinion's recommendations.

III. FUNDAMENTAL PRINCIPLES FOR THE USE OF AI IN THE JUDICIAL PROCESS

21. AI use within the judicial process must further the rule of law.[7] It should therefore only be used to enhance the administration of justice in a democracy. To achieve this, the following principles should govern its use.

(i) The human rights compatibility principle

22. The design, implementation and use of AI in the judicial process should be consistent with fundamental legal and constitutional rights, including human rights.

23. This places a substantive limit on the use of AI in the judicial process. It includes the requirement that AI tools and their use be compatible with the rights guaranteed by the ECHR, particularly Article 6 of the ECHR which guarantees that

> "*In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.*"

24. Compatibility with judicial impartiality, institutional and individual independence, equality of arms, the adversarial process, access to evidence, and the right to a public, reasoned decision in reasonable time and at reasonable cost is thus required.[8]

(ii) The non-delegation principle

25. Judicial decision making is non-delegable.[9] This limits the use of AI tools, so that they may only assist in the judicial process. They may not, whether explicitly or implicitly, be a replacement for autonomous judicial decision making. Implicit replacement includes, for instance, diminished judicial scrutiny, automation bias, or over-reliance on AI tools. Judges must remain solely responsible for the final determination of substantive rights by a judgment.

(iii) The judicial digital sovereignty principle

26. The judiciary, both institutionally and individually, must have practical and effective control over the use of AI so as to maintain constitutional commitments to judicial

[7] CCJE Opinion No. 26 (2023), para 92 (i).
[8] CCJE Opinion No. 26 (2023), para 92 (i) and (ii).
[9] CCJE Opinion No. 26 (2023), para 92 (iii).

independence and the rule of law.[10] This provides the constitutional and structural basis for the governance of AI use in the judicial process. It includes effective involvement in the purchase, design and control of AI. It also includes the requirement that the judiciary concur in the introduction and use of AI in the judicial process.

(iv) The proportionality principle

27. Subject to the non-delegation principle, a risk-based approach to the use of AI in the judicial process should be adopted.[11] This ensures that the introduction and use of AI in the judicial process is assessed by reference to the function it is to perform, its potential impact on the rights of parties (both procedural and substantive) and human rights compatibility more generally. It is a guide to decision making where implementation of the other fundamental principles is concerned.

(v) The strategic use principle

28. The use of AI in the judicial process must be implemented consistently with a coherent, long-term strategy, the aim of which is to promote the effective administration of justice and the rule of law.[12] Where necessary this may require legislative reform.[13] This guides the establishment of the framework to achieve that aim. It should include an ongoing commitment to and basis for the prioritisation and allocation of the provision of sufficient and sustained funding for the introduction, safe use and improvement of AI tools through the framework established to give effect to each of the other fundamental principles for the use of AI.[14]

(vi) The systematic training principle

29. Judicial impartiality, independence and human decision making require the provision to the judiciary of systematic and ongoing training in the responsible and effective safe use of AI tools, in their limitations, and the risks associated with their use and misuse.[15] This guides the judiciary in developing a proportionate, risk-based framework for the provision of judicial training, which specifically gives effect to the human rights compatibility, non-delegation, and judicial digital sovereignty principles.

(vii) The transparency principle

30. AI use in the judicial process must be transparent. This requires AI tools and their effects to be subject to continuous, evidence-based (both qualitative and quantitative) monitoring and evaluation, consistent with individual judicial independence.[16] This should guide the judiciary and enable them properly to assess the operation of AI tools, scrutinise their impact on the administration of justice and, particularly, judicial decision making, as well as identify risks, including emerging risks. It should also enable parties to proceedings and the public to subject the use of AI to appropriate scrutiny.[17]

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[10] CCJE Opinion No. 26 (2023), para 92 (ii) to (iv).
[11] CCJE Opinion No. 26 (2023), para 92 (i).
[12] CCJE Opinion No. 26 (2023), paras 81 and 82.
[13] CCJE Opinion No. 26 (2023), paras 84 and 89.
[14] CCJE Opinion No. 26 (2023), para 92 (xiii).
[15] CCJE Opinion No. 26 (2023), para 92 (xiv).
[16] CCJE Opinion No. 26 (2023), para 92 (x).
[17] CCJE Opinion No. 26 (2023), para 92 (ix) and (x).

(viii) The safety principle

31. AI use in the judicial process must be safe. It requires AI to be compatible with rights and obligations concerning effective data governance and security.[1] AI tools used in the judicial process must not be able autonomously to gain unlawful access to online data.

32. These principles are the basis for the framework for the use of AI set out in **Sections IV** – **VI**.

IV. JUDICIAL DIGITAL SOVEREIGNTY

33. Judicial digital sovereignty is an overarching principle. It requires the judiciary to exercise effective control over the introduction and use of AI in the judicial process.[18] It secures both institutional independence and the decisional autonomy of individual judges, preventing undue external influence over judicial decision making. It is the principal means through which the human rights compatibility (particularly the commitment to secure Article 6 of the ECHR) and the non-delegation principles are given effect. It is compatible with the judicial use of proprietary AI tools: it does not necessarily require such tools to be owned or designed by the state or the judiciary.[19]

34. Governance and information control are the means through which judicial digital sovereignty is implemented.

(A) Governance control

35. The primary element of effective control is governance control. At an institutional level, this requires the judiciary to have timely and effective input into the design, development, and maintenance of AI tools where they are commissioned, and the selection (including purchase) and, as appropriate, modification of commercial proprietary AI tools for use in the judicial process.[20] Modification may, for example, take the form of restricting an AI tool's access to the Internet, or parts of it.

36. Institutional level control requires the judiciary to assess risk and authorise AI tools for use in the judicial process.[21] AI tools may not be authorised without the concurrence of the judiciary. Only the judiciary may grant such authorisation. It must also ensure that effective systems, consistent with individual judicial independence,[22] are put in place to audit and monitor their use further to the transparency principle. The judiciary must also be able to modify the use of authorised tools, including through the introduction of additional safeguards and improvements to them. As a last resort, it should be able to suspend or prohibit the use of an AI tool, temporarily or permanently.

37. The suspension or withdrawal of an AI tool from use in the judicial process should be capable of being implemented at short notice by the court administration. This should include the provision of back-up systems.[23] This is necessary to minimise any adverse effects that may result from its use.

[18] CCJE Opinion No. 26 (2023), para 92 (iv).
[19] CCJE Opinion No. 18 (2015).
[20] CCJE Opinion No. 26 (2023), para 92 (iv).
[21] CCJE Opinion No. 26 (2023), para 92 (iv).
[22] CCJE Opinion No. 26 (2023), paras 56 and 92(ii).
[23] CCJE Opinion No. 26 (2023), para 78.

38. Such steps may, particularly, be necessary where it becomes apparent through monitoring or auditing that an AI tool is operating or being used in ways, or producing effects that are incompatible with the proper administration of justice, including the requirements of the human rights compatibility, non-delegation and safety principles, judicial impartiality or independence, or are undermining public confidence in the judiciary.

39. To support the judiciary in carrying out institutional level control, they could be provided with appropriate advice on the use of AI by a consultative committee, or an equivalent advisory body of the judiciary, linked to a Council for the Judiciary where such exist. It could draw on relevant multi-disciplinary expertise, such as expertise on judicial ethics, law, computer science, AI, data protection and the social sciences.

40. The Committee could provide practical guidance on the ethical design (particularly emerging ethical risks), procurement and evaluation of AI, and other digital technology, used in the judicial process.

41. Institutional level measures should be complemented by individual level measures. Individual judges may decide whether, and how, to use authorised AI tools. Use of high-risk AI tools where authorised should, however, be subject to compliance with specific information control requirements intended to eliminate identified risks, such as unauthorised autonomous access to online data.

42. Ultimately, the judge using an AI tool in the judicial process is responsible for such use, and for ensuring that it is used safely. To discharge that responsibility properly, individual judges should have the ability, and a practical understanding of how to use them safely, and where necessary override the output of AI tools. This requires judges to contextualise such outputs, so that they do not rely upon them, consciously or unconsciously, contrary to the non-delegation principle. This requires effective training.

(B) Information control

43. The administration of justice necessarily involves processing large amounts of information relating to the judiciary, court administrators, lawyers, parties, witnesses and other participants in proceedings.[24] It includes sensitive personal information (health data, financial information, private information), particularly where family and criminal proceedings are concerned, as well as commercially sensitive information in civil and commercial proceedings. Such information may also be confidential or subject to legal professional privilege.

44. The use of AI tools in the administration of justice risks exposing information they process to unauthorised access and misuse by organisations and individuals outside the justice system. This may result in the infringement of fundamental rights, including the right to privacy and family life, the rights of children, and data protection rights. Exploitation for commercial gain is also a risk.

45. Publicly available online services that retain or reuse user inputs, whatever their licensing model, may also result in breaches of confidentiality and legal professional

[24] CCJE Opinion No. 26 (2023), para 77.

privilege, while undermining the efficacy of court orders. Taken together, these risks may undermine public confidence in the judiciary and the effective administration of justice.

46. To mitigate these risks, it is essential that effective institutional controls over information used in the judicial process are put in place.[25] These should be complemented by appropriate individual controls, i.e. means by which individual judges can be helped to use AI safely.

47. Institutional controls should include the introduction of a regular review of an information access and security policy and effective administrative and technical measures to protect information security and limit access to, and use of, such information to authorised personnel for legitimate purposes relating to the administration of justice.

48. Individual controls should include the provision of guidance, including training, for the judiciary and court administration on information security where AI is used.

49. These measures should ensure that the judiciary retains ultimate control over access to and use of such information.

(C) Implementing effective control

50. Effective governance and information control depends on the proper implementation of the proportionality and systematic training principles. This is necessary because different AI tools pose different levels of risk, which require corresponding levels of control and training.

51. Consequently, effective measures to safeguard against risk, particularly judicial training programmes, are required, as developed in **Sections V** and **VI**.

V. SAFEGUARDING AGAINST RISK WHEN USING AI

52. Effective and proportionate governance controls, as part of a long-term strategy, require a clear, structured framework to assess and mitigate AI-risk. Given the rapid pace of AI development, a tool-specific approach would quickly become outdated and ineffective.

53. This Opinion thus adopts an approach that focuses on the risk that an AI tool has to materially influence or replace judicial decision making. **Material influence refers to the degree to which use of an AI tool may affect judicial reasoning** and, hence, a judicial decision.

(A) Risk assessment

54. AI tools should be subject to an AI risk assessment to determine whether, and how, they may be used, and what is required for their safe use. Risk should be assessed by reference to the human rights compatibility, non-delegation, proportionality and safety principles.

55. To assess the level of risk associated with an AI tool, the following cumulative **risk assessment criteria** should be applied:

[25] CCJE Opinion No. 26 (2023), paras 55, 85 and 92(ii).

(i) Impact on rights

- the impact of the AI tool's use on fundamental rights;

(ii) Influence on judicial decision making

- the degree to which the AI tool could materially influence judicial decision making, including through risk of diminished judicial scrutiny (for example, positive or negative automation bias or reliance on AI-generated material without subjecting it to critical scrutiny[26]);

(iii) Technical characteristics of AI tools

- the provenance and quality of data used to train the AI tool;
- the degree to which the AI tool is explainable and its outputs are capable of being understood, tested and justified;
- the risk of error (including hallucinations) or bias;
- the risk of unauthorised autonomous access to online information;

(iv) Systemic risk

- the risk the AI tool may result in systemic bias, e.g. lead to discriminatory decision making or the systemic distortion of the law's development or application;
- the nature and sensitivity of the legal proceedings in which the AI tool is to be used (civil, commercial, family, public law, criminal) and information it is to process (sensitive personal information, corporate information);

(v) Accountability

- the extent to which parties to proceedings are informed of the use of the AI tool and are able to challenge its use;
- the extent to which use of an AI tool is subject to institutional and individual judicial control;

(vi) Mitigation

- the extent to which risks can be eliminated by appropriate and proportionate judicial training.

56. Risk should be assessed individually and cumulatively. An AI tool may, for instance, be low risk in isolation, but high-risk when its use is combined with others, e.g. where multiple tools are used to conduct legal research, test legal arguments, and evaluate evidence, they may together materially influence judicial decision making.

[26] CCJE Opinion No. 26 (2023), paras 60–61. This is generally referred to as 'cognitive surrender'.

57. Risk is not static. It may change as AI tools or governance controls are improved. It may be mitigated by effective judicial training. Risk assessments should therefore be subject to regular review consistently with the strategic use and transparency principles.

(B) Categorisation of risk

58. Application of the AI risk assessment criteria should be used to produce a three-fold classification:

Prohibited use

- This category should apply to AI tools, which when used infringe the human rights compatibility and non-delegation principles.

- Examples include automating decision-making AI tools, which are used to determine disputes either partially or completely, as well as tools that assess witness credibility. As a general rule, AI tools, the use of which risk displacing judicial decision making or substituting it with automated decision making, should be categorised as prohibited use. This also includes AI tools that place information in the public domain in breach of data governance and security requirements.

- This category should also apply to any AI tool that is not authorised for use in the judicial process, as required by institutional level control of AI use, consistently with the judicial digital sovereignty principle.

High-risk use

- This category should apply to AI tools, which when used, may materially influence judicial decision making and, accordingly, may infringe the human rights compatibility and non-delegation principles.

- Examples include AI tools that can carry out factual evaluation, assess evidence, draw inferences from evidence, predict the case outcomes or test legal arguments, and draft decisions or a judgment's substantive reasoning. AI tools that can be used to schedule hearings or allocate workload are capable of being classified as high-risk given their ability to adversely affect judicial independence and the right to fair trial.

- In certain circumstances, legal research AI tools may be classified as high risk, e.g. where they are publicly available tools with little transparency over the information that they use, or where the risk of hallucinations or error is high, or where they retain or reuse user inputs.

Low-risk use

- This category should apply to AI tools, which when used do not or are unlikely to influence judicial decision making and, accordingly, do not infringe the human rights compatibility and non-delegation principles.

- Examples include AI tools that draft communications, anonymise or pseudonymise judicial decisions. Where legal research AI tools are concerned,

closed-source, proprietary AI tools, which utilise a defined database and have low-risk of hallucination or error would, generally, be classified as low-risk.

- A further example of a low-risk tool is one that leads to an outcome produced by the mechanical and strict application of procedural rules where no judicial evaluation is carried out, e.g. the entry of default judgment where no defence to a claim has been filed and no judicial evaluation of the merits of the claim is required.

59. Care should particularly be taken when assessing systemic risk (AI risk assessment criterion iv, above) to consider the extent to which differential classification for the same use of AI may be required depending on the nature and sensitivity of proceedings in which it is to be used. It may, for instance, be the case that the same use of AI may be classified as low-risk use in, for instance, civil or commercial cases, but high-risk use in family or criminal cases (and vice versa). It should not, therefore, be assumed that classification is generic. It may, properly, need to be varied and specific to different cases.

60. To mitigate the risks associated with each category of use, two key governance controls should be implemented: transparency measures and risk mitigation measures.

(C) Transparency measures

61. Judicial use of AI tools should be transparent. An AI Transparency Notice should be published by the judiciary. This should provide details (the nature, function and outputs) of any AI tools that have been classified as usable by the judiciary, along with their risk classification. It should also confirm the fact that training is provided to the judiciary on the use of AI and that judges remain ultimately responsible for making judicial decisions. The Notice should be subject to regular review and, where necessary, updated to ensure it is accurate.

(D) Risk mitigation measures

62. Proportionate measures should be implemented to mitigate risk. Where prohibited use AI tools are concerned, institutional level controls should be put in place to minimise the possibility that they could be used in the judicial process. Such measures could, for instance, include technical measures to prohibit access to prohibited use AI tools from judicial IT systems or automated warnings prior to the use of prohibited use or high-risk AI tools to process case information.

63. Where high and low-risk AI tools are concerned institutional level controls should be put in place, which authorise the use of specific tools.

64. Additionally, to promote the safe use of AI tools, the use of prohibited AI tools, of non-authorised tools or the misuse of authorised high or low-risk use of an AI tool should be designated as potential judicial misconduct taking into account the seriousness and circumstances of the conduct, the principle of proportionality and the safeguards necessary to preserve judicial independence.

VI. JUDICIAL TRAINING

65. The effectiveness of any long-term strategy for the safe use of AI depends upon judicial training.[27]

66. This is necessary for the implementation of governance controls and to provide judges with the ability to understand and assess the benefits, limits and risks that flow from the use of AI.

67. It is also the means through which practical effect can be given to the principles that underpin judicial use of AI, and thereby secure the administration of justice and public confidence in it (**Section III**).

68. Training should be mandatory and delivered through the use of practical examples of the use of AI.[28] It should form an integral part of the institutional level of governance control. Such training may be delivered in conjunction with training provided to the legal profession. Training should incorporate the following features:

(i) AI literacy

69. Training must enable judges to understand the categories of AI tools, how they work, and their benefits, limits and risks. It should enable them to assess individual and cumulative risk of use, differentiate between levels of risk, and use AI safely.

70. Training should also enable the judiciary to identify and assess the use of AI by lawyers, parties to proceedings and other participants in litigation. This should include, for instance, training that enables the judiciary to identify and assess when legal submissions or evidence have been generated, manipulated or falsified by AI tools, and to then take appropriate protective or remedial steps.

(ii) Judicial responsibility

71. The primary aim of judicial training should be to reinforce individual and collective judicial responsibility for the safe use of AI. Specifically, it should emphasise that judges at all times remain ultimately responsible for their decisions.

72. Training should, accordingly, provide the judiciary with the skills to overcome the potential risk that their decision making may become materially reliant on AI use. It should, particularly, make them aware of and be able to counter the risk of explicit and implicit substitution of AI use for human judicial reasoning.

(iii) Tailored training

73. Training should be proportionate to risk, adopting a tiered approach. The judiciary should receive baseline training for low-risk AI tools, with enhanced training for high-risk tools.

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[27] CCJE Opinion No. 11 (2008), on the importance of high levels of judicial training and professionalism as a bedrock of high-quality judicial decision making. And see CCJE Opinion No. 26 (2023), para 92 (xiv).

[28] The CEPEJ Resource Centre on Cyberjustice and Artificial Intelligence serves as a publicly accessible focal point for reliable information on AI systems applied in the digital transformation of the judiciary and helps to gain an overview of such systems.

Enhanced training should equip judges to understand the limits and mitigate the risks of high-risk tools. Use of such tools should require completion of this training.

74. It should enable judges to avoid over-reliance on AI tools, maintain active judicial responsibility for decision making, identify bias and error, and recognise when AI has been used by parties and lawyers, including the risk of fabricated or manipulated evidence or legal submissions.

75. Training should also enable the judiciary to maintain their commitment to the human rights compatibility and non-delegation principles. It should ensure judges maintain judicial skills,[29] and that any use of AI is consistent with fundamental rights, including Article 6 of the ECHR and principles of procedural justice, confidentiality, legal professional privilege, and data protection.

(iv) Ongoing training

76. The development of AI tools is fast-paced and continuing. Training should therefore also be ongoing. This is to ensure that the judiciary are able to maintain effective governance control, assess risk effectively, and secure the benefits of existing and emerging AI tools.

(v) Institutional support for training

77. If judicial training is to be fully effective, it ought to be designed and delivered on a sound institutional basis. To secure judicial independence, this requires the judiciary to be responsible for judicial training, although that does not entail that judges design and deliver training. It does, however, require judicial oversight and approval of its design and delivery.

78. AI training should also be provided to legal officers and judicial assistants who undertake legal research and analysis and perform other duties in support of the judiciary. Such training should reflect their responsibilities and the risks associated with their AI use.

79. To maintain effective training, the judiciary should be provided with sufficient and sustainable funding to facilitate its provision (see the strategic use principle).

(vi) International co-operation

80. A long-term strategy for judicial training should incorporate international co-operation. As AI tools evolve rapidly and unevenly across jurisdictions, beneficial guidance may be developed by other countries and international organisations. In this respect, the Council of Europe's HELP e-learning programme and the European Judicial Training Network (EJTN) play a significant role by bringing together national judicial training institutions and helping to establish a common European baseline of judicial AI literacy.

[29] CCJE Opinion No. 26 (2023), para 60.

VII. RECOMMENDATIONS

81. The safe use of AI in the judicial process is to be welcomed as it may promote access to justice, the administration of justice and the rule of law. To facilitate such use, the CCJE recommends:

a) The use of AI in the judicial process should be consistent with fundamental constitutional and human rights, particularly the rights guaranteed by Article 6 of the ECHR, and should ensure that judicial decision making remains the judge's sole responsibility. Judicial decision making is non-delegable. This limits the use of AI tools, so that they may only assist in the judicial process.

b) The judiciary, both institutionally and individually, must have practical and effective control over the use of AI so as to maintain constitutional commitments to judicial independence and the rule of law. Individual judges should always retain the discretion whether and how to use AI tools.

c) The use of AI should be implemented through a coherent long-term strategy for its governance, the aim of which is to promote the effective administration of justice and the rule of law. Where necessary this may require legislative reform. Implementation of this strategy should be supported by sufficient and sustained funding.

d) Governance should be risk-based and proportionate. AI tools should be subject to authorisation by the judiciary. Their use should be classified as prohibited, high-risk or low-risk on the basis of structured AI risk assessments. The use of AI tools to replace judicial decision making should be prohibited, as adjudication is a non-delegable function, as should the use of non-authorised AI tools.

e) AI risk assessments should consider both individual and cumulative risks that arise from the combined use of multiple AI tools. Risk should be assessed against criteria such as impact on fundamental rights, the degree of influence on judicial decision making, technical characteristics, systemic risk, accountability, and mitigation. Assessments should be reviewed regularly by the judiciary to reflect evolving risk.

f) Safeguards should be put in place to promote the appropriate use of AI tools, including technical and institutional controls (such as the power to suspend or withdraw AI tools), transparency (such as the publication of an AI Transparency Notice identifying authorised tools, their uses, and risks), and information security measures.

g) Governance, including risk assessments and training, and transparency should be promoted by regular auditing and review.

h) Systematic and ongoing judicial training in AI is essential for effective governance and use. It is the necessary precondition for maintaining judicial control of AI use, including benefit maximisation and risk minimisation.

i) Judiciaries should co-operate internationally to share knowledge and good practice.