**Written submissions of the European Criminal Bar Association (ECBA)
in reply to the Call for input of the Special Rapporteur on
the independence of judges and lawyers**

The ECBA

The European Criminal Bar Association ('ECBA') was founded in 1997 and is an association of independent specialist defence lawyers across Europe, representing the views of defence lawyers and promoting the administration of justice and human rights under the rule of law in Europe and among the peoples of the world.

The ECBA is one of the main interlocutors of the European institutions on issues of criminal justice and the protection of the right of defence and fundamental rights, representing thousands of legal practitioners all around Europe through their direct affiliation to the Association as individual members, or through the Collective members that participate to the life of the Association.

The ECBA acknowledges the growing role of technology in criminal law and criminal procedure, the current digitalisation of justice and the many other rapid developments in this domain, e.g. the rise of AI, digital evidence, the role of encryption in communication and financial flows and the use of video connections in court procedures or for remote communication. These developments must comply with the right to privacy and non-discrimination, procedural safeguards and must have sufficient effective legal remedies. Due to the rapid development in the technical field, the ECBA also considers it important that lawyers have knowledge in this area and that our members can exchange experiences from the various Member States and learn from them.

This has led to the ECBA setting up a working group that focuses on the entire digital aspect within criminal law and criminal procedure.

Taking into consideration the [Call for input of the Special Rapporteur on the independence of judges and lawyers](#) for her next thematic report on artificial Intelligence and judicial systems, the ECBA submits the following input/comments.

Theme 1- AI and judicial independence

> **1. How is AI being used by judges (whether by individuals, specific types of judges, or judges in particular courts or regions)? How is data about the use of AI by judges being gathered and analysed?**
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> *Consider in particular the use of AI in the following judicial activities: a Legal research; b Case summarisation and analysis; c Drafting opinions and judgements; d Informing decision-making; and e Rendering decisions.

1.1. National use cases

According to the European Commission for the Efficiency of Justice (CEPEJ) 2025 report, which documented 125 AI tools used in judicial systems across Europe, most EU jurisdictions are considering the implementation of AI tools for case summarisation, decision anonymisation and translation of documents.[1]

Portugal's judiciary is advancing AI implementation through targeted projects. The Supreme Court's IRIS/SAMA Project enhances case analysis, judgment drafting, and public dissemination of case law. It includes a 'digital library' service alongside specialised tools for anonymisation and summarisation of judgements.

Portugal's Superior Council of Magistrates has established uniform rules for pseudonymisation of published decisions. In April 2023, the Council approved standardised criteria for concealing personal data, ensuring consistent practices across platforms.

Portugal is also developing a 'Virtual Assistant to the Judge' to replicate assistance traditionally provided by human advisors. This tool extracts information from documents, performs searches, and facilitates judgment preparation, aiming to increase time for substantive decision-making. While judges support AI use for administrative tasks, they emphasize that decision-making authority should remain exclusively with human judges. A recent case involving the alleged use of AI in a Court of Appeal ruling has become the subject

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[1] European Commission for the Efficiency of Justice (CEPEJ), "1st Report on the use of Artificial Intelligence (AI) in the judiciary, based on the information contained in the CEPEJ's Resource Centre on Cyberjustice and AI," Council of Europe, 2025, https://rm.coe.int/cepej-aiab-2024-4rev5-en-first-aiab-report-2788-0938-9324-v-1/1680b49def.

of an investigation process, highlighting ongoing concerns about appropriate boundaries for AI in judicial proceedings.

Italy is implementing a judicial AI system through DataLake Giustizia, scheduled for completion in June 2026. This data repository includes six specialised systems covering anonymisation, workload monitoring, jurisprudential analysis, and victim-offender relationship identification.

Italy's Ministry of Justice has developed AI tools for legal analysis, including anonymisation systems and advanced search capabilities that link to cited laws and provide text summarisation. These are complemented by workload monitoring and predictive models.

Italy has established a regulatory framework through Bill No. 1146, approved by the Italian Senate on March 20, 2025. Article 15 stipulates that while AI can support administrative tasks, all decisions related to interpretation, evidence evaluation, and judgment must remain under human judges' authority.[2]

In the Netherlands, the Rotterdam District Court recently conducted a pioneering experiment using artificial intelligence as a supportive tool in drafting a criminal judgement. The trial specifically focused on using AI to assist in drafting the sentencing motivation section of a criminal case verdict, which explains the reasoning behind the court's punishment decision.[3]

In the context of anonymisation, AI could offer solutions that go beyond simplistic redaction methods. Rather than merely replacing personal identifiers with symbols (e.g., '####'), which can render documents difficult to comprehend, AI can substitute personal data with generic yet meaningful terms (e.g., 'Witness A', 'Witness B', 'Witness C'). This approach substantially enhances the readability of anonymised documents whilst maintaining necessary privacy protections, making legal documents more accessible without compromising confidentiality.

The integration of AI-powered translation services addresses significant challenges in the criminal justice system, particularly the costs associated with human translators and the difficulty in finding qualified translators for certain languages or dialects. By providing accurate, real-time translation, AI can facilitate more inclusive and efficient legal proceedings, ensuring that language barriers do not impede access to justice or the fair treatment of individuals within the system.

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[2] Senate Act No. 1146, available at: https://www.senato.it/leg/19/BGT/Schede/Ddliter/58262.htm.
[3] NL Times, March 30, 2025, https://nltimes.nl/2025/03/30/rotterdam-court-tests-artificial-intelligence-writing-aid-criminal-verdicts

Whilst it is important to acknowledge the limitations of current translation technology, and to mitigate the risks for suspects and defendants which may arise from mistranslation by AI, AI translation tools have the potential to transform the provision of legal aid by enabling ex officio lawyers to communicate effectively with clients despite language barriers. Such technology would allow immediate consultation without awaiting the availability of an interpreter or translator, ensuring timely legal advice during the initial stages of proceedings. These systems could translate case documents, evidence materials, and procedural information, enabling clients to fully comprehend their legal circumstances regardless of the language of the proceedings. The implementation of such services would not only improve client representation but also enhance the efficiency of court operations by reducing translation-related delays, ultimately supporting the fundamental right to effective legal counsel whilst optimising judicial resources.

1.2. Legal research

AI systems can expedite the process of searching through case law, statutes, and legal documents to identify relevant case law and interpretations. This capability has the potential to reduce research time for legal professionals, allowing them to allocate resources more efficiently.

When the citation functionality is properly implemented, judicial bodies can readily fact-check sources and effectively mitigate the risk of relying on content generated from AI hallucinations. To maximise efficiency in case law and statutory research, it is imperative that Member States make these resources available as open-source and implement public APIs for straightforward access. This approach would not only democratise access to legal information but also enhance the accuracy and reliability of AI-assisted legal research.

> **2. What kind of training on the use of AI is available to judges? Who designs, organizes and funds that training?**

At least at the European level, the European Judicial Training Network (EJTN) and European Law Academy (ERA) have become central pillars in preparing judges, prosecutors, and legal practitioners for the digital transformation of justice. Through a wide range of seminars,

workshops, and cross-border projects, they have equipped judicial actors with the tools to navigate the challenges posed by artificial intelligence.

Given the nature of our organization, we cannot further answer this question and refer to the Member States and judicial authorities.

Theme 2 - Regulation and risk reduction

> **1. What are some concerns or challenges that you encounter relating to AI use judicial systems and by justice operators? What are the key best practices for addressing these?**
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> *Consider in particular: a Availability of resources, including digital and technical resources within courts; b How AI tools are created and integrated into the judiciary, including whether they are "made" in-house or "bought" from private companies; c Regulatory issues, such as rules defining legal advice supplied by technology companies or applications as the unauthorized practice of law; d Technical/service quality, including questions of bias; e Data ownership and privacy; f Judicial de-skilling; and g Potential threats to judicial independence.

1.1. The use of AI in the criminal justice system

The ECBA is particularly concerned about the risk of dehumanising criminal justice through over-reliance on technology. On this matter, an approach that is both acceptable and in tune with technological development could be to allow the use of AI models merely as a support to the judge, whose assessment must remain central, in order to mitigate the imperfection of judicial decision-making.

The ECBA is also concerned about the potential use of AI models for crime prediction (due to possible algorithmic bias, the risk of unfair stigmatisation of communities and concern about potential 'use creep'), sentencing or parole (due to 'black box' issues), and digital forensics that rely on large datasets without access to the raw data or the ability to evaluate the AI model's methodology.

The use of AI models in criminal proceedings should be transparent, and adequate procedural safeguards must be established to mitigate the potential risks of misuse. We are concerned that in the future, judges may employ AI tools in the decision-making process without

sufficient transparency regarding their utilisation. If a judicial decision is partially drafted or influenced by AI tools, the parties should have the explicit right to be informed about the extent and manner in which AI assistance was employed.

This transparency requirement is fundamental for ensuring the right to a fair trial:

- Firstly, the right to a fair trial necessitates that parties understand not only the basis of decisions affecting them but also the mechanisms through which those decisions were made. When AI systems contribute to judicial reasoning, their involvement constitutes a material element of the decision-making process that must be disclosed.
- Secondly, effective appellate review requires complete understanding of how first-instance decisions were reached and drafted. If AI tools have influenced judicial reasoning or drafting without disclosure, appellate courts cannot properly evaluate whether legal and procedural standards were correctly applied.

1.2. In-house AI tools vs Commercial AI tools

When considering data ownership and privacy concerns, in-house solutions would be preferable for AI implementation in the judicial system. However, it is unrealistic to expect that such AI tools could be created in-house at a court level or, in some cases, even at a national level.

Due to budgetary constraints and the inherent complexity of developing sophisticated AI tools, licensing solutions from private companies will invariably present the more accessible option, often to the detriment of data ownership and privacy safeguards.

A viable solution to this challenge would be a coordinated effort at the European Union level to develop auditable AI tools specifically designed for the judicial system. This could create a shared AI toolbox accessible to judiciary institutions across all member states, thereby addressing both resource limitations and privacy concerns.

1.3. The use of chatbots by private companies

Before answering this question, it is good to consider a concrete example.

In Romania, there are significant concerns among lawyers regarding the use of AI chatbots for providing legal advice by private companies. This practice is considered by many in the legal profession to constitute unauthorised legal assistance, which can be classified as a

criminal offence under Article 25(2)-(3) of Law no. 51/1995 in conjunction with Article 348 of the Criminal Code.

In 2023, a legislative proposal concerning professional services offered by lawyers in electronic form was introduced in Parliament.[4] However, it was subsequently withdrawn following substantial opposition from the legal community. The proposed Article 14 of this legislation contained several notable provisions:

- Only properly authorised lawyers would be permitted to conduct professional activities in electronic format.

- Any blockchain, Internet of Things, artificial intelligence or smart contract technologies related to legal practice would require proper endorsement from the ADR (Digital Transformation Authority), which would first need to obtain approval from the UNBR Council (National Association of Romanian Bars).

- The UNBR Council would have the authority to alert the ADR regarding unauthorised use of such technologies in legal practice.

- The ADR would be empowered to shut down any legal technology solutions operating without proper authorisation.

- Unauthorised practice of law through electronic means would be criminalised and punishable by imprisonment from 3 to 12 months or by a fine.

- Developing, providing, implementing or using unapproved AI tools or systems would also be criminalised with similar penalties.

The ECBA acknowledges that the use of legal AI chatbots by private companies raises several significant concerns:

- If the interaction between the user and the AI chatbot is equivalent to legal assistance, the tool should be owned and managed by an entity that is authorised under the law to provide legal assistance.

- The use of AI chatbots by private companies could potentially undermine the professional role of lawyers.

- The deployment of AI chatbots by private companies may result in misleading advice to clients and negatively impact individuals' rights.

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[4] See https://www.senat.ro/legis/lista.aspx?nr_cls=b47&an_cls=2023.

- The use of AI chatbots by private companies raises important concerns regarding confidentiality of sensitive legal information.

> **2. How does AI impact inequality between litigants, legal professionals, or Member States, either positively or negatively?**

The implementation of AI within judicial systems presents both potential benefits and risks regarding equality between various stakeholders.

Possible negative impacts:

- AI systems trained on datasets containing historical biases risk perpetuating and potentially amplifying discriminatory patterns. This is particularly concerning in the criminal justice context, where existing disparities in law enforcement and adjudication may be encoded in the training data.
- Resource disparities between litigants may be exacerbated when sophisticated AI tools are accessible only to well-resourced parties. AI technologies risk creating a 'technological divide' that disadvantages smaller legal practices, lawyers who provide legal aid and under-resourced jurisdictions.
- The opacity of certain AI systems may differentially impact parties with limited technical expertise or resources to challenge AI-generated assessments or recommendations.

> **3. What legal or regulatory frameworks are in place to guide the use of AI in judicial systems and by justice operators? Who designed and issued these frameworks and what was the process by which they were prepared? Do they restrict the categories of cases in which justice operators can make use of AI?**

The AI Act (Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence) is the first-ever comprehensive legal framework on AI.

Given the nature of our organization, we cannot answer this question further and refer to the Member States and judicial authorities.

Theme 3 - AI and access to justice

> **1. How, if at all, is AI being used to expand access to justice for self-represented litigants?**
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> *Consider in particular the use of AI in: a Legal advice chatbots; b AI-powered legal representation; and c AI-powered online dispute resolution.

See above, *AI and judicial independence,* **at 1.3.**

From an empirical perspective, we acknowledge that litigants are beginning to use AI chatbots for self-representation, which could potentially lead to improved access to justice and reduced costs. However, it is important to recognise that enhanced access to justice is not necessarily equivalent to higher quality of justice, and lower costs could translate into negative impacts on individuals' rights. Self-represented litigants may place excessive reliance on AI-generated advice without understanding its limitations or the consequences of following potentially flawed guidance. This is particularly relevant where such technologies are still in their infancy and are prone to error, and also where users may not be aware of the limitations of the technology.

The absence of a regulated framework for AI legal assistance tools means there are no quality standards, accountability mechanisms, or professional ethics governing their operation. This contrasts sharply with the strict regulatory supervision applied to human legal professionals.

> **2. How, if at all, is AI being used to improve justice administration and the operation of justice systems?**
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> *Consider in particular the use of AI in: a Court filing; b Case triaging and case management; c Live transcription; d Translation; and e Any other relevant uses.

See above, *AI and judicial independence,* **at 1.1.-1.2.**

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