Research

The impact of **Digitalisation of Justice** in the EU on **Access to Justice** and **Fundamental Rights**

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I. Introduction

As part of its 2025 operating grant, the European Lawyers Foundation (ELF) proposed that it would undertake research on the impact of digitalisation of justice in the EU (including the digitalisation of legal practice) on access to justice and on certain fundamental rights, including the rights of those suspected or accused of crime.

The research, to be undertaken in consultation with the Council of Bars and Law Societies of Europe (CCBE) and its relevant committees, takes the form of a mapping of the impact of digitalisation of justice, addressing both procedural and substantive legal issues, for instance in criminal judicial proceedings and legal practice. Given the importance of training for lawyers in the area of digitalisation of justice, the research also focuses on identifying the most relevant areas of future training, which will act as a training needs assessment for lawyers on this subject.

The research will fall into four parts:

(1) mapping of digitalisation of justice initiatives to date;

(2) impact of digitalisation of justice on access to justice and on certain fundamental rights;

(3) training of lawyers on digitalisation; and

(4) conclusions and recommendations.

As this research project has proceeded, it has become clear that there is a vast amount of work being undertaken in different institutions on the same, or a very similar, subject. For instance, universities are focusing on digitalisation of justice, and most importantly - as will be seen later in this document under the work of the European Fundamental Rights Agency (FRA) on page 5 - FRA is undertaking a major project on a very similar theme ('Digitalisation of justice: fundamental rights guidance')[1].

This present report cannot, with the resources available, synthesise such a growing body of work. As the impact of technology, and in particular AI, in the legal field becomes obvious, it threatens to overwhelm efforts to understand it in the present moment, and so to predict where it will go. It is an area which of its nature is fast evolving, as tech companies pour in resources to make digitalisation, and in particular AI, quicker and cleverer. There are regular new and spectacular developments.

Therefore, this report will focus on a few topics, not so developed elsewhere, and, particularly, will focus on the perspective of lawyers alone (whereas, for instance, FRA's perspective covers all justice professionals). Given that digitalisation has plenty of cheerleaders in the authorities responsible for implementing it, which are hoping to save money on justice, this report will particularly cover areas where care needs to be taken because of possible negative impacts. The overall rush to

[1] https://fra.europa.eu/en/project/2024/digitalisation-justice-fundamental-rights-guidance#:

implementation cannot be easily resisted, and in many cases doubtless should not be. But lawyer practitioners need to be aware of and to point out possible adverse impacts on fundamental rights, and in particular on access to justice, and to take appropriate mitigating action.

It is hoped that this perspective will give the report a purpose and added value.

II. Mapping

This part of the research will map what has happened to date in initiatives taken by the European Commission, as well as the Council of Europe and other relevant European bodies, followed by the position and response of the CCBE. As mentioned in the Introduction, it will of its nature go out of date quickly, because developments in the digitalisation of justice are themselves happening quickly.

For ease of reference, the headings below are as follows:

- **II.A – Background** (covering developments in the European Commission, Council of Europe, European Union Agency for Fundamental Rights, European Data Protection Supervisor and European Court of Human Rights);
- **II.B – CCBE position** (covering the CCBE's general overall position to these developments);
- **II.C – Why the digitalisation of justice matters to lawyers** (covering access to justice, engagement with law and procedure, and economic benefit);
- **II.D – How digitalisation affects various legal topics** (covering the work of individual CCBE committees)

II.A Background

(1) European Commission

Digitalisation of justice is a central issue because the European Commission has made it a priority, and has introduced a number of legislative and other initiatives to implement it.

Regarding legislative initiatives, there is a regulation and a directive - Regulation (EU) 2023/2844 on the digitalisation of judicial cooperation and access to justice,[2] and Directive (EU) 2023/2843 which amends other legislation as regards digitalisation of judicial cooperation[3] - both adopted on 13 December 2023, and implemented as from 16 January 2024.

Regarding other initiatives, there was a communication on digitalisation of justice,[4] there are specific instruments such as the eIDAS regulation on electronic identity (EU) No 910/2014,[5] but most importantly of all, there was a Digital Justice Package published just before the delivery of this

[2] https://eur-lex.europa.eu/eli/reg/2023/2844/oj/eng
[3] https://eur-lex.europa.eu/eli/dir/2023/2843/oj/eng
[4] https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/digitalisation-justice/communication-digitalisation-justice-european-union-and-proposal-e-codex-regulation_en
[5] https://eur-lex.europa.eu/eli/reg/2014/910/oj/eng

report.[6] The 14 action points arising out of the digital justice strategy which is part of the package are the most important indicators of future Commission actions, and are listed below.

This section will deal first, though, with the legislative initiatives, and then with the other initiatives, and specifically the Digital Justice Package.

The aim of the regulation and directive cited above was to:

- improve the efficiency and resilience of cross-border judicial cooperation between competent authorities;

- reduce administrative burden and costs, increase legal certainty, enhance protection of parties' procedural rights; and

- improve access to justice of parties by giving the option of electronic communication with competent authorities and establishing a legal basis for videoconferencing hearings.

The following civil law instruments are covered by the regulation and the directive:

1. Legal aid (Directive 2003/8/EC)
2. European Enforcement Orders (Regulation 805/2004)
3. European Orders for Payment (Regulation 1896/2006)
4. European Small Claims (Regulation /2007)
5. Maintenance (Regulation 4/2009)
6. Succession (Regulation 650/2012)
7. Brussels Ia (Regulation 1215/2012)
8. Civil protection measures (Regulation 606/2013)
9. European Account Preservation Orders (Regulation 655/2014)
10. Insolvency Regulation (Regulation 2015/848)
11. Matrimonial property regimes and registered partners' property regimes (Regulations 2016/1103 and 2016/1104)
12. Brussels IIb (Regulation 2019/1111)

[6] https://ec.europa.eu/commission/presscorner/detail/en/mex_25_2762

And the following criminal law instruments are covered by the same two legal acts:

1. European Arrest Warrants (Framework Decision 2002/584/JHA)
2. Freezing orders (Framework Decision 2003/577/JHA)
3. Financial penalties (Framework Decision 2005/214/JHA)
4. Confiscation orders (Framework Decision 2006/783/JHA)
5. Recognition of custodial sentences (Framework Decision 2008/909/JHA), probation decisions (Framework Decision 2008/947/JHA), supervision (Framework Decision 2009/829/JHA)
6. Prevention (Framework Decision 2009/948/JHA)
7. Protection orders (Directive 2011/99/EU)
8. European Investigation Orders (Directive 2014/41/EU)
9. Freezing and confiscation (Regulation 2018/1805)

Of course, the scope is restricted by the EU's competence to cross-border matters, and there are rules for:

- videoconferencing (including domestic civil cases where one party is abroad);
- recognition of electronic signatures/seals;
- validity of electronic documents; and
- electronic payment of (court) fees.

Some of the measures affect the decentralised IT system to be used mainly by Member States, and to be introduced over a number of years into the future. But there is also a European electronic access point (EEAP) to be used only in civil matters with cross-border implications, which provides a possibility for natural or legal persons (and their legal and authorised representatives) to lodge certain claims or requests or communicate with authorities electronically (including service).

At the outset of the process, in 2020, the Commission produced its own mapping document, which is now rather out of date.[7]

[7] https://commission.europa.eu/document/download/d55b071a-9589-4168-af8d-5e3550dd6978_en?filename=swd_digitalisation_en.pdf

As the other initiatives mentioned above, and specifically the Digital Justice Package, the package is divided into two documents: the DigitalJustice@2030 Strategy,[8] and the European Judicial Training Strategy 2025–2030.[9] The Training Strategy will be discussed in more detail under Section lV below on the 'Training of Lawyers on the digitalisation of justice', and so only the DigitalJustice@2030 Strategy will be discussed here.

The action points of the digital justice strategy are the following:

1. The Commission will create a living repository of digital tools, in particular AI, used in justice across the EU, available on the European e-Justice Portal by the end of 2026.

2. The Commission will facilitate exchange of best practices among Member States on digital tools, in particular AI, used in justice.

3. The Commission will create an IT toolbox by the end of 2026 and promote its use.

4. The Commission will elaborate on the use of high-risk AI systems in justice, notably by defining relevant guidelines under the AI Act by February 2026, with input from the justice community.

5. The Commission will identify, together with the Member States and other relevant stakeholders, areas where the EU can support them in their uptake of AI in justice, possibly with dedicated guidelines about whether, for what purpose, and how they could use AI tools.

6. The Commission and the Publications Office of the EU will support complete uptake of ELI and ECLI. For ECLI, ensure that, by 2030, all case-law in all Member States is assigned an ECLI and can easily be found on the ECLI search engine on the European e-Justice Portal. The first step will be to assign an ECLI to all new court decisions in all courts. The second will be to integrate all existing case-law. For ELI, ensure that, by 2030, each piece of legislation in all Member States is assigned an ELI, to be easily found on the ELI search engine.

7. The Commission and the Publications Office of the EU will support the development of legal technology applications, including AI tools for justice, by improving the availability and re-usability of legal and judicial data (including case law and legislation).

8. The Commission will recommend voluntary, common EU-wide technical requirements for videoconferencing by the end of 2027.

9. In the context of the European Investigation Order Directive review, the Commission will seek to enable remote participation in criminal court hearings of suspects or accused persons

[8] https://commission.europa.eu/document/download/95918716-ce7d-401b-b6d5-e23effae5b36_en?filename=JUST_template_comingsoon_standard_4.pdf
[9] https://commission.europa.eu/document/download/1248005c-38c5-4f74-9417-997cc6ad34ad_en?filename=JUST_template_comingsoon_standard_5.pdf

from another Member State via videoconference, including the necessary procedural safeguards. The Commission will also assess the corresponding need to include rules to facilitate the remote participation of victims of crime as well as necessary safeguards, taking into account the outcome of the negotiations on the revision of the Victims' Rights Directive.

10. The Commission will study the feasibility and assess the costs and benefits of different options to overcome interoperability issues for cross-border videoconferencing in judicial proceedings by the end of 2027.

11. The Commission proposes to continue funding projects and actions at EU and Member State level under the next MFF through the proposed Justice Programme.

12. The Commission aims to support the digitalisation of national justice systems under the next MFF through the proposed National and Regional Partnership Plans.

13. The Commission will analyse the effects of the possible further digitalisation of cross-border proceedings in civil and commercial matters, beyond the scope of the Digitalisation Regulation, by the end of 2028.

14. The Commission will develop the European Electronic Access Point so that it can be expanded later to all civil and commercial law cases with cross-border implications.

(2) Council of Europe

The Council of Europe has taken the lead in publishing guidelines on the digitalisation of justice, mainly through its European Commission for the Efficiency of Justice (CEPEJ). A priority of CEPEJ is to accompany States and courts in a successful transition towards digitalisation of justice in line with European standards, and in particular Article 6 of the European Convention of Human Rights (right to a fair trial). In the CEPEJ action plan 2022-2025, 'Digitalisation for a better justice' was adopted. Given that states are the members of the Council of Europe, it is no surprise that it has concentration on the needs of courts. Among the areas that it looks at are: effective document management, transparent case allocation, secure remote procedures and data-driven support to aid investigative, judicial, and defence activities. It sees a challenge in ensuring that traditionalist practitioners adapt to new methods, along with ensuring protection for fair trial and human rights, guaranteeing the impartiality and independence of the judiciary, and ensuring new technology does not introduce or perpetuate bias.

Among CEPEJ's publications are:

- Guidelines on how to drive change towards cyberjustice[10]

[10] https://edoc.coe.int/en/efficiency-of-justice/7501-guidelines-on-how-to-drive-change-towards-cyberjustice-stock-taking-of-tools-deployed-and-summary-of-good-practices.html

- European Ethical Charter for the use of artificial intelligence in judicial systems and their environment[11]

- Toolkit for the implementation of the Guidelines on Cyberjustice[12]

CEPEJ has also set up a Cyberjust working group whose expected outcomes include: the collection of good practices and development of practical and useable tools for the digital transformation of justice and e-justice; identification of a plurality of solutions and of their technical, legal, judicial, organisational and ethical requirements; and an evaluation/prediction of their impact on the quality of the judicial system.

As a result, the following guides are among those it has published:

- Guidelines on videoconferencing in judicial proceedings[13]

- Guide on the use and development of remote hearings[14]

- Guidelines on electronic court filing (e-filing) and digitalisation of courts[15]

- Guidelines on online alternative dispute resolution[16]

- Cyberjustice and AI glossary[17]

- Information note on the use of Generative Artificial Intelligence (AI) by judicial professionals in a work-related context[18]

Another part of the Council of Europe, the European Committee on Legal Co-operation (CDCJ), has also published guides in this area: on AI and administrative law;[19] on online dispute resolution mechanisms;[20] and on digital evidence.[21]

Additionally, the Council of Europe is dedicated to ensuring that AI development and application align with established human rights standards. In line with this commitment, the Steering Committee for Human Rights (CDDH) has been invited by the Committee of Ministers to work on this emerging field. The CDDH has therefore established a Drafting Group on Human Rights and Artificial

[11] https://rm.coe.int/ethical-charter-en-for-publication-4-december-2018/16808f699c
[12] https://rm.coe.int/cepej-toolkit-cyberjustice-en-cepej-2019-7/168094ef3e
[13] https://edoc.coe.int/en/efficiency-of-justice/10706-guidelines-on-videoconferencing-in-judicial-proceedings.html
[14] https://rm.coe.int/cepej-2025-3-en-guide-for-remote-hearings-2763-8911-6430-1/1680b6bb7b
[15] https://rm.coe.int/e-filing-en/1680b2ca1c
[16] https://rm.coe.int/cepej-2023-19final-en-guidelines-online-alternative-dispute-resolution/1680adce33
[17] https://www.coe.int/en/web/cepej/glossary-2
[18] https://rm.coe.int/cepej-gt-cyberjust-2023-5final-en-note-on-generative-ai/1680ae8e01
[19] https://www.coe.int/en/web/cdcj/ai-administrative-law
[20] https://www.coe.int/en/web/cdcj/online-dispute-resolution-mechanisms
[21] https://www.coe.int/en/web/cdcj/digital-evidence

Intelligence (CDDH-IA) that is tasked with drafting a handbook on human rights and artificial intelligence.

The handbook will be a crucial resource, promising to offer practical guidance on upholding human rights in the era of AI. It will provide clear, actionable information to help navigate the complex intersection of AI and human rights. The CDDH is expected to adopt the Handbook by the end of 2025.[22]

More specifically on AI, the Council of Europe set up in 2022 a Committee on Artificial Intelligence (CAI)[23] to draft and negotiate a legally binding international treaty on artificial intelligence, grounded in the values of human rights, democracy, and the rule of law. Drawing on the preparatory work of the Ad Hoc Committee on Artificial Intelligence (CAHAI), the CAI facilitated two years of multilateral negotiations among the Council's 46 member states, the European Union, and 11 non-European countries, with input from civil society and industry observers. The CAI's most significant achievement was the adoption of the Framework Convention on Artificial Intelligence in May 2024—the world's first global treaty regulating AI use and development.[24] This treaty requires signatory states to implement domestic measures ensuring AI systems comply with human rights, and safeguards public sector uses as well as private sector activities on behalf of public authorities. The Convention was signed by the EU and several other countries in September 2024.

(3) European Union Agency for Fundamental Rights Agency (FRA)

For the purposes of this research, the most relevant piece of work undertaken by the FRA is its report, published in November 2025, on 'Digitalising Justice – a Fundamental Rights-Based Approach'.[25] It looked at digital tools such as video conferencing in trials, e-case management systems to streamline and simplify administrative procedures, online platforms for public access to information, crime reporting and legal aid, and AI-based anonymisation and transcription tools. The report undertook a fundamental rights analysis of 31 digital tools, and included fieldwork in seven EU Member States: Austria, Estonia, France, Italy, Latvia, Poland, and Portugal.

The FRA approach covers much of the ground of this report, although its focus is both narrower and deeper. It is narrower because it does not cover some of the topics covered here, such as the impact of the EU's lack of digital sovereignty, the erosion of skills of junior lawyers through adoption of AI in law firms (and other consequences for the training of lawyers), or the impact of gaps in AI regulation. It is deeper because it thoroughly investigates a number of specific digital and AI tools, and has much more detail about the consequences of these tools on a range of rights under the EU Charter of Fundamental Rights. Where the FRA conclusions overlap with this report, its conclusions are mentioned, usually with quotations.

FRA has also published numerous relevant reports in the past on digitalisation of justice, including:

[22] https://www.coe.int/en/web/human-rights-intergovernmental-cooperation/intelligence-artificielle
[23] https://www.coe.int/en/web/artificial-intelligence/cai
[24] https://rm.coe.int/1680afae3c
[25] https://fra.europa.eu/sites/default/files/fra_uploads/fra-2025-digitalising-justice-fundamental-rights-approach_en.pdf

- *Facial recognition technology: fundamental rights considerations in the context of law enforcement*;[26]

- *Getting the future right – Artificial intelligence and fundamental rights;*[27]

- *Data quality and artificial intelligence – mitigating bias and error to protect fundamental rights*;[28]

- *BigData: Discrimination in data-supported decision making*;[29] and

- *Bias in algorithms - Artificial intelligence and discrimination*.[30]

FRA is also co-operating with Eurojust on a range of issues related to digitalisation of criminal justice,[31] including facial recognition technology, detention-related topics, access to lawyers and victims' rights and Eurojust's digital criminal justice project.[32]

(4) European Data Protection Supervisor (EDPS)

A number of years ago, the EDPS gave an opinion on the original European Commission e-Justice Strategy,[33] but its more recent and relevant initiative has been its formal comments on the original proposal for a regulation and directive on digitalisation of judicial cooperation, which were both passed in 2023.[34]

In its comments, the EDPS highlighted the need for integrating robust data protection measures in digital judicial processes, ensuring personal data is used strictly for specified judicial purposes, preferring systems that prevent centralised data accumulation (so reducing risks of misuse), and defining roles of data controllers and processors within digital judicial systems.

(5) European Court of Human Rights

The European Court of Human Rights is due to launch this year an online application form. This is a historic step for the court, although the impact is obviously still to be evaluated.

[26] https://fra.europa.eu/en/publication/2019/facial-recognition-technology-fundamental-rights-considerations-context-law
[27] https://fra.europa.eu/en/publication/2020/artificial-intelligence-and-fundamental-rights
[28] https://fra.europa.eu/en/publication/2019/data-quality-and-artificial-intelligence-mitigating-bias-and-error-protect
[29] https://fra.europa.eu/en/publication/2018/bigdata-discrimination-data-supported-decision-making
[30] https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-bias-in-algorithms_en.pdf
[31] https://www.eurojust.europa.eu/news/eurojust-and-eu-fundamental-rights-agency-want-increase-further-cooperation?.com
[32] https://www.eurojust.europa.eu/judicial-cooperation/instruments/digital-criminal-justice
[33] https://www.edps.europa.eu/sites/default/files/publication/08-12-19_ejustice_en.pdf
[34] https://www.edps.europa.eu/system/files/2022-01/2022-01-25_edps_comments_justice_digitalisation_en.pdf

II.B CCBE position

In its response to the EU's Declaration on Digital Rights and Principles, the CCBE issued a statement of its own principles in this area, which sets the tone and content of much of what the CCBE has said whenever digitalisation has touched upon its work.[35] The CCBE principles can be summarised as follows:

(a) digitalisation needs to be coupled with sufficient safeguards and due process procedures in order to uphold fair trial rights, including the protection of professional secrecy and legal professional privilege;

(b) e-justice initiatives must respect and ensure fundamental rights and principles, as recognised by the EU Charter of Fundamental Rights and the European Convention on Human rights;

(c) e-justice systems need to be secure and support an electronic equality of arms and access to justice i.e. they should ensure that all parties enjoy at least the full procedural rights that they previously had under paper-based systems;

(d) digitalisation should not be full or completely mandatory, should be accompanied by sufficient training for citizens, professionals and administrations, and should always be human-centred; see *Xavier Lucas v. France*, 9 June 2022[36]

(e) human judges must take full responsibility for all decisions, and a right to a human judge should be guaranteed at all stages of the proceedings;

(f) technology used by private actors, like internet service providers, and public actors, like law enforcement authorities, to collect, process and exchange personal data and to conduct surveillance activities should ensure that there is no interference with any kind of data protected by professional secrecy.

11.C Why the digitalisation of justice matters to lawyers

Lawyers need to be at the forefront of contributions to, and participation in, the digitalisation of justice, for the following reasons.

(1) Access to justice

Improving access to justice is one of the missions of the CCBE, and is explicitly expressed to be one of the driving forces behind the digitalisation of justice by the European Commission in its various

[35] https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL__20230216_CCBE-Statement-on-the-European-Declaration-on-Digital-Rights-and-Principles.pdf

[36] https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-217615%22]}

initiatives. The Commission claims that digitalisation will improve access to justice, partly by reducing administrative burdens and costs, but also by increasing legal certainty and enhancing protection of the parties' procedural rights.

Lawyers are clearly on the frontier of access to justice, being the means through which citizens can achieve it. It is therefore incumbent on lawyers to follow the development of AI to be sure that citizens' access is at least maintained, and hopefully improved if all the claims made for its contribution work out.

This is further developed below where the advantages and disadvantages of digitalisation, including of AI, are expanded, with a deep dive on certain factors.

(2) Engagement with law and procedure

Digitalisation by its nature covers issues on which lawyers are daily focused, such as: ethics (protection of lawyer-client confidentiality), professional liability (when things go wrong), rules of evidence and data protection. Without the engagement of lawyers in the development of digitalisation of justice, the legal profession's work to advance citizens' and business's rights might be detrimentally affected.

For example, as already mentioned, there should be a guarantee that parties to a proceeding enjoy the same procedural rights in digitalised proceedings as they would in the off-line paper world. There should also no restrictions on access to justice because of technological limitations. Care must be paid to those – the elderly, the poor or the vulnerable – who do not have access to any, or to reliable, technology. There should be electronic equality of arms, ensuring that neither party has a procedural or substantive advantage because of the nature of the technology used.

There are numerous current EU-wide procedures or services already in existence and used by lawyers to which these rules should apply: e-identification, e-filing, e-service of documents, electronic payment orders, electronic registers and access to cross-border e-justice systems and digital exchange systems (such as the e-Evidence Digital Exchange system, or iSupport).

On top of that, lawyers are among the main users of e-justice applications. It is vital, therefore, that their needs should be properly addressed, such as the protection of professional secrecy/legal professional privilege and of data.

(3) Economic benefit

Many believe that electronic court procedures will enable law firms to run their practices more efficiently through reducing overhead costs.

II.D How digitalisation affect various legal topics

The CCBE has adopted numerous other positions in response to specific policy proposals, adapting the principles mentioned above to them. Below is a breakdown of activity per each relevant CCBE Committee.

(1) IT Law

For obvious reasons, it is this committee which has taken the lead on the digitalisation of judicial proceedings, with a range of papers, divided into position papers on European Commission proposals and guidance for European lawyers, as follows:

Position papers

CCBE position paper on the proposal for a regulation **on the digitalisation of judicial cooperation and access to justice** in cross-border civil, commercial and criminal matters (29/07/2022)[37] – this is relevant to a variety of areas of law and the procedures that would apply, including remote hearings. It focuses mainly on the consequences of remote hearings, and stresses the importance of respecting national rules on such hearings, the consent of the parties and the need to protect professional secrecy. The CCBE had earlier responded to a communication on digitalisation of justice in the EU[38], a public consultation on the digitalisation of cross-border judicial cooperation,[39] and a roadmap on the digitalisation of justice in the EU.[40]

CCBE position paper **on the proposal for a regulation laying down harmonised rules on artificial intelligence** (Artificial Intelligence Act)[41] – this lays down the principles that the CCBE consider vital in the use of AI in the justice system, such as the necessity for a right to a human judge and the need to avoid AI in areas like 'predictive policing' or decisions on bail or sentence. The CCBE had earlier responded to a European Commission White Paper on AI.[42]

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37 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20222907_CCBE-position-paper-on-the-proposal-for-a-regulation-on-the-digitalisation-of-judicial-cooperation-and-access-to-justice-in-cross-border-civil-commercial-and-criminal-matters.pdf

38 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20210328_CCBE-comments-on-the-Communication-on-Digitalisation-of-justice-in-the-European-Union.pdf

39 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20210429_Public-consultation-on-digitalisation-of-cross-border-judicial-cooperation.pdf

40 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20200904_CCBE-comments-on-the-roadmap-on-the-digitalization-of-justice-in-the-EU.pdf

41 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20211008_CCBE-position-paper-on-the-AIA.pdf

42 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20200605_CCBE-Response-to-the-consultation-regarding-the-European-Commission-s-White-Paper-on-AI.pdf

CCBE position papers **on the proposal for a Data Act,**[43] **eID proposal**[44] **the e-CODEX proposal,**[45] and **the service of documents and taking of evidence in civil and commercial matters**,[46] all of which have a direct bearing on the digitalisation of judicial proceedings.

Guidance

1. CCBE guidelines on **the use of cloud computing** by Bars and lawyers;[47]
2. CCBE Guidance on **the use of remote working tools** by lawyers and **remote court proceedings**;[48]
3. CCBE Guidance on **Improving the IT Security of Lawyers** Against Unlawful Surveillance;[49]
4. Guide on the **use of Artificial Intelligence-based tools** by lawyers and law firms in the EU;[50]
5. Report on **opportunities and barriers in the use of NLP tools** in SME law practices;[51]
6. Overview of the **average state of the art IT capabilities** in the EU;[52]

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43 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20221125_CCBE-position-paper-on-the-Data-Act.pdf

44 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20220401_CCBE-position-paper-on-the-e-ID-proposal.pdf

45 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20210328_EN_IT_CCBE-position-paper-on-the-e-CODEX-proposal.pdf

46 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20181019_CCBE-Position-on-proposals-for-amending-regulations-on-service-of-documents-and-taking-of-evidence-in-civil-and-commercial-matters.pdf

47 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Guides_recommendations/EN_ITL_20250227__CCBE-guidelines-on-the-use-of-cloud-computing-by-lawyers.pdf

48 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/SURVEILLANCE/SVL_Position_papers/EN_SVL_20201127_CCBE-Guidance-on-the-use-of-remote-working-tools-by-lawyers-and-remote-court-proceedings.pdf

49 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Guides_recommendations/EN_ITL_20160520_CCBE_Guidance_on_Improving_the_IT_Security_of_Lawyers_Against_Unlawful_Surveillance.pdf

50 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Reports_studies/EN_ITL_20220331_Guide-AI4L.pdf

51 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Reports_studies/EN_ITL_20211126_Report-on-opportunities-and-barriers-in-the-use-of-NLP-tools-in-SME-law-practices.pdf

52 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Reports_studies/EN_ITL_20210201_Overview-of-the-average-state-of-the-art-IT-capabilities-in-the-EU.pdf

7. CCBE considerations on the **Legal Aspects of AI**;[53] and

8. CCBE Statement on **the use of AI in the justice system and law enforcement**.[54]

The IT Law Committee is also currently working on the use of generative AI by lawyers.

Projects

Given its interest in the digitalisation of justice, the CCBE has been involved to date (mainly through its joint participation with the European Lawyers Foundation) in a range of EU-funded projects on the topic, mostly through its IT Law Committee, as follows:[55]

- Find-a-lawyer 1 – a one-stop-shop solution to cross-border searches for European lawyers
- Find-a-lawyer 2 – dealing with lawyers' role verification in e-proceedings
- Find-a-lawyer 3 – improvement and further expansion of the Find-a-lawyer service
- European Training Platform - EU-wide e-platform containing legal training courses
- e-CODEX / Me-CODEX I/II/III – e-Justice Communication via Online Data Exchange
- EVIDENCE – European Informatics Data Exchange Frameworks for Courts and Evidence
- MAIVC – Multi-aspect initiative to improve cross border videoconferencing
- EVIDENCE2e-CODEX – Linking EVIDENCE into e-CODEX for European Investigation Orders and mutual legal assistance procedures in Europe
- AI4Lawyers – Studies on the take up of AI in legal practice and a guide on the use of AI by lawyers
- TRAVAR – Webinars on rights enshrined in the EU Charter of Fundamental Rights, including on the impact of digitalisation of justice
- TRADICIL – Training in substantive law and in digitalisation of justice through the holding of 2 pan-European hybrid training events referring to various aspects of the digitalisation of justice

[53] https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Guides_recommendations/EN_ITL_20200220_CCBE-considerations-on-the-Legal-Aspects-of-AI.pdf

[54] https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/Statements/2023/EN_ITL_20230525_CCBE-Statement-on-the-use-of-AI-in-the-justice-system-and-law-enforcement.pdf

[55] https://elf-fae.eu/eu-projects/

(2) **Working Group on Surveillance and Criminal Law Committee**

As human activity becomes increasingly technology-mediated, a large digital footprint is generated. In many cases now, the entirety of activities are online. This has pushed public authorities to reflect on the role of law enforcement in investigating crime. The next few years of EU policy making will focus, among other things, on striking a balance between safeguarding fundamental rights while at the same time expanding the powers of law enforcement authorities.

The CCBE Working Group on Surveillance looks at the topic of digitalisation from the point of view of ensuring that the information generated by lawyers through their use of new technology is appropriately protected from the use of state powers in, for instance, the state's investigation and prosecution of crime, or crime prevention. The Working Group's focus has therefore been traditionally on advocating against the use of excessive investigatory powers by public authorities, highlighting their negative impact on professional secrecy/legal professional privilege.

The kind of issues now arising include:

- dealing with electronic evidence (e.g. see the **Response to the Public Consultation on improving cross-border access to electronic evidence in criminal matters**;[56]

- applying key legal principles to the online world during criminal investigations and trials (e.g. see the **position regarding the use of videoconferencing in cross-border criminal proceedings**;[57]

- dealing with machine-generated evidence;

- the use of AI to support some decision-making (for instance, risk assessment, both of individuals and companies, in systems like automated compliance software).

A bigger and more overarching issue is that, since the state and public authorities have much larger resources to invest in new technology to support their statutory activities, safeguarding equality of arms becomes much more important.

(3) **Future of Legal Services and Legal Profession Committee**

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56 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/SURVEILLANCE/SVL_Position_papers/EN_SVL_20171020_CCBE-Response-Consultation-on-improving-cross-border-access-to-electronic-evidence-in-criminal-matters.pdf

57 https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Position_papers/EN_ITL_20141129_CCBE_Position_regarding_the_use_of_videoconferencing_in_crossborder_criminal_procedures.pdf

The topic of digitalisation obviously impacts the profession as a whole, and is one of the chief drivers of the future. It covers areas like professional obligations, organisation of work, changing requirements to education and training, etc.

(4) **Migration**

Migration is one of the high-risk areas identified in the EU AI Act. This is not surprising given the particular vulnerability of migrants, and the seriousness of the fundamental rights that decisions in this area can impact, like human dignity, risk of persecution upon return and risk to life.

A few of the key issues arising are:

- the use of technology in the decision making process in relation to visa applications, residence permits, asylum applications or administrative detention. For example, risks related to pre-departure systems like ETIAS or VIS involve automated decision-making systems which assess the risk that a person presents.

- the use of technology in the processes related to asylum application (admissibility and on merits) and the impact this may have on effective remedy; due to the particular vulnerability of asylum seekers, it is already difficult to challenge authorities' decisions. With digitalisation, it will be even more difficult as the basis upon which the decision is taken will be even more opaque.

- the use of automatic risk assessments and algorithmic profiling, for instance, where the chances of a person to obtain asylum are impacted by systems based on recognition rates etc.

- the use of data in relation to the procedures taking place at the border, for example at migration hotspots, and how this impacts the view of the authorities on asylum seekers and their chance of being channelled through the proper procedure.

- the future use of AI-powered tools quickly and accurately to translate documents and provide real-time interpretation in cases involving migrants.

(5) Anti Money Laundering Committee

Some of the key issues identified are:

- the use of tools to assist with AML duties, such as know-your-client and customer due diligence; and

- the use of databases, such as beneficial ownership registers, to carry out AML duties for which the lawyer retains responsibility.

Questions arise in both these uses over reliability of the information returned or contained, both as to whether it is accurate and up to date, and, secondly, whether the lawyer can rely on these alone or whether he or she must make further enquiries. For instance, if a lawyer relies on an IT tool for customer due diligence and there is a mistake, who is responsible?

The Financial Action Task Force (FATF), the global body which sets international standards for AML and for combating the financing of terrorism (CFT), published a report in 2021 on 'Opportunities and Challenges of New Technologies for AML/CFT'.[58]

More recently, the European Banking Authority, in its Opinion on ML/CFT risks affecting the EU's financial sector, stressed that a careless use of innovative compliance products can lead to money laundering and terrorism financing risks.[59] This goes in parallel with escalating risks, as automation and AI fuel increasingly sophisticated schemes for impersonation, forgery and evading detection. The findings may be interesting for the non-financial sector, too.

(6) **Tax**

The main concern of this committee has been in the field of e-invoicing and e-reporting, over the risk for professional secrecy if lawyers are obliged to divulge information about the work they undertake for clients, or in some Member States even to divulge the identity of their clients. This was outlined in the CCBE's position paper on the propose for a directive regarding VAT rules for the digital age.[60]

(7) **International Legal Services**

The main practical work has been around e-commerce and its impact on trade in international legal services, on which the World Trade Organisation (WTO) is working. Its e-commerce joint statement initiative covers such topics as: online consumer protection, paperless trading, open government data, spam, transparency, electronic contracts, electronic authentication and e-signatures, cybersecurity, open internet access, electronic invoicing and electronic transactions frameworks. Many of the problems arise over how e-commerce fits into a regulatory landscape that is not tailored for virtual delivery of services.

There are also more challenging issues around how virtual services cross borders – which borders are crossed, for instance, if it is a completely virtual service? Can it be described as a cross-border service within the framework of the WTO?

(8) **Environment and climate change**

[58] https://www.fatf-gafi.org/en/publications/Digitaltransformation/Opportunities-challenges-new-technologies-for-aml-cft.html

[59] https://www.eba.europa.eu/publications-and-media/press-releases/careless-use-innovative-compliance-products-can-lead-money-laundering-and-terrorism-financing-risks

[60] https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/TAX/TAX_Position_papers/EN_TAX_20231110_CCBE-position-paper-on-the-proposal-for-a-Directive-regarding-VAT-rules-for-the-digital-age-and-its-potential-impact-on-professional-secrecy.pdf

There is an ongoing debate about the impact of new technology on the environment and the climate. On the plus side, technology which does not require travel or paper provides several important environmental benefits.

But there is an environmental cost to technology as well, which has not yet been fully and accurately measured, including for the use of artificial intelligence, as follows:

- Raw materials - metals like silicon, copper and other mined elements - are used to manufacture hardware components such as semiconductors for the servers. The mining has a negative impact on the environment. The rare earths have already been part of a geopolitical spat between China and the US. Once mined, the raw materials need to be transported. Following that, the manufacturing process may be highly energy-intensive, further contributing to emissions. Once their useful life is over, the hardware becomes electronic waste, which is difficult to dispose of safely and efficiently.

- Raw materials and equipment are also required to construct the data centres that house all the computer servers and other infrastructure needed to store, process and manage the systems; these data centres require huge amounts of energy to run and often also require large amounts of water for their cooling systems to prevent overheating, which further generates emissions.

- Training AI models can take months, with the data centres consuming large amounts of electricity. Once up and running, using the trained models by many people for inference will also use large amounts of energy.

- In any case, the emissions are affected by where data centres are located, the source of their energy and how efficiently they are managed. Some tech giants are now planning to use nuclear energy to power their data centres (which is greener in one way but requires specialist waste disposal methods), and to use wood and other more sustainable materials to build them.

- As a result, it is almost impossible for individual consumers to isolate and measure the energy that was used to for the digitalisation of justice (including the use of AI), particularly if the user has not developed the system and has no access to its energy usage figures. However, energy costs may rise, including for the administration of justice, so reducing the apparent cheapness of the digitalisation of justice.

All of this points to the need to put the environmental and climate consequences in the balance when measuring the overall advantages and disadvantages of the use of digitalisation.

(9) **Family & Succession Law**

Digitalisation facilitates circulation of the European Certificate of Succession under the Succession Regulation (EU) No 650/2012. This assists in recognition of evidence of hereditary status and powers in the context of international succession.

Regarding the protection of vulnerable adults, the current draft European Regulation making its way through the legislative process provides for the creation of a European Certificate of Representation, to enable representatives to exercise their powers easily and effectively in another Member State. The draft also establishes a system of communication and information exchange between Member State authorities to assist in the establishment and enforcement of protective measures. The Family and Succession Committee has encouraged the creation of these tools, but has emphasised the need to guarantee data protection.

Digitisation also enables, in proceedings involving a foreign element, to hear children - a right guaranteed by the Brussels II ter Regulation (EU) 2019/1111 - who do not live in the State where the proceedings are taking place.

III. Impact of digitalisation of justice on access to justice and on certain fundamental rights

The impact of digitalisation can obviously be both positive and negative, assisting access to justice and other fundamental rights – or hindering them. This is the overall context in which discussion of digitalisation should take place, before considering its impact on individual rights.

This section is divided into the following headings:

- **III.A Advantages and disadvantages of digitalisation of justice** (covering the advantages and disadvantages, also seen from the justice-specific and universal angles);

- **III.B Access to justice** (covering which provisions of the Charter of Fundamental Rights are impacted by the digitalisation of justice, and the CCBE's position on them);

- **III.C Which of the disadvantages impacts on access to justice?** (covering a deeper dive into those disadvantages which have the gravest impact – digital inequality, cyber security, digital sovereignty, skills erosion, and regulation of AI - with recommendations for how they could be mitigated); and

- **III.D Other fundamental rights** (covering a look at other rights which might be impacted by digitalisation: equality, and protection of personal data).

III.A Advantages and disadvantages of digitalisation of justice

Therefore, this section will begin by looking at the advantages and disadvantages of further digitalisation of justice, and afterwards examine the impact on individual fundamental rights. This is a complex area, and the following points need to be kept in mind:

- some items (such as cost and environmental sustainability) appear in both lists, and a weighing up will have to be made as to whether they present overall an advantage or a disadvantage;

- some individual items could be placed under various headings, but are not repeated;

- some applications or tools pose more of a risk than others – for instance, the use of AI is generally riskier than more straightforward applications like the digital submission of court forms – and so, where such risks are highlighted, the type of use is briefly indicated;

- the use of some digital applications by lawyers may pose a different and lower risk compared to the use of digital applications by courts, which may more directly affect the outcome of a case.

The examination of European Commission discussion documents yields many of the advantages and disadvantages, although not all the disadvantages are listed. Those associated with the overall use of technology, and in particular of generative AI, such as the environmental damage caused by gigantic energy use and mining critical raw materials, the erosion of skills in lawyers through over-reliance on AI solutions, or the danger of AI slipping from human control, are not mentioned in Commission discussion documents, despite presenting vast challenges.

One of the roles of the CCBE could be in ensuring that these disadvantages are always brought to the discussion when digitalisation of judicial proceedings is mentioned, since they are part of the risk and cost of digitalisation of justice. Those horizontal disadvantages which are not specific to the justice sector have their own heading in the list (whereas the advantages are all specific to the justice sector).

This report will, therefore, amplify discussion on some of the disadvantages of digitalisation of justice. This is not because it takes a position against digitalisation. It is neutral on the question. Rather, the momentum towards digitalisation is already unstoppable. Its advantages are well-known, as explained in European Commission policy papers. At a time of restricted public resources, it is an obvious way to maximise efficiency. But it can come at a cost which is often drowned out in the rush to implementation. The aim of focusing on the disadvantages is to ensure that the interests of clients and lawyers are not lost or diminished along the way. As the CCBE pointed out in its response to the call for evidence on Digital Justice Strategy (previously cited), digitalisation should not be treated as an objective in itself but rather as a means to an end; there should be more in-depth analysis of what works and what does not, to see where and how actions should be taken.

A non-comprehensive list of advantages and disadvantages follows .

<u>Advantages of digitalisation of justice</u>

(1) Efficiency and speed:

a) speeds up hearings and reduces scheduling delays;

b) submissions and notifications are automated;

c) there is 24/7 remote access (apart from times when there is necessary maintenance by administrators);

d) digital records and audit trails improve traceability, and so transparency;

e) uniform templates and rules apply across cases, improving consistency and standardisation;

f) easier storage, submission, and authentication of digital evidence.

(2) Cost reduction for justice systems:

a) less need for travel and accommodation for parties, lawyers, interpreters and witnesses;

b) development and sharing of common IT tools between Member States (e.g. speech-to-text systems) reduces costs.

(3) Access to justice:

a) makes participation possible for remote or vulnerable individuals;

b) potential for more affordable legal services, particularly in areas susceptible to greater levels of automation;

c) helps non-lawyers understand legal language or procedure;

d) designed interfaces and AI chatbots help guide litigants in person.

(4) Environmental sustainability:

a) reduces the CO_2 emissions caused by travel.

(5) Judicial resilience:

a) for instance, continuation of proceedings during emergencies such as COVID-19.

(6) Reduction of workload for justice professionals:

a) automation reduces the time taken for some individual tasks;

b) AI tools expedite access to case law and literature;

c) tools can handle high workloads (e.g. mass claims, class actions);

d) work processes are transformed by having key information provided by parties outside the judicial system (externalising work via having submitting parties fill in forms and process data).

(7) Easier connectivity and interoperability between justice systems:

a) shared tools reduce friction;

b) a single area of justice in the EU and cross-border harmonisation are improved, also with the assistance of e-CODEX and ECLI.

(8) Online access to national and European legal data:

a) justice professionals are supported in applying the law correctly through access to, for instance, national and EU-level court decisions, especially in cross-border situations, which improves legal certainty, quality, and coherence of justice systems.

(9) Justice for growth:

a) better and more predictable justice systems are attractive for economic growth (Draghi report said companies invest more and expand on the market when there are no legal barriers);

b) automated systems can boost growth through efficiency.

(10) Further training legal AI:

a) vast amounts of high-quality data are needed for training AI models, which is enabled and enhanced through connecting justice systems.

<u>Disadvantages of digitalisation of justice – specific to justice</u>

(1) Fair Trial Concerns:

a) loss of courtroom presence may affect judicial perception and fairness;

b) loss of human interaction may cause nuance and empathy to suffer in digital-only formats;

c) opaque algorithms, interfaces or other systems may lack transparency and so obscure justice and hinder understanding, while AI can suffer from bias amplification which reinforces existing social or legal biases;

d) reduced public access may mean that some virtual hearings are not open to the public.

(2) Digital inequality (individuals):

a) not all users or courts have equal access to tech or skills;

b) vulnerable populations may lack devices, skills, or internet access;

c) speed of change in functionality and operation of tools may negatively affect non-professional users.

(3) Digital inequality (Member States):

a) pace of IT and AI tool development varies greatly across Member States, dependent on size of market and numbers speaking national language(s);

b) cross-border availability of national law and case law remains limited;

c) participation in ELI (European Law Identifier) and ECLI (European Case Law Identifier) is voluntary, leading to divergent implementation, and metadata standards are inconsistent – for instance, even ECLI includes both mandatory and voluntary fields;

d) legal data availability differs among Member States - some data is not machine-readable, and there is no uniform standard across the EU for online availability and accessibility of judicial data;

e) judicial data may not be accessible in formats suitable for legal tech or AI training, or may be restricted by publishers' copyrights due to the traditional operation of legal publishing.

(4) Connectivity

a) internet failures or poor-quality audio/video can impair hearings.

(5) Confidentiality Risks:

a) there are security issues in transmitting sensitive information digitally, so putting at risk a core duty of the lawyer to keep the client's data confidential.

(6) Data protection risks:

a) who owns the data, where is it stored (for instance, on the cloud), who has access to it, for what purposes can it be processed, is it being used for purposes without the consent of the participants?

(7) Cybersecurity risks:

a) systems can be disabled (potential hacking, data leaks, or system crashes), causing chaos, expense and data leaks - this may become more common as further hybrid war is threatened, and crime in this area rises.

(8) AI hallucination risk:

a) AI tools generate incorrect or fabricated legal information.

(9) Skills erosion:

a) in relation particularly to the use of AI, lawyers risk becoming over-reliant on tools and so losing critical skills – this is a particular risk at the junior end of the profession, where young lawyers have not been trained without being able to rely on generative AI; over-reliance can also lead to impairment of professional judgment, resulting in lower quality of work (e.g. fake citations from AI hallucinations).

(10) Judicial Resistance:

a) institutional reluctance to adopt digital procedures.

<u>Disadvantages of digitalisation of justice – not specific to justice</u>

(1) Environmental sustainability:

a) technology in general, and AI in particular, rely on enormous use of energy (for running data centres, for cooling them) which is not sustainable in the long-term;

b) the exploitation of critical raw materials and the disposal of electronic waste cause environmental damage.

(2) Cost:

a) digitalisation projects in general are usually costly and resource-intensive, and may be subject to unforeseen price rises due to geopolitical or other causes; the ensuing infrastructure also needs to be maintained and upgraded.

(3) Accountability Gaps:

a) difficult to assign legal responsibility for AI-generated content.

(4) Uncertain legal framework:

a) no comprehensive, stable and practically workable regulations yet govern AI use in legal practice;

b) there is potential for AI to slip from human control.

(5) Loss of control and human agency over AI tools

(6) Non-European infrastructure

a) it is a well-known critique of the EU that many of the technological platforms used in the EU are not owned or built within the EU; whereas this may not have been an issue until recently, the rising trade tensions with other blocs such as the US and China mean that the use of such infrastructure may not be as problem-free as it once was, since it may become a tool in trade or other wars.

III.B Access to justice

Introduction

This part will look at the legal framework for access to justice, mainly through the EU Charter of Fundamental Rights (the Charter), with a quick summary of the CCBE's position to date – quick because the CCBE's position has already been outlined in the mapping section. There will follow a section which deals with how access to justice will be impacted by some of the disadvantages of digitalisation, with recommended remedies.

The parts of the Charter dealing with access to justice are mainly found in Title Vl ('Justice'), although other more general rights elsewhere are clearly engaged as well, for instance Article 7 (the right to respect for private and family life) and Article 8 (protection of personal data).

Title Vl includes the following rights:

- Article 47 - right to an effective remedy and to a fair trial;
- Article 48 - presumption of innocence and right of defence;
- Article 49 - principles of legality and proportionality of criminal offences and penalties;
- Article 50 - right not to be tried or punished twice in criminal proceedings for the same criminal offence.

Of course, it could be argued that every right in the Charter is connected to access to justice, because its breach may give right to a justiciable claim. But that would be to widen the definition beyond use for this report. Yet there are other articles elsewhere in the Charter of equal importance for a narrower view of access to justice, such as (but not limited to):

- Article 20 - equality before the law;
- Article 21 - non-discrimination;
- Article 30 - protection in the event of unjustified dismissal.

FRA, in its previously cited report, said that it focused on five rights which were principally affected by digitalisation of justice, and its report has considerable detail on each:

- Article 7 - right to private life;
- Article 8 - right to protection of personal data;
- Article 21 - right to non-discrimination;
- Article 47 - right to a fair trial and effective remedy ();
- Article 48 - right of defence.

Of all of the articles cited above, Article 47 on the right to an effective remedy and to a fair trial is probably the most relevant for a horizontal look at access to justice across the civil and criminal fields. (Articles 48-50 are very specific to crime, and Article 30 to employment. Articles 20 and 21 are important for specific aspects of access to justice, and will be dealt with separately under the heading of 'Equality'.)

There is already considerable guidance to the interpretation of Article 47's counterpart i.e. Article 6 of the European Convention of Human Rights – see the guides published by the Council of Europe on the interpretation of Article 6 by the European Court of Human Rights.[61] However, there appears to be nothing decided as yet on rights which may be affected by digitalisation of justice.

The CCBE has already given its views on the impact of digitalisation in a variety of its position papers. It has welcomed the advantages, some of which have been cited immediately above, such as increasing the accessibility of information and easing access to judicial procedure, lowering costs of handling cases for administrations, citizens and businesses, as well as speeding up cross-border procedures and make them more efficient.

The CCBE has stressed the need for certain protections, though, for instance:

- all parties must enjoy at least the full procedural rights that they previously had under paper-based systems, and the digital file must contain all the elements that would be found in a paper file;
- digitalisation should not be full or completely mandatory, and the possibility of communication and exchanges by paper should be maintained, in order to prevent infringements of the rights of the defence and access to justice, and more generally to the law, for instance for the vulnerable or those unable to access or use digital systems
- the consent of the parties on the use of videoconferencing should be a general principle applicable in all proceedings, and should not be able to be imposed; and

[61] https://rm.coe.int/1680304c4e and https://rm.coe.int/1680700aaf

- confidentiality of communication between clients and their lawyers during a hearing carried out by videoconferencing must be protected, including the ability for the lawyer to consult privately with the client.

Other negative areas of impact on access to justice have been cited immediately above under fair trial concerns, such as that loss of courtroom presence may affect judicial perception and fairness; loss of human interaction may cause nuance and empathy to suffer in digital-only formats; opaque algorithms, interfaces or other systems may lack transparency and so obscure justice and hinder understanding, while AI can suffer from bias amplification which reinforces existing social or legal biases; and reduced public access may mean that some virtual hearings are not open to the public.

The issue for the CCBE is to navigate these competing policy concerns and come up with a policy that protects basic principles of access to justice while at the same time remaining realistic and achievable in an environment which is rapidly moving towards digitalisation, not only in justice but in practically every aspect of our lives.

III.C Which of the disadvantages impacts on access to justice?

This section highlights some of the negative consequences for access to justice when dependence on digitalisation reveals its weaknesses. To highlight these negative consequences is not to argue against digitalisation but to beg the authorities to take steps for alternatives to be considered alongside digitalisation so that there is back-up when things go wrong.

Some of these negative consequences are acknowledged by the European Commission. In its European e-Justice Strategy 2024-2028,[62] it states that:

> '*the use of remote communication technologies could present serious risks to the basic rights of suspects and accused persons, in particular the right to a fair trial, the right to be present at the trial and the right of defence. Also, the emergence of innovative technologies may give rise to fundamentally new challenges and risks, for example, cybersecurity breaches, a deepening of the digital divide or unconscious discrimination due to biased algorithms or datasets.*'

These risks are also raised in this report, but what this report does is to suggest possible remedies to guard against some of them. This report also raises risks not mentioned in the e-Justice Strategy. What follows is not a comprehensive list of dangers to access to justice, since some have been expanded on already by the CCBE (see previous sections of this report, referencing existing CCBE policy positions) or indeed by the European Commission itself. Rather what follows is an expansion on some of the risks to access to justice to which less attention has been paid to date, in the hope of ensuring that they attract similar widespread consideration in future.

(1) Digital inequality (individuals)

As digitalisation inevitably spreads, those who may be digitally excluded for a variety of reasons – the homeless, those who cannot read, the elderly and infirm – should have access to resources to help them navigate digital systems. It is inevitable that the spread of digitalisation, with its cheapness and

[62] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202500437

ease of access, will lead, particularly at a time of pressure on public budgets in Europe, to a reduction in the availability of paper alternatives to digitalisation. For those who are excluded, special measures should be taken to ensure that they have equal access to justice. Sometimes, for those who are able to use such tools but have no or limited access to them, that may be through the provision of public access to secure digital tools, for instance in public libraries. But for others, who would be unable to use them even if provided easily – for instance, the elderly, the ill, the illiterate – there should continue to be access to lawyers on the same basis as those who use digital tools themselves i.e. without any or without significant cost.

The FRA, in its previously cited report, support this, when it recommends that '*Member States should allow for the continued use of non-digital justice avenues (in parallel with digital justice tools) where evidence shows that the absence of such avenues could undermine a person's fundamental rights*'. FRA also recommends the establishment by Member States of support systems to help people navigate the digital justice environment and improve their digital skills.

It may even be that the proceedings took place in person, and were therefore accessible, but that the decision is available only digitally. The excluded may therefore not discover that there is an outcome to the proceedings, or may not discover in time to make a timely appeal.

Recommended remedy: in any scheme for digitalisation of justice, provision should always be made for the digitally excluded, to be sure that they continue to have access to justice.

(2) Cyber security

Regarding cyber security, a case study may be useful. In April 2025, the UK's Legal Aid Agency was subject to a cyber-attack.[63] The group responsible accessed and downloaded a significant amount of personal data from those who had applied for legal aid through the digital service over a period of 15 years. This data may have included contact details and addresses of applicants for legal aid, their criminal history, employment status and financial data. The breach of confidential information is one serious matter, but the gravity of the attack meant that digital services were no longer made available. As a result, temporary and inadequate systems had to be quickly installed to keep the justice system going: applications for legal aid became much more difficult, firms were not reimbursed on time, and the government did not have the resources to restore a paper-based system. The consequences for access to justice are obvious: not only were the data of vulnerable people available to criminals, but the justice system could not continue without heavy cost to the very people who are struggling to keep it going, legal aid lawyers.

Spain recently suffered a very widespread power-cut. Although it was short-lived, there may be circumstances were power is affected on a more long-term basis. Similarly, we are all familiar with hardware or software systems suffering outages, for instance at airports or in shopping tills. Justice systems could be similarly vulnerable.

FRA, in its previously cited report, recognises this problem, too, and states: '*If users of digital tools face delays due to technical malfunctions and have no alternatives until the problem is fixed, this can undermine people's equality of arms and access to justice rights under Article 47 or their defence rights under Article 48 (e.g. a defence lawyer may have less time to prepare their client's defence).*'

[63] https://www.gov.uk/government/news/legal-aid-agency-data-breach

Recommended remedy: in any scheme for digitalisation of justice, provision should always be made for a fall-back if the system fails through a cyber attack or power failure or other reason, to ensure continuing access to justice.

(3) Digital sovereignty

Regarding digital sovereignty, another case study may be useful. In February 2025, the White House issued an executive order against the International Criminal Court (ICC), specifically targeting the Chief Prosecutor, Karim Khan.[64] One of the consequences was that Microsoft, a provider of digital services to the ICC, cancelled the Chief Prosecutor's e-mail address, for fear of itself facing penalties for providing services to a sanctioned individual. Microsoft has since taken steps to protect individuals at the ICC, so that when the White House sanctioned four ICC judges later, their e-mail accounts continued – but the damage was already done.

European politicians took note of what had happened to Karim Khan, and the trend to digital sovereignty has now become a rush. There is the Cloud and AI Development Act, to be proposed by the European Commission in due course (the public consultation closed on 3 July 2025, and adoption by the Commission is planned for the fourth quarter of 2025).[65] This will address the well-known gap faced by the EU in cloud and AI infrastructure. In particular, the law aims to ensure that strategic EU use cases can rely on sovereign cloud solutions, with the public sector playing a crucial role as an 'anchor client' for them. Cloud infrastructure will be fast-tracked, and preferential access to European cloud service providers may be given in public procurement procedures.

There is a corresponding report making its way through the European Parliament, highlighting the EU's dependence on foreign technologies and infrastructure.[66] For instance, the report states that 92% of the west's data are stored in the US, and the EU produces only 10% of the world's semiconductors. That is just a small data sample of dependence.

If current tensions erupt so as to affect digital services based on foreign infrastructure, the same kind of hiatus in the provision of justice may be seen as witnessed under cyber security above.

Recommended remedy: in any scheme for digitalisation of justice, effort should be made to use technology which is unlikely to be subject to disruption if geopolitical tensions arise, and thought given to a fall-back provision if the EU is exposed and such tensions do arise, to ensure continuity of access to justice.

(4) Skills erosion

One of the biggest risks of digitalisation, particularly in the use of AI to carry out tasks, is the deskilling of new entrants to the legal profession. Two factors are at play here. On the one hand, tasks which were formerly given to junior lawyers, such as drafting basic documents, checking incoming

[64] https://www.lawgazette.co.uk/commentary-and-opinion/creative-tension-lawyers-and-digital-sovereignty/5123731.article
[65] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14628-AI-Continent-new-cloud-and-AI-development-act_en
[66] https://openfuture.eu/blog/europe-talks-digital-sovereignty/

documents for their content, and dealing with the more mundane end of legal work are now automated. On the other hand, the standard of many products produced by technology, particularly by AI with its hallucinations, means that they need to be reviewed by a lawyer with the competence to know when a mistake has been made. These two can only operate effectively if the lawyer has been brought up under a system which instils the basics of contract drafting and document reviewing, with knowledge built up from the bottom. However, more senior lawyers may not have the means or be financially motivated to spend their limited resources on training junior lawyers, meaning that junior lawyers will not have the opportunity to gain the necessary experience. The danger is that junior lawyers will therefore lack the experience to review, and take responsibility for, products which digitalisation delivers. This is a serious problem for the future, and will affect access to justice, given that the quality of legal advice that clients receive may be affected.

As a result, there is a large task to be considered under the heading of 'training of lawyers' and this will be addressed in more detail in Part Three of this report, which is dedicated to lawyer training.

Recommended remedy: bars should consider how best to ensure that junior lawyers receive the training that will enable them to review competently products delivered through the digitalisation of justice.

(5) Regulation of AI

The EU has passed the EU AI Act, to regulate the use of AI on the basis of the risk posed. Very limited aspects of the administration of justice are seen as high risk and are therefore protected: '*AI systems intended to be used by a judicial authority or on their behalf to assist a judicial authority in researching and interpreting facts and the law and in applying the law to a concrete set of facts, or to be used in a similar way in alternative dispute resolution*'.[67]

As a result, other parts of the administration of justice, and in particular the provision of legal services, are not seen as high risk and are therefore not subject to any specific tech-based regulation. This needs to be seen in particular in the context of the resistance to regulating AI in the US under the current administration, in order for American innovation and the promotion of AI to be untrammelled, especially to see off Chinese competition. (Regulation in the US is highlighted because most of the technology which can provide automated legal services originates and operates from the US.)

That leaves legal services provided by AI unregulated at EU and US level, including legal services provided solely by machines without human (let alone lawyer) intervention. Such automated legal services are already available through chat-bots, large language models and document assembly sites. Of course, EU Member States may have their own rules about who can or cannot provide legal services within their borders, but these are almost impossible to enforce against services which do not physically cross borders but are accessible via computer from anywhere in the world. These legal services are very high risk because they do not come with the protections which clients enjoy when using a lawyer, such as professional indemnity insurance, high quality training in the law of the Member State, enforceable ethical rules, and lawyer discipline. The lack of such protections is a direct threat to access to justice, because it leaves clients vulnerable to wrong advice, fraud and lack of remedy when things go wrong.

[67] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024R1689

Recommended remedy: the CCBE should consider the risks associated with automated legal services provided without the intervention of a human, to examine whether such risks need to be brought to the attention of the European Commission for inclusion within AI or appropriate sectoral regulation at EU level.

III.D Other fundamental rights

As already mentioned, the EU Charter is a charter of rights, and so nearly every one of its rights will be affected in some way by digitalisation of justice. The principal ones are mentioned below.

(1) Equality

The Charter's recognition of equality is clearly a fundamental right affected by digitalisation. The rights of various groups are recognised in Title lll of the Charter: for instance, men and women, children, the elderly, and those with disabilities. Once again, there are pluses and minuses which will need to be weighed up.

On the one hand, digitalisation of justice may offer those who are, say, vulnerable or who possess certain physical disabilities the opportunity to participate with much more ease and equality of access online than in a physical court, tribunal or administrative centre.

On the other, as mentioned above, certain groups (for instance, the homeless, those who cannot read, the elderly and the infirm) may be excluded from participation because of lack of access to, or inability to operate, computers. It is for them that special measures will be needed to ensure that they are not locked out of justice.

(2) Protection of personal data

Article 8 gives everyone the right to protection of personal data. This is highlighted here because the definition of digitalisation is that personal data are maintained within systems which have proved, so far and because of the mechanisation involved, to be much more susceptible to theft and misuse than the data contained within paper records.

Cybersecurity, the need to maintain lawyer-client confidentiality, the protection granted to all personal data by Article 8, the growth in hacking attacks for reasons of profit or politics – all point to the dangers involved in digitalisation of justice, and the need for the strongest possible counter-measures to strengthen data protection by those implementing them.

IV. Training of lawyers on digitalisation of justice

Introduction

The European e-Justice Strategy 2024-2028, again confirmed by the section on the Justice Programme in the 2028-2034 EU long-term budget, highlights the need for training lawyers on digitalisation of justice:

> '*Special attention should be paid to training for justice professionals. Promoting the use of digital tools and resources among justice professionals will enhance their ability to navigate both national and European legal frameworks effectively, thereby ensuring consistency.*'

The most recent call for proposals for action grants by DG Justice in the area of judicial training also made clear that digitalisation of justice is the priority:[68]

> *'The primary objective of the call is to support training promoting the digitalisation of national justice systems. Training funded under this call is expected to build the "digital capacity" of justice professionals, address training needs stemming from the Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, the e-evidence Regulation, service of documents Regulation, and Taking of evidence Regulation and promote the digital transition of judicial training methodologies, while also contributing to the effective and coherent application of EU law in the areas of civil law, criminal law, and fundamental rights, including non-discrimination, equality, and the rule of law.'*

And over August-September 25, the European Commission published a call for evidence in this area, '*to explore the training needs of justice professionals, in particular regarding digitalisation of justice*'.[69] Parts of this call for evidence give excellent background, starting with the link to economic growth and competitiveness:

> '*Effective justice systems contribute to growth by improving the competitiveness of the EU's economy. Businesses and industries are more likely to invest in countries with effective justice systems. The COVID-19 crisis showed that it is critical to make digitalised justice systems more resilient across the EU and accelerate national reforms to digitalise exchange of information and continuing easy access to justice for all.*'

The call for evidence goes on to describe the specific need:

> '*judicial training on digitalisation is not keeping pace with the accelerating shift to digitalisation of justice. The Commission's Judicial Training Report 2024 found that in 2023*

[68] https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/topic-details/JUST-2025-JTRA
[69] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14542-Digitalisation-of-justice-2025-2030-European-judicial-training-strategy_en

only 2.5% of continuing training activities focused on digitalisation. Judicial professionals identify training on digitalisation as one of their most urgent training needs. Many emphasise the necessity of basic IT training as a prerequisite for using specific digital tools effectively. The strong interest in AI applications in legal contexts underscores the need for targeted training in this evolving field. Furthermore, videoconferencing and online hearings present various challenges, ranging from technical difficulties to safeguarding procedural and fundamental rights in digital environments to effective steering of online proceedings.'

But the most important document from the European Commission on this topic was the European Judicial Training Strategy 2025 – 2030,[70] which has as its principal aim the creation of a supportive environment for DigitalJustice@2030 (which has already been described under Section ll,' Mapping'.

The judicial strategy has 15 action points as follows, most of which deal with training in the digitalisation of justice:

1. Make training available to all justice professionals to build their IT and AI literacy, ensuring the training is tailored to their specific roles and responsibilities.

2. Provide dedicated and appropriate training modules to accompany all EU legal acts in the area of judicial cooperation and mutual recognition which include a digital component. Furthermore, provide appropriate training, which is available to every user, to accompany IT tools and infrastructure deployed for use by justice professionals.

3. For each legal act on judicial cooperation falling within the scope of the Digitalisation Regulation, provide a training module - available in all EU languages - on the use of the digital tools established by that Regulation.

4. Invite European networks of justice professionals to systematically identify, document, and promote success stories and lessons learned from the rollout of IT tools and infrastructure in the justice sector.

5. Progressively roll out a certification framework for the digital skills of justice professionals, reflecting the specific needs and characteristics of the different professions.

6. Ensure national initial training curricula and continuing training offers for justice professionals address:

    — substantive law relevant to the digital economy and society, including on the protection of individual and business rights in the digital space;

    — EU cross-border judicial cooperation and mutual recognition instruments in civil,

[70] https://commission.europa.eu/document/download/1248005c-38c5-4f74-9417-997cc6ad34ad_en?filename=JUST_template_comingsoon_standard_5.pdf

commercial and criminal matters, with a particular focus on digitalisation.

7. Invite European networks of justice professionals to regularly identify, document and promote the exchange of best practices learned from such training.

8. Make available to all justice professionals specific training on the relevance, utility and impacts of digitalisation, especially in relation to the use of AI, on justice professionals' roles and responsibilities.

9. Train leaders and managers in the justice sector to actively promote the digital transition and to design inclusive transformation processes.

10. Include in every judicial learning programme a module on related aspects of digitalisation.

11. Facilitate cross-border professional exchange in order to build digital awareness.

12. Promote national initial training curricula and continuing training offer for justice professionals to address:

    — EU acquis on the rule of law;

    — EU *acquis* on fundamental rights and non-discrimination, including application of the EU Charter of Fundamental Rights, procedural rights and existing redress mechanisms.

13. Ensure national initial training curricula and continuing training offer for justice professionals address:

    — the application of EU law in daily practice;

    — new and revised EU legislation and relevant CJEU case-law;

    — cross-border judicial cooperation in civil and criminal matters, including relevant EU bodies and agencies with a mandate to support judicial cooperation;

    — EU *acquis* in the fields of rights and procedural safeguards for suspects, accused and requested persons as well as victims of crime;

    — EU single market *acquis*, in particular in the field of free movement.

14. Ensure judicial training in candidate and potential candidate countries addresses:

    — the EU *acquis* with a focus on the rule of law and fundamental rights;

— judgecraft.

15. Ensure EU funding is used by European networks of training providers to coordinate the efforts of their members and achieve synergies between EU-funded and nationally funded training, with a view to fostering a supportive environment for the digitalisation of justice.

The FRA report on 'Digitalising justice – a fundamental rights-based approach' reiterated the need for training on the digitalisation of justice:

> *'The European Commission should support Member States in their efforts to provide targeted fundamental rights awareness training related to justice and digitalisation. This could include making funding available to support training initiatives carried out by European judicial bar and law societies' training institutions.'*

Considerable resources are of course already going into training lawyers in this field. For instance, ELF and CCBE are currently running the EU-funded TRADICIL project,[71] which aims to train at least 500 lawyers from 26 EU Member States in digitalisation of justice through the holding of 2 pan-European hybrid training events referring to various aspects of the digitalisation of justice. The first of these events took place on 3 October 2025 in the European Parliament on 'Digitalisation of justice and its implications for the justice system', with panels of high-level speakers.

The TRAVAR project, too, also run by ELF and the CCBE, is currently rolling out training for 2,000 lawyers from 26 Member States on the EU Charter of Fundamental Rights, including on digitalisation of justice.[72] As part of this project, a webinar was held on 31 March 2025 on 'Digitalisation of judicial proceedings: what lawyers need to know', with speakers from the European Commission, Council of Europe, CCBE and a Member State which is in an advanced state of digitalisation.[73] 570 lawyers from across the Member States participated.

And in August 2025, a consortium led by ELF, and including the CCBE and Bars from various EU Member States, was awarded the TRAVAR 2 project, which will start in January 2026 and will organise training activities on important aspects of digitalisation of justice in the EU and in relation to EU law instruments.

Of course, ELF and CCBE are not alone in the provision of such EU-funded training. For instance, the European Judicial Training Network (EJTN) has its Digitalisation Portfolio, to help the European judiciary navigate the digital landscape through a mix of training formats – face-to-face seminars, webinars, conferences, e-learning, podcasts, videos and blended learning – so as to provide continuous education while sharing digital practices.[74]

[71] https://elf-fae.eu/tradicil/
[72] https://elf-fae.eu/travar/
[73] https://elf-fae.eu/digitalisation-of-judicial-proceedings/
[74] https://ejtn.eu/activity/digitalisation/

Of course, too, there is also training at national level by bars and other training providers (dependent on the training regime which pertains for lawyers in a particular Member State). There is growing recognition of the importance of such training, and so a growing number of courses available.

Clearly the existing training on digitalisation of justice should be continued and strengthened. Lawyers are, and will need to continue to be, trained on various aspects of it, including:

- existing resources at European and national level which digitalise justice;
- existing practice tools which digitalise their own work in the law firm;
- fundamental rights (as the FRA report says, both the positive and negative fundamental rights implications of digital tools); and
- the regulatory and ethical principles affected by digitalisation.

Recommended remedy: existing training for lawyers on digitalisation of justice should be continued and strengthened at both European and national level and within firms, to ensure that the legal profession plays its part in the coming changes.

There are nevertheless some aspects of training which may be currently overlooked, and may need further consideration, as follows.

(1) The role of substantive law training

Some training in digitalisation will inevitably be horizontal, in terms of new tools which can have many applications, of which AI is a good (but not the only) example.

But, at the same time, digitalisation will apply to each area of substantive law in a different way, requiring subject-specific treatment.

As just one small example, the European Parliament recently issued a briefing document on 'Artificial intelligence in asylum procedures in the EU'.[75] AI is already used in in a broad range of ways in this area of law, for instance for dialect recognition, to obtain or verify information on asylum applicants' country or region of origin, for name transliteration, automatic transcription of speeches, case matching and facial recognition. The briefing cites various research reports already completed on the impact of AI on aspects of asylum and immigration. It would not be possible to cover the digitalisation of asylum and immigration in a general course on digitalisation of justice as a horizontal issue.

This is replicated across other areas of justice – family law, criminal law – and so it is important that the general topic of digitalisation does not drown out the continuing need for training in substantive

[75] https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/775861/EPRS_BRI(2025)775861_EN.pdf

EU law, with digitalisation of course as an important new aspect of the law's practice, as also highlighted in the action points of the European Commission's European Judicial Training Strategy 2025-2030, listed above.

Recommended remedy: it is not going to be enough to incorporate all training on digitalisation of justice into horizontal courses dedicated to that topic alone; training in substantive EU (and national) law will have to continue, but with digitalisation aspects incorporated as a matter of rule into the training.

(2) Junior lawyers and the erosion of skills

As mentioned before, one of the major risks of the widespread introduction of digitalisation is the erosion of skills. We no longer have to learn how to read maps with the use of GPS on our phones and in our cars. We no longer need to speak languages for the purposes of translation of texts from one to the other. Similarly, if the work which was traditionally given to junior lawyers to train them in drafting and review is now automated, a new light is thrown on training such lawyers, and consideration should be given to ensuring that their training is reinforced in those areas where their skills might otherwise be eroded.

It is recommended that work is undertaken on this problem. The EU-funded BREULAW project, undertaken by ELF and the CCBE, provides a template.[76] One of the aims of that project was to draw up a curriculum on EU law specifically aimed at the legal profession, which provided a model framework of competences for lawyers in EU law. Now a model curriculum should be drawn up which looks at the impact of digitalisation of justice on the training of junior lawyers, to provide a model framework of competences to ensure that any gaps in their training as a result of digitalisation and the spread of AI are filled in. This is a new area, and so there should be wide consultation before a curriculum for this group is drawn up.

The classic areas where traditional skills might be eroded are in document review and research, analysing statutes and case law, extracting key precedents and drafting initial documents.

The training should not only look at competences but methods of training. The old methods of assigning written work may not be appropriate when computers can so easily do everything anyway: AI can read the assignment, AI can write the assignment – and, indeed, if the supervising lawyer chooses, AI can mark the assignment, too, meaning that training boils down to a conversation between two robots, or indeed just one, which is not at all helpful.[77] Some of these problems may be got around by properly structured training, mentorship, peer reviews, and the establishment of clear protocols for the use of AI.

However, more novel ways of training should also be considered. For training to have its desired effect on junior lawyers and give them the competences required, it should be made AI-proof. One

[76] https://elf-fae.eu/breulaw/

[77] https://www.nytimes.com/2025/08/06/opinion/humanities-college-ai.html - this article has informed some of the substance of points (2) and (4) of this section.

way of doing that is by making the assignment happen in real time and without computers. At some US colleges, for instance, the students have to pass on what they have learned in live sessions to others who want to hear about it – not to academic staff or their student peers, but in public spaces such as to students in other colleges or to the public in public libraries or old age homes. Before going live, the students rehearse what they are going to say, and discuss what they have learned afterwards. This removes the pitfalls of written work in the age of AI, and this kind of live learning could be adapted to the needs of junior lawyers.

Recommended remedy: urgent consideration should be given by the bars and the CCBE to how best to provide appropriate training to junior lawyers at a time when their traditional training in core legal skills is being undermined by the wide availability of AI tools.

(3) Networking and the exchange of best practices

Digitalisation is a tool which of its nature is undertaken remotely and via a screen. There is a danger that training in digitalisation of justice will fall into the trap of being entirely online. Although many things are gained by online training (accessibility, cost, reduced travel), some things are lost. One of those is the ability to network with others. For lawyers, particularly if undertaken cross-border, this offers the ability to learn about the justice systems in other Member States and to create contacts which can be useful for case referrals or merely for advice.

The exchange of best practices is another excellent training tool whose usefulness is reduced when the possibility of informal contacts during questions and answers or the breaks in a live training session are lost.

Recommended remedy: in-person training in the digitalisation of justice, particularly cross-border, is an essential element of the training package for European lawyers. An important way of achieving this is through the exchange of lawyers in placements in different Member States, which contributes positively not only to dealing with EU cross-border cases, but also to the creation of a common European judicial culture, which cannot be achieved through online means alone.

(4) The way the technology works

This may be obvious, but it should be part of every course on the digitalisation of justice. Knowing how the technology, and in particular the AI, works is a necessary element in using it properly. This is also highlighted in the European Commission's digital justice strategy, outlined above. These are some of the constituents of such a session:

(a) the usefulness of having an AI policy in the law firm: what can and can't be done by AI; when do you have to declare that you have used AI in the work undertaken, either within the firm or to clients;

(b) how does the AI work – is it thinking, is it telling the truth, or is it just coming up with a plausible answer based on probabilities? how and on what has it been trained? where does it store the lawyer's data and is client confidentiality always guaranteed?

(c) how to get the best out of AI – how to frame your original and follow-up questions.

Recommended remedy: a session on how the technology, and in particular the AI, works should be an essential element of training on digitalisation of justice.

V. Conclusions and recommendations

Conclusions

As stated at the start, digitalisation, and specifically here the digitalisation of justice, are vast and growing areas, with many governments, universities, NGOs and others – including the CCBE - undertaking significant work looking at their impact. This report could not hope to be comprehensive, either in mapping or conclusions.

As a result, this report has focused on the impact on lawyers, without delving into detail into those areas already covered by the CCBE. It has taken for granted the benefits, which are regularly promoted by public authorities, and rather concentrated on some of the potential negative impacts, with recommendations given as to how the CCBE might in the future like to tackle those areas.

Recommendations

The individual recommendations made in this report are as follows:

(1) in any scheme for digitalisation of justice, provision should always be made for the digitally excluded, to be sure that they continue to have access to justice;

(2) in any scheme for digitalisation of justice, provision should always be made for a fall-back if the system fails through a cyber attack or power failure or other reason, to ensure continuing access to justice;

(3) in any scheme for digitalisation of justice, effort should be made to use technology which is unlikely to be subject to disruption if geopolitical tensions arise, and thought given to a fall-back provision if the EU is exposed and such tensions do arise, to ensure continuity of access to justice;

(4) the CCBE should consider the risks associated with automated legal services provided without the intervention of a human, to examine whether such risks need to be brought to the attention of the European Commission for inclusion within AI or appropriate sectoral regulation at EU level;

(5) existing training for lawyers on digitalisation of justice should be continued and strengthened at European and national level and within firms, to ensure that the legal profession plays its part in the coming changes;

(6) it is not going to be enough to incorporate all training on digitalisation of justice into horizontal courses dedicated to that topic alone; training in substantive EU (and national) law will have to continue, but with digitalisation aspects incorporated as a matter of rule into the training.

(7) urgent consideration should be given by the bars and the CCBE to how best to provide appropriate training to junior lawyers at a time when their traditional training in core legal skills is being undermined by the wide availability of AI tools;

(8) in-person training in the digitalisation of justice, particularly cross-border, is an essential element of the training package for European lawyers; an important way of achieving this is through the exchange of lawyers in placements in different Member States, which contributes positively not only to dealing with EU cross-border cases, but also to the creation of a common European judicial culture, which cannot be achieved through online means alone.;

(9) a session on how the technology, and in particular the AI, works should be an essential element of training on digitalisation of justice.

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