



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

## ENCJ Digital Justice Forum Seminar, Lisbon 29 March 2019 Report

[Link to programme and all presentations](#)

### Opening of the meeting

The President of the ENCJ, Kees Sterk, opened the seminar. The main purpose of this project is to see how we can further the Access to Justice for citizens. Society is changing and the judiciaries need to change with it. Digital access to Justice will keep the judiciary relevant for society.

The name ENCJ Digital Justice Forum implies that we have a platform for discussions and exchange of experiences. Together, through our shared experiences, we can face obstacles, identify challenges and learn from the successes in the further digitisation of the judiciary.

Ana Rita Loja, coordinator of the Digital Justice Forum on behalf of CSM Portugal, explains that one of the speakers had to cancel due to a family emergency. Therefore, the programme was slightly amended.

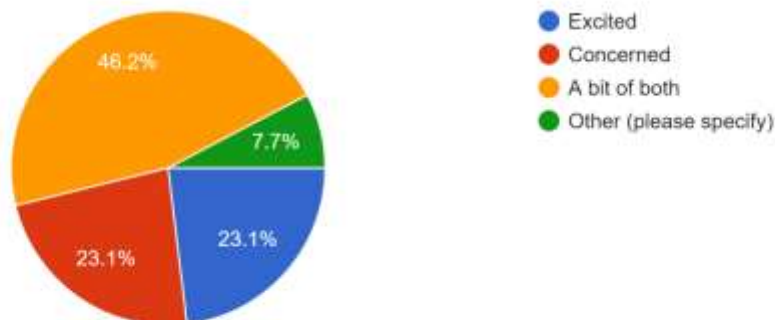
Colin Tyre, coordinator on behalf of the Judicial Council of Scotland, explains that for him a forum means that we share experiences and learn from each other.

### 1 - Artificial Intelligence

The pre-seminar survey results were shown. 13 people filled it in. The following question and answers were discussed:

9. How would you feel about having A.I. being used as a means of helping you reach a decision in your court?

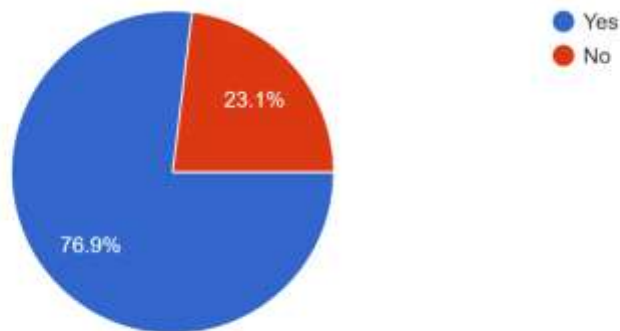
13 responses



The discussion seemed to indicate that the main issue is that the process needs to be transparent and understandable.

### 10. Do you think artificial intelligence creates dangers for the justice system?

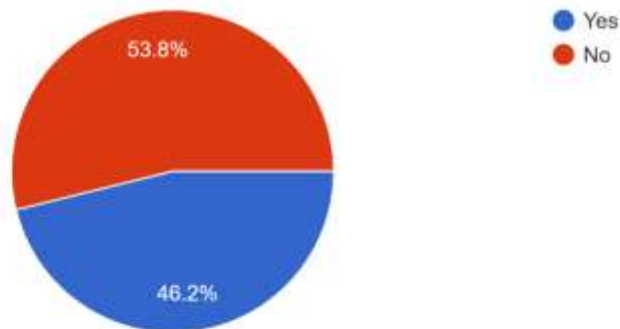
13 responses



- The group agreed that the problem is that social context may change and the law may develop, but the system may not be able to take into account these changes.
- Machines have logic but no conscience. How to teach machines to have a conscience?
- Machines might be good for standardized cases that normally would be settled before they go to court (UK system). In a country where there is pressure on judges, profiling could be a danger.
- The discussion moved to assistance with sentencing in criminal cases. A system that will assist in having more uniform sentences will eventually strengthen the trust in the judiciary and its position in society.

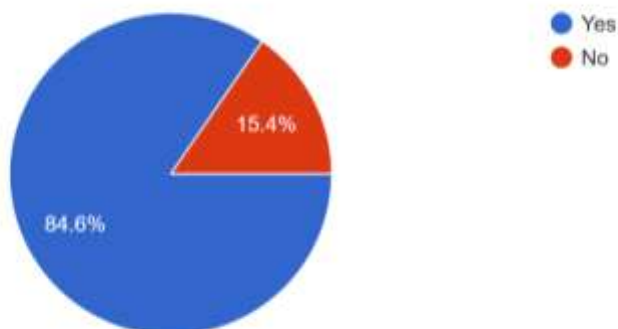
### 13. Do you believe that predictive technology, by learning from past decisions, may inhibit the progressive development of the law?

13 responses



One of the issues raised here was that control over the data that are fed into the system is crucial.

14. Should an AI be ethical-by-design - (This means that right from the design and learning phases, rules prohibiting direct or indirect violations of the fundamental values protected by the conventions are fully integrated).



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**A videolink with CEPEJ in Strasbourg was set up.**

Stéphane Leyenberger and Clementina Barbaro introduced the European Ethical Charter on the use of artificial intelligence in judicial systems and their environment. The CEPEJ started work on the AI Charter on the basis that AI is a fact and it is not for CEPEJ to decide whether it is negative or positive, but to see how it can be used in a good way to assist the judiciary.



## **Presentation by Prof Donati, member of the CSM Italy**

Artificial Intelligence is now a fact of life. We need to address the risks, but also how it could be used in the judicial sector. Artificial Intelligence is not always incompatible with judicial reasoning.

## **2 – Developing digital justice instruments**

### **Presentation Joao Rodrigues – NOVASTAR**

The development of the Portuguese e-file system was explained. The developers, together with a group of judges looked at usability, judges' needs and requirements on the design and development and implementation of the system.

When assessing the needs, very often solutions are presented as a need or a problem. Step 1 is to really identify the problems. There are 4 stages to be distinguished: Discover/Define/Develop/ Deliver

### **Video Justiz 3.0 was shown about the Austrian e-justice instruments.**

[Link to video](#)

## **3 - Subgroup discussions and conclusions**

The participants were divided into 3 sub-groups and were given the following instructions:

Pair up within each group and learn about each other

- ▶ What is your experience with AI initiatives in your judicial system?
- ▶ What is the biggest challenge ( pain ) brought by the use of AI in your current systems?
- ▶ What is the largest benefit brought by the use of AI in your current systems?
- ▶ What is your biggest concern about AI ?
- ▶ What will be the most valuable application of AI?

The moderators explained in plenary what was discussed in their group:

### **Group 1**

The AI application is still based on small initiatives. Mainly to ensure the liability of data, to have digital data available.

The main challenges are:

- to bring the judiciary on board
- available budget

One of the advantages that AI could bring would be consistency and coherence on judicial treatment. Being able to go through and analyze large pieces of information.

One of the challenges discussed was the Independence of the Judiciary and Human Rights. How to ensure that these principles will be respected by systems using AI?

The benefits of the use of AI could be that citizens are better informed about the procedures and would go into them with lower expectations. Another benefit would be if an AI based system would help collect information and make fast and easy access to information available to assist judges.

## **Group 2**

Any digital systems of AI based system should be user friendly for all user-groups.

An independent institute to control the data consisting of representatives or experts and magistrates and court staff with a role of the Councils could be the way forward.

Councils for the Judiciary should monitor all developments in this area and exchange practices.

Within ENCJ this could be done by drafting a questionnaire to map;

- monitoring mechanisms
- who is in control
- what future strategies are in place

## **Group 3**

Artificial Intelligence could be helpful, but human judges should still be in charge of the decision. Judicial resistance to Artificial Intelligence should be addressed through training.

The benefits of Artificial Intelligence need further scrutiny. Predictive justice based on judges' own data/decisions (as is in use in Sao Paulo) could be interesting to assist judges dealing with large numbers of similar cases.

## **4. The way forward for the ENCJ DJF**

1. The further development of the forum as a means to exchange experiences and the creation of a simple digital forum maybe using the ENCJ website to support the DJF;
2. The possibility of running a questionnaire to assess the state of digitalization in each member and to identify the needs with members and observers for the DJF.
3. From there assess the needs and possible go for some sort of recommendations, good practices etc.
4. Following the European Digital Justice agenda and CEPEJ's and the CCBE's work would also be important.

### **Topics to be discussed and possibly mapped:**

1. Use of online information and/or chat-bots to enable people to obtain access to law and dispute resolution:

- i) to what extent is this available in your system?;
- ii) do you see advantage in assuring its availability?
- iii) what are the practical difficulties in putting an online system in place?

2. Open data:

- i) is it available in your system?;
- ii) Do you see any problems concerning: identification of parties? identification of the judge? other missuses of the "big data" by commercial users?

3. Predictive justice:

Should this be left to private commercial providers, or should public authorities use it? If so, are there dangers?

4. Judicial involvement

How should judges and judicial councils be involved in the development of digital justice instruments? What should judges be contributing? - concerns about article 6 rights? - personal convenience? - cost efficiency?

5. From your own personal experience of introducing digital justice instruments in your system, what problems have occurred? Are there lessons to be learned that can be shared with other participants?