



AI AT THE EUROPEAN COURT OF HUMAN RIGHTS: TECHNOLOGICAL IMPROVEMENT OR LEAVING JUSTICE BY THE WAYSIDE?

More and more national courts are incorporating or considering incorporating various digital technologies, including Artificial Intelligence in their case processing and adjudication. The promise of both lessening workloads and creating greater consistency, and thereby equality, in adjudication are powerful motivators in this regard. There are also indicators, as machine learning applications for judicial systems are developing with remarkable speed in recent years, that the European Court of Human Rights is moving in this direction. At the same time concerns have been raised both in academic literature and at the international institutions level, that the use of AI and other complex computing in the administration of justice comes with significant risks of discrimination and denial of justice. This article provides an overview of the arguments for and against various kinds of technology being considered for or already implemented in various jurisdictions and compares them with the European Court of Human Rights' existing caselaw on the use of technology in the administration of justice, and public information available on the Court's plans to incorporate technology itself. It finds that the Court has applied a pragmatic approach to the use of technology in national jurisdictions but has remained firm on transparency requirements and proportionality in data collection and use. It also finds that although the Council of Europe has made early strides in understanding and regulating AI for the field of justice, the European Court of Human Rights remains a very analogue institution and it will take time before it can make effective use of emerging technologies.