

Opening speech

(10 min)

Dear listeners, colleagues from Estonia and around the world!

It is a great pleasure to be in front of you today to open this international forum Future Law 2024.

We are living in a time of great change. A time when AI is entering our everyday life as a natural part of it, it affects the way many people work, the way they live and the way they act. It can be compared to the time when electricity came into our daily lives, or when the typewriter was replaced by a computer. Now the smart computer has entered our lives. AI has shown its power, and we are just beginning to get a sense of what it actually can do.

This has been recognised by representatives of the different professions, and there have already been and will continue to be a number of conferences among lawyers focusing on the application of AI in the work of lawyers, whether they are notaries, lawyers, judges or the legal profession more generally. This is why this conference is also worthwhile, especially for its international scope and the opportunity to share experiences.

Many people tend to see only the risks of using AI and their first instinct is to ban, restrict or regulate the use of AI immediately. They see it as a threat to jobs, even to human existence, which is almost like an apocalyptic view. I myself am an optimist, however, and see the use of AI as an opportunity for a great qualitative leap forward, including in the field of justice. The application of AI is inevitable, in my view, for a number of reasons, and it will significantly reshape the legal profession in the future:

- with a declining population, taking into consideration the fact that competition for skilled labour in particular is intensifying and budgetary constraints are getting tighter, less people have to work more effectively;
- the volume of law is increasing almost geometrically over time, including legislation and case law ... it will soon be too difficult for people to navigate or too much work and time-consuming to find answers to specific questions; it will be increasingly difficult to distinguish the important from the unimportant; all this will slow down processes, while the AI would help to speed it up;
- increasingly, there is a need for detailed expertise to solve a problem that not many people have, nor can reasonably be expected to have;
- there is also a degree of subjectivity in the bad sense and unequal treatment in the legal profession, which AI would help to reduce.

Today, we need to find answers to a series of questions:

What are the qualities of the lawyer of the future? Or is there no longer a single definition of a lawyer? The creator and developer of law, or the developer and teacher of machines, the creator of algorithms, the operator of a machine? Quite possibly the usual job of drafting contracts and lawsuits, the lower-skilled job of legal advice, will disappear in the future.

We need to discuss who and how to teach? Should we teach more principles and, on the other hand, orientation in legislation and case law and literature? The use of AI in law should be taught. Teaching materials should be constantly updated – could AI also be used?

Of course, we also see serious risks that need to be reduced in parallel with the deployment of AI:

- More and more, reality and virtuality are mixed, making it harder and harder to distinguish what is real and what is fiction.
- High expectations for the machine and its creator. Is anyone responsible for the machine's errors?
- Protecting personal data in mass data processing and language learning.
- The biggest risk and downside is that we may no longer understand what we are presenting under our own name (e.g. machine translations, alien ideas). This can lead to superficiality and ignorance. In the old days, the architect of a church had to be a genius; nowadays, even a mediocre one can do the same job with a machine. Perhaps it is increasingly difficult to distinguish on the outside who really knows what is going on and who does not. People are no longer able to master complex relationships and voluminous material, to read books, to concentrate seriously on learning.

But every business comes with risks. These risks need to be detected and thought through. But that doesn't mean that you have to fight the changes that are inevitable. Instead, we have to think wisely how to make the best of the use of AI.

I wish you a great conference with interesting presentations and fruitful discussions!

eCourt - a roadmap to a functioning digital infrastructure for the judiciary

(20 min)

Dear colleagues!

The Estonian judiciary is currently discussing a development plan for the judiciary for the next years. One part of this plan is a new level of digitisation of the courts and the implementation of AI. There are quite a few ideas that have been collected and I would like to share them with you.

After all, we have achieved a lot. Estonia's image as a digital country remains high around the world. Of course, we ourselves know that the gaps between this image and reality are slowly widening. It is time to make a real leap forward.

Where are we now?

Almost all of our administrative court proceedings and most of our civil court proceedings have already moved or are moving to digital procedures and case files. In criminal procedure digitisation is in preparation. We have developed a comprehensive court information system. It allows electronic communication with the parties, both to serve them with documents and for the parties to transmit documents to the court and to the opposing party, judges can work remotely, hold virtual sessions. During the pandemic, it allowed courts to continue to operate when, in many countries, justice essentially stopped.

Problems with the existing information system

The main concern is that the information system is basically mirroring the paper file on the computer, i.e. it copies much of the functionality of the paper file on the computer, but does not add enough intelligent value. The system is document-based, not data-based. Working with a digital case file is more time-consuming than working with a paper case file for larger volumes of data. The need for an infinite number of movements and approvals to use the system, plus, for example, the need for the most massive approvals with digital signatures, adds to the fact that it is not user-friendly.

The amount of data has become unreasonably large in some cases, which causes system failures.

The rigidity of the information system, the inability to develop it sufficiently and even to make improvements, is also a major problem. The system is so complex and sophisticated that any change is both – manpower wise and financially – difficult. As a result, many developments are queued up for years until they are essentially obsolete, often before they are realised. In addition, many of the changes create implementation bottlenecks in the system.

A new approach is needed

Please note that:

- with a decreasing budget and due to a declining population, we can afford fewer people but expect them to be more highly qualified;
- there are fewer skilled people on the labour market to deal with the same or even higher workload in the future;
- data volumes are increasing, the law is becoming more complex, and the proportion of cases requiring expertise is growing, slowing down the pace of justice;
- access to legal aid is low, awareness about the law is low, there is a high number of unsatisfactory and unpromising court referrals.

Conclusion: The current system will not take us any further, we need a fundamentally different logic when building a new information system. A data-driven, intelligent system, an AI-supported system that would partly take over the work of humans.

What could be done in the shorter term?

- We are gradually moving communication between the court and the parties from the documentary to the fully digital level. The court information system must be built on a data basis, not document basis. Repetitive data entry should be avoided. The use of forms to be filled in the information system (e.g. for maintenance claims) should be introduced, at least for simpler cases. AI will help in drafting actions and complaints.
- The information system must itself generate, on the basis of the data, the main drafts of judgements and other procedural documents, or the more typical procedural documents as a whole.
- We replace the digital signing of documents with simple approvals or other time-saving methods.
- Sessions could be automatically video-recorded. An AI should help to produce both a shorthand (transcription) and, on the basis of this, a protocol/memo.
- Translation (and interpretation) could be based on AI, human-edited if necessary.
- The AI can identify the person in remote hearings as well as in video hearings, similar to notaries.
- The AI could take over interacting with people on their simple everyday requests, but people must be able to interact with a human if they wish.
- The AI could help to better distribute cases (caseload, specialisation, proximity needs).
- The toolkit could help to assess the cost of the action and the fees, the financial assessment of claims, the need for procedural assistance and support the allocation and determination of costs.
- AI could also be used in judgments for data cleansing.

What to do in the distant future?

- It should be possible to hand over the pre-trial procedure to an AI, at least for simpler cases, at the level of exchange of documents and initial verification.
- Translation (interpretation) could be based on an AI.

- The AI should help to manage the proceedings and at the same time keep an eye on the whole volume of proceedings in the judge's hands, remind the judge in time where something needs to be done and what needs to be done at what stage, and if necessary perform simple tasks itself.
- The AI should be able to analyse the evidence and draw inferences from it, inter alia, by setting out the arguments for and against the finding of a disputed fact, on the basis of which the judge could draw his or her own conclusion.
- The AI should be able to analyse and summarise voluminous procedural documents and identify the subject matter of the dispute.
- The AI, combined with databases of legislation, case-law and legal literature, should be able to analyse case-law (Estonian, EU law at least) and also provide projects on how to settle the case on the basis of existing knowledge (in particular e.g. formula-based solutions such as e.g. maintenance calculator, default interest, price reduction), leaving the judge the possibility to correct and develop the practice and the obligation to check the conformity of the projects with the legislation and case-law.
- AI could help with out-of-court online platform-based dispute resolution.
- Anonymisation of procedures so that they can be used to teach and create AI.

Risks and challenges of implementing AI

Of course, we also see major risks that need to be reduced in parallel with the deployment of AI:

- AI cannot take over judgments based on values or discretionary decisions, AI does not conciliate parties. We need a robot assistant to the court, not a robot judge. However, in smaller cases, we can think of e.g. an initial decision by a robot-judge, reviewed by a human on request.
- Excessive expectation of the information system and blind trust in the AI and its creator can make people lazy. Could the state take clear responsibility for the system's failures?
- Protecting personal data in mass data processing and language learning.
- Ensuring the capacity of users of the system, training, development.
- Risks of using existing technology solutions in the private sector to deliver justice (e.g. sensitive data, possible over-reliance on the private sector). There is unlikely to be much interest in developing Estonia's own language models due to the small size of the market if it is expensive.
- We as a small state with a small market and language – should we either save up in difficult times and put developments on the back burner, or on the contrary, try to make a big effort and later save up on manpower on a large scale and at high speed.
- The choice is between setting a bigger vision and systematically working towards it. Or rather move forward like in a trial-and-error fashion. Probably both are needed.

What could be achieved through AI?

- procedures are significantly faster and streamlined, while reducing errors and unequal treatment;

- the current secretarial and translation work has been replaced, at least to a large extent, by AI and could lead to significant savings in labour costs;
- the more technical part of the work of the court clerk (counsel) would be done by AI;
- would be an essential tool for the judge to navigate and draw conclusions from the law, background information (case law), procedural documents and evidence;
- AI would help plaintiffs to assess the success of their claim to court, so that they can make an informed decision about whether to go to court;
- information systems to make it easier for people to go to court in typical proceedings, while ensuring the quality of the referrals.