

Practice Guidelines Expert Reports and AI

EuroExpert in its objectives includes the development, promotion and convergence of professional standards for experts within the European Union. As part of this objective, it has agreed on practice guidelines for the use of AI when giving expert evidence. It is recognised that there are different systems of law and many jurisdictions in Europe, any of which may impose different or additional duties and responsibilities which must then be complied with by the Experts.

General – Artificial Intelligence

- 1) Generative Artificial Intelligence (hereafter AI) is a form of artificial intelligence that can create new forms of content, including text, images or sounds, based on patterns and data acquired from a body of training material. This training material may include information obtained by “scraping” public and private text sources to build large-scale language models.
- 2) Following Art. 3 Nr 1 of Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence from 13th June 2024 an AI system’ means a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.
- 3) These guidelines apply to the use of Artificial Intelligence (AI), Large Language Models (LLMs) and Generative AI (collectively referred to as "AI") by experts and are directed to give guidance.
- 4) AI is capable of being used to assist experts with various tasks, including drafting documents and summarising information.
- 5) To avoid any doubt, for the purposes of these guidelines, AI does not include technology or functionality which:
 - a. merely corrects spelling or grammar, provides transcription, assists with formatting, supports in improving text quality or translation and otherwise does not generate substantive content;
 - b. generates chronologies from original source documents;

Expert Reports

- 1) Expert reports are required to assert the opinions of the experts, and their reasoning process.
- 2) Experts are responsible for the content of the report at all times.
- 3) When Experts use AI applications, they have to have adequate knowledge and understand the application they use, can recognise risks and apply the AI applications in a responsible manner.
- 4) Depending on the appointment and/or the instructions to the expert prior agreement with the appointer might be necessary.
- 5) When experts use AI applications for any purpose in preparing an expert report for courts, they shall:
 - Respect the confidentiality of the data they work with by using AI applications that provide sufficient guarantees of data confidentiality or by not using confidential data in the AI application,
 - Ensure accordance with laws and regulations in the field of privacy and data protection,
 - Keep records and, in an annex to the report, identify how AI applications were used (for example any prompts used, any default values used, and any variables set),
 - Make full disclosure if the use of AI is regulated or addressed by any relevant code of practice or principles binding on or applicable to the expert.
- 6) Experts shall ensure transparency about the use of AI applications by adequately disclosing their use in the report.
- 7) Any use should classify:
 - The AI application, version and model used,
 - The information entered or question asked (prompt),
 - The result(s) obtained,
 - Any sources mentioned,
 - The way in which the expert has processed or used the result,
 - The justification why the results used are appropriate and relevant.

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