

XXII International Scientific Conference "Legal Days – Prof. Slavko Carić"

Law and Justice



SESSION: INTERNATIONAL LAW AND THE CHALLENGES OF CONTEMPORARY SOCIETY

AI for Justice or Justice for AI?

A critical analysis of algorithmic decision-making in judicial systems, examining whether AI serves justice or reshapes it to accommodate technological limitations.

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The Central Question

AI for Justice

Technology serving fair and effective legal administration while upholding rights and due process

Justice for AI

Legal norms reshaped to fit technological limits and commercial pressures

This fundamental tension between technological capability and judicial integrity defines our contemporary legal landscape's most pressing challenge.



The Loomis Case: A Turning Point

The Facts

Brandon Loomis, convicted in Wisconsin 2014, became subject to COMPAS risk assessment algorithm. Despite plea deal for one-year sentence, judge imposed seven years based on high-risk algorithmic predictions.

Constitutional Challenge

Loomis argued COMPAS violated Sixth Amendment rights - unable to confront or challenge proprietary algorithmic evidence used in sentencing decision.

Wisconsin Supreme Court Decision

01

Accommodation Over Standards

Court ruled COMPAS use constitutional, modifying legal analysis to fit AI opacity rather than requiring transparency

02

"Just One Factor"

Justified opaque algorithms as acceptable if combined with other evidence, despite inability to scrutinize

03

Precedent Set

Established framework where AI influences decisions without meeting transparency standards required of human testimony

EU AI Act: A Different Approach

Justice as Standard

Requires AI systems to conform to established legal and ethical principles, not vice versa

Transparency Requirements

Article 13 mandates high-risk AI systems be "sufficiently transparent" for human interpretation

Human Oversight

Article 14 requires effective human supervision to preserve agency in fundamental rights decisions



The Rowicz Case: Testing EU Principles

Poland's SLPS System

Random Case Allocation System developed by Ministry of Justice to assign judges to cases. Raises constitutional concerns about separation of powers and judicial independence.

Core Conflict

Executive branch controlling judicial assignments through AI blurs institutional boundaries, risks indirect influence over judiciary despite algorithmic neutrality claims.



Contrasting Philosophies



US Approach (Loomis)

Adapt legal standards to AI limitations. Prioritize efficiency over traditional protections. Accept opacity for technological benefits.



EU Approach (AI Act)

Require AI to meet legal standards. Treat rights as non-negotiable. Demand transparency and accountability.

Four Critical Dimensions



Transparency

Loomis normalized opacity; EU demands explainability as prerequisite for deployment



Human Agency

Loomis reduced oversight to ceremony; EU requires meaningful human control



Constitutional Standards

Loomis adapted rights to technology; EU requires technology to meet rights



Democratic Accountability

Loomis deferred to commercial products; EU demands public oversight



Implications for Democratic Governance

The integration of AI into governance is not merely a technical issue but a societal decision about which values to uphold.

These contrasting approaches reveal whether democratic institutions must adapt to technological constraints or whether AI must conform to democratic standards. The choice shapes legitimacy, fairness, and accountability of legal institutions.

The Path Forward

- Transparency as Fundamental Requirement
Maintain accountability and legitimacy through explainable AI systems
- Preserve Human Agency
Ensure meaningful control and expertise in AI-assisted decisions
- Democratic Participation
Embed public values in AI governance through inclusive deliberation

The choice before us is critical: develop AI tools that support human judgment, or risk a system where efficiency trumps fairness, transparency, and accountability.





**Thanks for your
attention!**

Any questions?