

News

TWO-THIRDS OF LEGAL PROFESSIONALS IN FAVOR OF THE REGULATION OF AI IN INTERNATIONAL ARBITRATION

CONCERNS MOUNT ABOUT IMPROPER DELEGATION, DEEPFAKE, HALLUCINATIONS AND CONFIDENTIALITY, BCLP SURVEY FINDS

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Nearly three in four lawyers (74%) say that arbitrators should not use AI tools to formulate or draft adjudicatory elements of an award, according to the latest annual arbitration survey, by international law firm BCLP.

The survey, which this year focused on the use of AI tools in arbitration, also showed that 76% of respondents across the legal industry think that there is a need for greater transparency over the use of AI tools by arbitrators. However, only half of respondents believe use of AI tools in arbitration should be disclosed to all parties.

The survey comes as the UK held its first-ever AI Summit earlier this month, as legislators across the world grapple with the challenges brought by regulating AI.

Claire Morel de Westgaver, arbitrator and partner at BCLP, said: “There is a growing expectation that arbitrators should be able to identify and navigate any risks associated with the use of AI tools in international arbitration. Looking ahead, given the speed with which AI technology is developing, arbitrators will undoubtedly require more advanced training and assistance with respect to AI technology and its implications for the conduct of arbitration.”

The vast majority of respondents (between 86-88%) to the survey said they were concerned about cybersecurity, AI Hallucination (the risk of AI generating fictitious responses), breach of confidentiality, deepfake (the use of AI tools to falsify or tamper with evidence) when using AI tools for arbitration proceedings and work.

In addition, close to two-thirds (65%) of respondents agreed that parties should be required to disclose the use of AI tools for document review and production, while 62% of respondents said parties should disclose the use of AI tools for the translation of documents submitted into the arbitration record.

Another 72% of respondents agreed or strongly agreed that parties should be required to disclose the use of AI tools for drafting expert reports.

Finally, over half (53%) thought AI tools should not be used for the generation of text for use in legal argument/legal submissions, or for the generation of text for use in expert reports (58%).

Meanwhile, 62% of respondents thought that AI tools should not be used for the generation of text for use in arbitral awards.

As a result of the concerns lawyers have around the use of AI, most respondents to the survey (63%) were in favour of the regulation of the use of AI tools in international arbitration, but with only 26% supporting regulation through arbitration rules.

This comes as the European Union considers legislations to regulate the use of AI, including its impact on the administration of justice and the rule of law. The Council of Bars and Law Societies of Europe also issued a Guide on the use of AI-based tools by lawyers and law firms in the EU highlighting the risks to professional obligations that may arise from the use of AI tools, and the American Bar Association announced earlier this year the creation of the ABA Task Force on Law and Artificial Intelligence to examine the impact of AI on law practice and the ethical implications for lawyers.

For more information, read [BCLP's Annual Arbitration Survey 2023](#).

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