IBA LITIGATION COMMITTEE

Guide on AI and Litigation

JURISDICTIONAL QUESTIONNAIRE

Jurisdiction	Germany
Author(s) / Firm	Eric Wagner, Marc Ruttloff and Andrea Leufgen Gleiss Lutz; Stuttgart, Berlin and Frankfurt
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LEGISLATION

1. What legislation governs or affects the use of AI in litigation in your jurisdiction?

(a) Artificial intelligence (AI)-specific legislation

Germany has not enacted standalone AI legislation. The principal AI-specific framework applicable in Germany is the European Union's Artificial Intelligence Act (Regulation (EU) 2024/1689), which entered into force on 1 August 2024 and is directly applicable in Germany. The EU AI Act primarily applies to providers and deployers of AI systems and their authorised representatives within the EU (Article 2(1) EU AI Act).

The EU AI Act defines what is to be understood as an 'AI system' for the purposes of the Act, setting forth its scope of applicability. Pursuant to Article 1 of the EU AI Act, the Act pursues the objective of 'ensuring a high level of protection of health, safety and fundamental rights enshrined in the Charter of Fundamental Rights, including democracy, the rule of law and environmental protection', while also promoting innovation in relation to human-centric and trustworthy AI. Flowing from its aim to ensure users' safety and the protection of their rights, the EU AI Act divides AI services, depending on their risk for users, into different categories of high-risk AI systems, as defined in Article 6, and low-risk systems, according to Article 50. The EU AI Act further stipulates AI practices that shall generally be prohibited (Article 5 EU AI Act). The Act's provisions become applicable in stages: the prohibited AI practices under Article 5 have been applicable since 2 February 2025 and the obligations for general-purpose AI models and the governance provisions have been applicable since 2 August 2025. The bulk of the obligations for high-risk AI systems falling within Annex III, including for the present purposes, AI systems used by or on behalf of judicial authorities or in alternative dispute resolution, became applicable from 2 August 2026 onwards.

With regards to AI systems used in litigation and alternative dispute resolution, Annex III No. 8(a) of the EU AI Act classifies AI systems intended to be used by or on

behalf of a judicial authority to assist in researching and interpreting facts and the law and in applying the law to a concrete set of facts, or used in a similar way in alternative dispute resolution, as high-risk. The reason lies within the possible legal impact on the decision-making of judges or arbitrators and their (judicial) independence.

The exceptions in Article 6(3) may apply where the system poses no significant risk to health, safety or fundamental rights and does not materially influence the outcome of decision-making (eg, narrowly defined procedural tasks, the improvement of the result of a previously completed human activity or preparatory tasks). Deployers are subject to the obligations set out in Article 26 of the EU AI Act, including technical and organisational measures to ensure use in accordance with the instructions for use, human oversight by trained and competent personnel, the monitoring of operation and the retention of automatically generated logs. Article 4 requires deployers to ensure a sufficient level of AI literacy among their staff and Article 50 imposes transparency obligations in certain cases.

At the national level, the Federal Cabinet (*Bundeskabinett*) adopted the draft 'AI Market Supervision and Innovation Promotion Act' (*KI-Marktüberwachungs- und Innovationsförderungsgesetz* or KI-MIG) on 11 February 2026. The draft bill is intended to transpose the EU AI Act into national law and, in particular, to designate the competent supervisory authorities. The draft bill designates the Federal Network Agency (*Bundesnetzagentur*) as the central coordinating and competence centre, market surveillance authority and notifying body. At the time of writing, the draft bill has been submitted to the Federal Council (*Bundesrat*) and German Parliament (*Bundestag*) for further legislative proceedings.

(b) Other laws relevant to AI use in litigation

The German Basic Law (*Grundgesetz* or GG) sets fundamental constitutional limits, in particular Article 92 GG (judicial power vested in judges as natural persons), Article 97(1) GG (judicial independence), Article 101(1) sentence 2 GG (right to the lawful judge), Article 103(1) GG (right to be heard – the possibility to influence the proceedings and transparency must be ensured), Article 19(4) GG (the right to an effective remedy – access to courts must not be impeded), Article 1(1) GG (human dignity – a person must not be reduced to the numerical logic of a machine), Article 2(1) in conjunction with Article 1(1) GG (right to informational self-determination must be safeguarded) and Article 3(1) and (2) GG (prohibition of discrimination – value neutrality of any software deployed is required). The requirement that judicial functions shall be exercised by natural persons is derived from Article 92 GG in conjunction with section 1 of the German Judiciary Act (*Deutsches Richtergesetz* or DRiG); the qualification requirements for judges in section 9 DRiG, including the necessary social competence under section 9 No. 4 DRiG, confirm this requirement. The Code of Civil Procedure (*Zivilprozessordnung* or ZPO) also presupposes that arbitrators are natural persons (see, for eg, section 1033 ZPO's previous wording and sections 1035(5), 1036(1) ZPO (personal independence of the arbitrator) and section 1054(1) ZPO (writing requirement of arbitral awards). This requirement remains unchanged under the draft Act on the Modernisation of German Arbitration Law (*Gesetz zur Modernisierung des Schiedsverfahrensrechts*), which is currently before the legislature.

Procedural rules on electronic evidence and documents are set out in particular in sections 130a, 371a and 286 ZPO and govern the form and evidentiary value of electronically generated and AI-supported materials.

The eIDAS Regulation (Regulation (EU) No 910/2014) governs electronic signatures and trust services, which is relevant when AI generates documents requiring authentication.

Professional conduct is governed by the Federal Lawyers' Act (*Bundesrechtsanwaltsordnung* or BRAO) and the Professional Code for Lawyers (*Berufsordnung für Rechtsanwälte* or BORA), where, in particular, section 43 BRAO (conscientious practice), section 43a(2) BRAO and section 2 BORA (confidentiality), section 43a(3) BRAO (duty of objectivity, including the prohibition of the conscious dissemination of untruths), section 43a(6) BRAO and section 5 BORA (continuing professional development) and section 43e BRAO (engagement of service providers) must be taken into account when using AI for litigation purposes.

Data protection requirements arise in particular from the EU's General Data Protection Regulation (GDPR) (*Datenschutz-Grundverordnung* or DSGVO) and, to a lesser extent, the German Federal Data Protection Act (*Bundesdatenschutzgesetz* or BDSG). Additionally, the German Trade Secrets Act (*Geschäftsgeheimnisgesetz* or GeschGehG) is relevant when lawyers use AI tools: the transmission of client trade secrets to AI service providers may jeopardise the secrecy protection under section 2 No 1 lit. c GeschGehG if adequate confidentiality measures are not in place, as input into an AI system that uses its input to train the underlying model may constitute a failure to take 'reasonable steps' to maintain secrecy.

Criminal protection of secrets relating to a business is provided by section 203(1) No 3 of the German Criminal Code (*Strafgesetzbuch* or StGB), supplemented by section 203(4) StGB on persons cooperating with professional secret holders. This provision, introduced by the reform of 2017, is of central importance for cloud and AI service providers processing client information, as it extends the criminal protection of professional secrets to such external providers under certain conditions.

PROFESSIONAL BODY GUIDANCE

2. What guidance has been issued by bar associations, regulators or other professional bodies on AI use by lawyers?

Neither the German Federal Bar (*Bundesrechtsanwaltskammer* or BRAK) nor the German Bar Association (*Deutscher Anwaltverein* or DAV) has issued binding AI-specific rules of professional conduct for litigators. However, discussions are ongoing within the BRAK's Statute Assembly (*Satzungsversammlung*) on a possible amendment to the BORA to require lawyers to certify the existence and accuracy of cited sources in pleadings prepared with AI assistance.

The existing professional duties under the BRAO and BORA are technology neutral and apply equally to the use of AI. Both organisations have, however, published detailed soft-law guidance, which is widely regarded as the relevant professional standard for litigators. The BRAK has issued the guidance 'Tips for using artificial intelligence (AI)' (*Hinweise zum Einsatz von künstlicher Intelligenz (KI)*) (December 2024), authored by RA Dr Frank Remmertz (Chair of the BRAK Committee on the Legal Services Act).

The BRAK guidance addresses, in particular, the lawyer's duty of conscientious practice and, in principle, personal performance, including the lawyer's own review and final

inspection of AI support under section 43 BRAO. From this duty follows the principle that AI may only support but not replace a lawyer's work, including a lawyer's duty to independently review and control any final AI output.

The BRAK guidance also addresses the duty of confidentiality under section 43a(2) BRAO and section 2 BORA, including the principle that, based on the current state of the art, the transmission of client data to publicly available AI language models is not necessary and is, therefore, inadmissible. Lawyers intending to use AI are advised to only give abstract, anonymised prompts and only upload documents that are anonymised or pseudonymised in advance. Lawyers, however, are free to conclude contracts with AI service providers under the conditions for IT outsourcing outlined in section 43e BRAO. The basis of the agreement shall be the 'need-to-know principle'; only data of utmost importance for the service's functionality must be disclosed. Lawyers are advised to conclude contracts in text obliging the AI service provider to maintain confidentiality and to comply with the minimum requirements set out by section 43e(3) BRAO and the GDPR, as well as purpose limitation of the data. The service provider must also be notified of the criminal consequences of a breach of the confidentiality obligation pursuant to section 203(1) No 3 of the StGB. Additional safeguards are of particular importance where providers are based outside the EU/European Economic Area (EEA).

Furthermore, even though lawyers are obliged to continuously inform their clients about all important aspects of the case, there is no general duty to disclose the use of AI to clients. Transparency obligations may, however, arise from contract law or the Act against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb* or UWG).

Lastly, the BRAK guidance addresses the EU AI Act's effect on a lawyer's practice, in particular, concerning Article 4 EU AI Act (AI literacy), Article 50 EU AI Act (transparency) and the obligations of deployers of high-risk AI systems. Article 4 stipulates that deployers of AI systems shall take measures to ensure a sufficient level of AI literacy of their staff operating AI systems on their behalf. According to Article 3 No 4, lawyers using AI systems fall within the scope of 'deployers' pursuant to the Act. Therefore, they are obliged to train their staff on the use of AI services under Article 4 and to disclose the use of AI services when publicly publishing any text with the help of AI.

The DAV has supplemented this guidance with its Initiative Opinion No 32/2025, 'Use of Artificial Intelligence in the Legal Profession' (*Einsatz von Künstlicher Intelligenz in der Anwaltschaft*) (July 2025), which adopts a more risk-based and practice-oriented approach. The DAV Opinion confirms the requirement to carry out a critical review of AI output, but accepts that the final review may be dispensed with at the express and documented request of the client. It treats the assessment of whether confidential client information may be transmitted to a particular AI tool under section 43e BRAO as an entrepreneurial decision taken by the lawyer, subject to appropriate technical and organisational safeguards (without imposing a strict 'hold-your-own-key' obligation where that would render the use of AI practically impossible). It further requires the AI provider to be contractually bound to confidentiality, no further disclosure and no use of the data for training purposes; and considers that clients must be informed of the use of AI only where the AI provides decision-relevant legal assessments or substantively shapes essential elements of the mandate. The DAV Opinion also points out that, even though AI systems used in the judiciary are considered high risk under the EU AI Act, Article 6 only applies to AI systems used by judicial authorities. AI systems deployed by lawyers, on the other hand, do not fall under Annex III No 8(a) of the EU AI Act, hence, such systems are considered low risk.

German practitioners also draw on supranational guidance from the Council of Bars and Law Societies of Europe's (CCBE) 'Guide on the Use of Artificial Intelligence-based Tools by Lawyers and Law Firms in the EU' (2022) and the European Bar Federation's (EBF) 'European Lawyers in the Era of ChatGPT' (2023), as well as on the Conference of Independent Data Protection Authorities of the Federation and the Federal States (*Datenschutzkonferenz* or DSK) Orientation Guide, 'Artificial Intelligence and Data Protection' (*Künstliche Intelligenz und Datenschutz*) of 6 May 2024. The DSK guidance addresses, in particular, data protection requirements for AI use, including the necessity of a lawful basis under Article 6 GDPR and the obligation to conduct a data protection impact assessment pursuant to Article 35 GDPR where the processing is likely to result in a high risk to individuals' rights.

3. What other professional conduct obligations are relevant to lawyers using AI?

As outlined above, the principal professional conduct obligations relevant to lawyers using AI in Germany are, in particular, the duty of conscientious practice and the duty to independently review and control AI outputs under section 43 sentence 1 BRAO, the duty of objectivity and the prohibition on the knowing dissemination of untruths under section 43a(3) BRAO, the duty of confidentiality under section 43a(2) BRAO and section 2 BORA, the rules on the engagement of service providers under section 43e BRAO, the duty of continuing professional development under section 43a(6) BRAO, the office organisation and supervision duties under section 5 BORA and section 43a(7) BRAO and the criminal protection of private secrets under section 203(1) No 3 and (4) StGB, supplemented by the data protection requirements under the GDPR and the BDSG, particularly the requirement for a legal basis for processing personal data (via AI or otherwise, Article 5(1)(a), 6 and 9 GDPR) and the requirement to enter into data protection agreements with certain subcontractors (Article 26 and 28 GDPR).

In the context of AI use, these obligations translate, in particular, into the following specific duties:

- Competence: Lawyers must develop sufficient AI literacy to understand the limits, biases and risks of the tools they use, both as a matter of section 43a(6) BRAO and of Article 4 of the EU AI Act.

- Confidentiality and privilege: Under the BRAK guidance of December 2024, the transmission of client secrets to publicly available large language models is, given the current state of the art, not necessary and, therefore, inadmissible. Documents uploaded to AI tools should, as a rule, be anonymised or pseudonymised in advance, the need-to-know principle applies and, where external providers are engaged, the requirements of section 43e BRAO (including a written confidentiality and purpose-limitation undertaking and additional safeguards for non-EU/EEA providers) must be complied with.

- Supervision: AI may only support, not replace, a lawyer's work. The lawyer remains responsible for conducting an independent review and the final control of any AI output, and AI-generated work products are to be treated like the work of an unsupervised assistant.

- Candour to the court: Lawyers may not knowingly disseminate untruths under section 43a (3) BRAO, including by submitting fabricated case citations or quotations. The parties' procedural duty of truthfulness in section 138 ZPO applies

to factual submissions, while errors in legal citations are subject to the lawyer's general duty of conscientious practice.

- Information of the client: Under the BRAK guidance of December 2024, there is no general duty under the BRAO or BORA to inform the client of the use of AI, although such a duty may in individual cases arise from contract law or from the Act against Unfair Competition. The DAV Initiative Opinion No 32/2025 considers a client information duty to exist where the AI provides decision-relevant legal assessments or substantively shapes essential elements of the mandate. A transparent handling of AI use is generally recommended.

- Obligation to consider AI use: There is, at present, no general statutory obligation for German lawyers to use AI tools, but section 5 BORA may, in the context of an individual case (in particular, in mass litigation), require the use of legal tech or AI tools to comply with the office organisation duty.

- Liability: Lawyers are in principle liable for incorrect AI outputs as they are for the work of an in-house assistant. It is, therefore, important for a lawyer to check whether AI-related errors are covered by their professional indemnity insurance, as well as to implement contractual safeguards with AI providers. Rigorous internal controls are essential.

COURT AND JUDICIAL GUIDANCE

4. What guidance have courts or the judiciary issued on AI use by judges, litigants and legal representatives?

There are no binding nationwide practice directions, court rules or procedural rules in Germany that specifically govern the use of AI by judges, litigants or legal representatives. Also, the courts do not generally require certification or formal disclosure of AI use.

Relevant guidance is set out in a series of policy documents and in a growing number of pilot projects within the German judiciary. The most recent and authoritative policy framework consists of:

- the Joint AI Strategy of the E-Justice Council (*Bund-Länder-Strategie zum Einsatz von Künstlicher Intelligenz in der Justiz*), adopted in April 2025 under the lead of Baden-Württemberg, which coordinates the development, procurement and use of AI systems by the Federation and the federal states and provides for a federal AI platform from 2026; and

- the Joint Declaration of the Federal and Federal State Ministers of Justice on the Use of AI in the Judiciary of 5 June 2025 (*Chancen nutzen, Verantwortung übernehmen, Transparenz gewährleisten*), adopted at the sixth Bund-Länder Digital Summit in Bad Schandau, which expressly confirms that 'final decision-making remains a human-driven activity' and that judges and other members of the judiciary remain indispensable.

These instruments build on the earlier 'Basic Paper on the use of AI in the Judiciary' (*Grundlagenpapier zum Einsatz von KI in der Justiz*) (2022) of the 74th Annual Conference

of the Presidents of the Higher Regional Courts, the Berlin Court of Appeals, the Bavarian Supreme Regional Court and the Federal Court of Justice, which had already concluded that AI in the judiciary must be limited to assisting tasks and that final decisions must be taken and accounted for by judges as natural persons (*Grundlagenpapier* 2022, pp. 10, 37, 42). At the level of procedural law, the use of technical aids in the judiciary is based on the general organisational competences of the courts. Section 298a ZPO governs electronic file management and, thus, provides an important statutory framework for the use of digital tools, while section 130a ZPO regulates electronic documents.

At the operational level, the German judiciary has launched a wider range of pilot projects in which AI is used to assist judges, prosecutors and court staff. The principal projects include: FRAUKE (*Frankfurter Urteils-Konfigurator, Elektronisch*) at the Regional Court and the Local Court Frankfurt for air passenger rights cases, with editing and final decisions made by the judge; OLGA (*OberLandesGerichts-Assistent*) at the Higher Regional Court Stuttgart for appeal proceedings in Diesel cases; MAKI (*Massenverfahrens-Assistenz durch Künstliche Intelligenz*) in Lower Saxony, to assist the courts, particularly in mass proceedings and tested at the Local Court Hannover, the Regional Court Osnabrück, the Regional Court Hildesheim, the Higher Regional Court Braunschweig and the Administrative Courts of Braunschweig, Göttingen and Hannover; AKIRA (*Allgemeine KI-Richterassistenz*) of Baden-Württemberg in cooperation with Aleph Alpha for the social courts; StruKI (*Strukturierung mit KI*) of Baden-Württemberg with IBM, CODEFY and Materna, designed as a universal structuring tool for case files across all branches of the judiciary and rolled out from 2024 onwards; JANO (*Justiz-Anonymisierung*) of Hesse and Baden-Württemberg with IBM and ALeKS of Bavaria and Lower Saxony for the anonymisation and headnote generation of decisions; SMART/IMJ in Bavaria and Rhineland-Palatinate for the automated extraction of metadata from civil pleadings; Codefy at the Regional Court Frankfurt and the Bavarian judiciary for the structuring of case files in complex proceedings; and the 'Generative Sprachmodell der Justiz' (GSJ), a joint research project by Bavaria, North Rhine-Westphalia, the Technical University of Munich and the University of Cologne, with a testing phase running until the end of 2026. Additional initiatives include AI-supported tools for criminal investigations announced by the Hessian Ministry of Justice in 2026 and internal works agreements on the use of AI adopted by individual states (eg, Bremen). While public systematic evaluations of these pilot projects remain limited, the first interim reports issued indicate positive results regarding efficiency gains and user acceptance (eg, FRAUKE), although comprehensive outcome analyses and scientific assessments are still pending for most of the aforementioned initiatives.

CASE LAW

5. Have there been any cases involving the use of AI-generated false citations or descriptions by judges, litigants or legal representatives?

There are several recent reported decisions in which German courts have addressed AI-generated fabricated citations or fictitious case law in pleadings. Notable examples include:

- Local Court of Cologne, decision of 2 July 2025, 312 F 130/25, in which the Family Court found that numerous citations in a lawyer's pleading had been generated by AI and were entirely fabricated, and held that this could amount to a breach of the professional duty of objectivity and truthfulness under section 43a(3) BRAO, which also encompasses the duty to truthfully recite citations. Even though the Court described the respective lawyer's conduct as misleading and damaging for the

reputation of all lawyers and the rule of law in Germany, the lawyer faced no immediate sanctions from the Court itself, as far as can be seen: unlike in other jurisdictions, German procedural law does not provide for a direct sanctions regime comparable to the United States federal courts' Rule 11 sanctions. However, false statements may have indirect procedural consequences, such as adverse findings in the assessment of evidence (section 286 ZPO) or cost implications for unjustified delays (section 34 ZPO). The primary avenue for accountability lies in retrospective disciplinary proceedings before the lawyers' disciplinary courts (*Anwaltsgerichtsbarkeit*) under section 113 ff. BRAO, which may result in sanctions ranging from a warning (*Warnung*) to disbarment (*Ausschluss aus der Rechtsanwaltschaft*) in serious cases. In extreme cases, criminal proceedings for procedural fraud remain possible as well. Whether the lawyers involved in the reported cases have been subject to such proceedings is not publicly known.

- Further, the Higher Regional Court Celle, decision of 29 April 2025, 5 U 1/25, found that four cited Higher Regional Court decisions did not exist and were not retrievable from any legal database. The Court did not expressly criticise the use of AI systems and did not elaborate on alternative explanations for the fabricated citations. The proceedings were settled, so the erroneous citations had no effect on the final judgment in this case, as far as can be seen.

- Lastly, the Regional Court Frankfurt am Main, decision of 25 September 2025 in 2-13 S 56/24 is worth noting, in which the Regional Court qualified three purported verbatim quotations from Federal Court of Justice decisions as 'complete forgeries' and emphasised the lawyer's duty to verify AI-generated sources before submitting them to the court.

6. Have there been any other significant cases addressing AI use in litigation?

There is, to the authors' knowledge, no published German court decision specifically addressing AI-generated translations or summaries in litigation, privilege over AI prompts or outputs, the admissibility of AI-generated evidence or the use of AI by court-appointed expert witnesses. Likewise, there are no reported decisions on the evidentiary treatment of deepfakes or AI-manipulated media. The discussion of these issues in Germany is currently shaped by the regulatory framework (in particular, the EU AI Act and the constitutional and professional law limits described above) and by the BRAK and DAV guidance on the use of AI in legal practice rather than by case law.

With respect to AI and intellectual property in a litigation context, however, several decisions are notable. In particular:

- In a recent decision by the Higher Regional Court of Düsseldorf of 2 April 2026, I-20 W 2/26, concerning intellectual property law under the Act on Copyright and Related Rights (*Urheberrechtsgesetz* or UrhG), the Court stated that an AI-generated image can, depending on the circumstances of the individual case, fall within the scope of applicability of the UrhG as a protected work under section 2(2) UrhG, in particular, when the AI-generated image has been created with concrete personalised and individual prompts reflecting the creator's personality and creativity. Merely having selected one of many AI-generated images does not, however, meet the requirement.

- The Federal Court of Justice held in its decision of 11 June 2024 in X ZB 5/22 that an AI system cannot be designated as an inventor within the meaning of section 37(1) of the Patent Act (*Patentgesetz* or PatG). Only a natural person qualifies as an inventor, which is of direct relevance for inventor designation in patent litigation.

- The Regional Court of Munich I, in its judgment of 11 November 2025, 42 O 14139/24 (*GEMA v OpenAI*), issued the first German decision on the merits to recognise the liability of a generative AI provider for copyright infringement, on the ground that song lyrics had been memorised in the language model and reproduced in its output, and held that the text-and-data-mining exception in section 44b UrhG does not cover such use. The decision is not yet final and an appeal to the Higher Regional Court of Munich has been announced.

OTHER GUIDANCE

7. What other guidance exists on AI use in litigation (government frameworks, industry standards)?

Beyond the legislation and case law described above, German litigators draw on a number of additional reference points. Within the German judiciary, the Joint AI Strategy of the E-Justice Council (April 2025) and the 'Joint Declaration of the Federal and Federal States Ministries of Justice on the use of AI in the judiciary' of 5 June 2025 (referred to in more detail above, see question 4) set out the principal government framework, building on the earlier Basic Paper (2022) of the 74th Annual Conference of the Presidents of the Higher Regional Courts, the Berlin Court of Appeals, the Bavarian Supreme Regional Court and the Federal Court of Justice. The Reform Commission 'Civil Proceeding of the Future' (*Zivilprozess der Zukunft*) addressed the use of AI in civil proceedings (in particular, the publication of decisions, training data and case-file structuring) in its final report (2023). The Federal Office for Information Security (*Bundesamt für Sicherheit in der Informationstechnik* or BSI) provides guidance on the secure use of AI systems, including recommendations on the IT security aspects of AI deployment in professional environments. In addition, the DIN/ISO standards on AI systems, in particular ISO/IEC 42001 on AI management systems, are increasingly being used as a reference framework for compliance assessments. German practitioners also rely on the CCBE's 'Guide on the Use of Artificial-Intelligence-based tools by lawyers and law firms in the EU' (2022) and the EBF's 'European Lawyers in the Era of ChatGPT' (2023).

PRACTICAL MATTERS

8. What are the key risks and best practices for litigators using AI in your jurisdiction?

The key risks for litigators using AI in Germany include, in particular: hallucinations and other incorrect content; automation bias and over-reliance on AI outputs; the risk of discrimination through AI systems (Article 3 GG, AGG); breaches of confidentiality and legal privilege when client information is processed by external AI systems (section 43a(2) BRAO, section 203(1) No 3 StGB); breaches of data protection law (subject to significant fines under Article 83 GDPR); non-compliance with the EU AI Act, in particular, with regards to AI literacy (Article 4), transparency (Article 50) and, where applicable, deployer

obligations for high-risk systems (Article 26); and reputational and liability exposure resulting from inadequate verification of AI-generated work products.

To mitigate these risks, litigators should, in particular, ensure that AI is used only as a support tool and does not replace the lawyer's independent (at least final) assessment of the facts and the law. They may implement robust human oversight and verification processes for all AI outputs used externally, as well as training staff to ensure AI literacy required by Article Of the EU 4 AI Act and to understand the limitations, biases and risks of the tools used. They may also establish internal AI policies (*AI-Richtlinien*) for the firm where appropriate that regulate the use of AI tools and set clear guidelines for permissible applications, data handling and quality assurance. Further, they should consider selecting AI tools that comply with confidentiality, professional secrecy and data protection requirements, and conclude appropriate agreements with service providers (section 43e BRAO). They should document AI use and retain logs in line with Article 26 of the EU AI Act where applicable; and consider, on a case-by-case basis, transparency vis-à-vis their clients, opposing parties and the court.

Regarding anticipated regulatory changes: The remaining provisions of the EU AI Act will become applicable in stages, with the deployer obligations for high-risk AI systems falling within Annex III No 8(a) becoming applicable on 2 August 2026. At national level, the Federal Cabinet adopted the draft 'AI Market Supervision and Innovation Promotion Act' (*KI-Marktüberwachungs- und Innovationsförderungsgesetz, KI-MIG*) on 11 February 2026. The draft designates the Federal Network Agency (*Bundesnetzagentur*) as the central authority, and has been submitted to the *Bundesrat* and *Bundestag* (see question 1 above). Further developments to be monitored include, in particular, the implementation of the Joint AI Strategy of the E-Justice Council (April 2025) and the planned federal AI platform for the judiciary (from 2026) and the ongoing discussion within the BRAK Statute Assembly on a possible BORA amendment introducing a duty to certify the existence and accuracy of cited sources in pleadings prepared with AI assistance.

9. Is there anything else about AI and litigation in your jurisdiction that practitioners should know?

Practitioners should be aware that the German debate on AI in dispute resolution is currently shaped by a constitutional starting point: under Article 92, 97, 101(1) sentence 2 and 103(1) GG in conjunction with section 1 DRiG and the relevant provisions of the ZPO on arbitrators (section 1033 ZPO in its former version and sections 1035(5), 1036(1) and 1054(1) ZPO), final decision-making in court and arbitration proceedings is a human-driven activity; AI may only assist judges, arbitrators and counsel. In practice, German courts and law firms are increasingly piloting AI-supported tools (see question 4 regarding the large number of judicial pilot projects, including FRAUKE, OLGA, MAKI, AKIRA, StruKI, JANO, ALeKS, SMART/IMJ, Codefy and the 'Generative Sprachmodell der Justiz'), as well as commercial legal AI products.