

# Republic of Korea

Doil Son, Yulchon, Seoul

Sun Hee Kim, Yulchon, Seoul

DaYeon Ahn, Yulchon, Seoul

Seoho Lee, Yulchon, Seoul

## 1. What is the understanding or definition of AI in your jurisdiction?

In the Republic of Korea, there is currently no universally accepted legal definition of artificial intelligence (AI) enshrined in law, as AI-specific legislation is still under discussion in the National Assembly.<sup>544</sup> However, several existing laws incorporate concepts related to AI. For instance, the General Act on Public Administration (GAPA) addresses the use of ‘automatic disposition’ (defined as actions taken by a fully automated system, including those employing AI technologies) in Article 20. Additionally, the Personal Information Protection Act (PIPA) recognises the rights of individuals concerning ‘automated decisions’ (decisions made solely through systems using AI technologies) under Article 37-2.

Furthermore, a recent decision by the Seoul Administrative Court described AI as a technology that ‘emulates human brain functions such as perception, judgement, inference, problem-solving, and, consequently, the capability to give verbal and behavioural instructions and perform learning functions’.<sup>545</sup> However, this definition arose from a lower court’s ruling in a specific case, making it challenging to regard it as a definitive or official definition applicable across all legal contexts in Korea.

## 2. In your jurisdiction, besides legal tech tools (ie, law firm or claim management, data platforms, etc), are there already actual AI tools or use cases in practice for legal services?

In Korea, AI adoption within the legal sector, though still nascent, is met with significant enthusiasm from legal professionals eager to integrate these technologies into their practices. This interest has prompted a surge in legal tech startups developing AI-based solutions tailored for legal applications. Additionally,

---

544 The details of the AI-specific legislation currently under discussion in the National Assembly remain undisclosed. Nevertheless, since the legislation is intended to establish a foundational framework for the AI industry’s promotion and regulation, it is expected to encompass a formal definition of AI.

545 Seoul Administrative Court Decision 2022GuHab89524, 30 June 2023.

law firms and public sector entities, including courts and law enforcement agencies, are actively investing in AI to enhance legal processes.

### **AI tools offered by tech companies**

The legal tech landscape in Korea is experiencing rapid growth, with startups increasingly integrating advanced AI technologies, including generative AI, into their services. For instance, legal tech startup Law & Good recently launched an AI-driven chatbot service offering legal advice on a wide range of topics from PIPA to finance regulations. It plans to extend this service to cover areas such as sex crimes, divorce and intellectual property. Another legal tech company, BHSN, introduced Allibee, an AI solution for contract management and legal dispute handling, featuring a contract lifecycle management (CLM) service that leverages AI to analyse and extract key clauses from contracts.

### **AI tools developed in law firms**

Korean law firms are actively developing AI tools for legal services, often in collaboration with tech companies. Yulchon has established the eYulchon Team, focused on creating AI tools for B2B legal services, while DR & AJU LLC recently launched AI DR & AJU, a service that provides basic legal information to users directly (B2C model). These developments highlight the growing interest in generative AI among law firms.

### **AI used in public institutions**

Public institutions, including law enforcement agencies, are leveraging AI to improve administrative efficiency. The police have implemented an 'AI-enabled written statement drafting system' using speech recognition technology, currently used in 239 police offices and Sunflower Centres, which assist victims of sexual violence. Furthermore, the Supreme Prosecutor's Office is developing an 'AI Investigator' model to aid in identifying similar cases during investigations, indicating a broader adoption of AI across various stages of criminal procedures.

Overall, these advancements reflect Korea's proactive stance in adopting AI technology across the legal sector, aiming to streamline operations and improve the accuracy and efficiency of legal services.

- 3. If yes, are these AI tools different regarding:**
- **independent law firms;**
  - **international law firms; and**
  - **in-house counsel;**
- and what are these differences?**

The application of AI tools in the legal field varies across different types of law practices, such as independent small and medium-sized law firms, large independent law firms, international law firms and in-house counsel. These variations may continue to develop with advancements in AI technology.

Small and medium-sized law firms often use AI for routine tasks such as legal research and drafting standard documents, for example contracts and litigation papers. These AI tools generally focus on basic automation processes and might not meet the broader needs of all firms.

Large independent and international law firms, especially those with wide-ranging practice areas and significant proprietary databases, prefer AI tools that can merge these internal resources with publicly available information. This capability allows for more complex and customised legal solutions.

In contrast, in-house counsel typically employs AI tools for tracking and managing operational activities. Technology companies develop specific tools that assist in-house legal teams in handling contract negotiations, monitoring implementation and managing litigation processes. These tools aim to streamline workflows and increase efficiency within the structure of the organisation.

Overall, while the fundamental functions of AI tools – such as document automation and data management – remain constant, their specific applications and the preferences of legal entities vary considerably depending on the organisation's size and type.

#### **4. What is the current or planned regulatory approach on AI in general?**

The South Korean government's regulatory approach to AI primarily focuses on fostering the AI industry and facilitating the commercialisation of AI technologies. Spearheaded by the Ministry of Science and ICT (MSIT), the Government has actively implemented strategies to integrate AI into various aspects of daily life. In September 2023, MSIT released an implementation plan highlighting the significant role of advanced AI models in national competitiveness. The strategy includes several key objectives:

- enhancing the welfare of Korean citizens, especially minority groups, through AI applications;
- encouraging the proliferation of AI in the private sector, including its expansion within the legal sector;
- utilising AI in public services for functions such as real-time surveillance and disaster response; and
- establishing educational initiatives and certification systems to ensure the safe use of AI.

Additionally, the Personal Information Protection Commission (PIPC) plays a crucial role in establishing legal guidelines for AI use, particularly with regard to personal data. Recently, PIPC updated the Guideline on Processing of Pseudonymised Information, which now includes lawful methods for pseudonymising non-text data such as voice, image and video. This is intended for use in training AI models. Through these efforts, PIPC carefully balances the importance of protecting personal information with the need to supply data essential for advancing the AI industry.

The Financial Services Commission and Financial Supervisory Services have also been active since 2021, continuously publishing AI security guidelines for the financial sector.

On 27 December 2023, the Ministry of Culture, Sports and Tourism (MCST) and the Korea Copyright Commission published the Guideline on Copyrights for Generative AI (the 'AI Copyrights Guideline'). They announced on 15 April 2024 that an English version of the Guideline will be distributed this year through various international forums, starting with the World Intellectual Property Organisation (WIPO) and the Standing Committee on Copyright and Related Rights (SCCR).

Generative AI models are a type of AI capable of generating various outputs using deep learning technology based on large datasets. One notable feature of generative AI is that its outputs are similar in quality to, and can often be indistinguishable from, works created by human authors. Generative AI has been rapidly advancing since its introduction in November 2022 with models such as ChatGPT, Gemini, Stable Diffusion and DALL-E3 leading the way. As the rapid development of generative AI technology is likely to increase the prospect of related legal disputes involving copyright issues, the Korean government published the AI Copyrights Guideline to identify copyright-related issues and to provide a government-proposed approach to address these issues.

These initiatives reflect a comprehensive approach to regulating and promoting AI in South Korea, balancing innovation with safety and privacy concerns.

## **5. What are the current or planned regulations on the general use of AI or machine learning systems?**

While South Korea has specific regulations such as the Personal Information Protection Act (PIPA) and the Credit Information Use and Protection Act (CIPA) that address data subjects' rights regarding automated decisions made by AI, there is currently no comprehensive regulation specifically addressing the use of AI or machine learning in general. However, various guidelines and specific legal provisions are in place to govern the development and use of AI technology.

## Regulation on the use of personal information

- PIPA mandates that, in principle, personal information can only be processed for purposes such as developing an AI model with the explicit consent of the data subject. For example, a startup was sanctioned for using personal data collected from its users for its existing service to develop a separate chatbot application without express consent.
- Alternatives to direct consent include using publicly disclosed personal information under certain conditions and pseudonymised information for scientific research, which can encompass private sector technology development.

## Regulation of decisions made by AI

- The 'black box' problem, where the decision-making process of AI systems is opaque, is a regulatory focus. Efforts are ongoing to enhance transparency and accountability in AI-driven decision-making.
- The Korean Fair Trade Commission (KFTC) is particularly active in regulating the use of algorithms and AI, such as imposing fines on unfair practices like self-preferencing by AI systems.

## Guidelines on copyrights for generative AI

- AI operators are encouraged to secure rights and licences for using copyrighted works during the AI model training phase and to clarify the licensing terms.
- During the AI output generation phase, operators should implement measures to prevent generating outputs that are identical or too similar to copyrighted works and define terms for indemnification and risk allocation in their service contracts.
- Copyright holders are advised to clearly stipulate in contracts how their works can be used in AI training and employ technologies such as the Robots Exclusion Protocol to prevent unauthorised use.
- End users should be cautious not to infringe copyrights when publicly disclosing AI-generated outputs and should comply with relevant generative AI-related policies.
- In Korea, AI-generated outputs themselves are not copyrightable, but enhancements or modifications by humans may be. For registration

of the copyright, it is essential to detail what parts of the work are AI-generated and what has been contributed by the applicant.

These regulations and guidelines collectively aim to address the complexities and challenges posed by AI and machine learning technologies, ensuring that their integration into various sectors is both responsible and compliant with existing legal frameworks.

## **6. Is free data access an issue in relation to AI?**

Access to free data is indeed a significant issue in the context of AI development, especially given the challenges surrounding the use of personal information and copyright concerns. PIPC recognises these challenges and is in the process of delineating specific circumstances under which the use of personal information may be legally permissible. To address these concerns, PIPC plans to introduce guidelines that will clarify the lawful processing of publicly disclosed personal information, facilitating access to such data while ensuring compliance with privacy laws.

Additionally, the AI Copyrights Guidelines published by MCST address the use of copyrighted material in AI development. These guidelines aim to balance the rights of copyright holders with the needs of AI developers, providing a framework for lawful use and licensing of copyrighted works.

In the legal services sector, the issue of free data access is particularly contentious with regard to the public disclosure of court decisions. In Korea, certain court decisions are made publicly available through the Comprehensive Legal Information System, an online platform managed by the Supreme Court of Korea. Prior to public disclosure, personal information, such as names of the parties or other stakeholders involved in the cases, is anonymised to protect their privacy. As the legal tech industry expands in Korea, the demand for access to these databases by companies seeking to develop AI-based legal services is growing. This increasing demand is likely to escalate the debate over access to such data, as more legal tech firms seek to leverage these resources to enhance their services and products. This trend underscores the ongoing tension between fostering innovation in AI and maintaining the protection of proprietary and personal information.

## **7. Are there already actual court decisions on the provision of legal services using AI or decisions concerning other sectors that might be applicable to the use of AI in the provision of legal services?**

In exploring the use of AI within legal services, an instructive case from Korea is the Constitutional Court's decision involving Law Talk, an online platform designed to connect lawyers with clients. This platform, operated by a startup called Law & Company, faced sanctions from the Korea Bar Association under the Lawyers

Advertising Regulations. Law & Company, along with other participating lawyers, challenged these sanctions at the Constitutional Court of Korea, arguing that the regulations unduly infringed upon their fundamental rights.

The crux of the case was not only the general advertisement practices by individual lawyers on the platform but also specifically targeted the service's portrayal of its ability to 'predict' outcomes of court or governmental decisions. The Constitutional Court upheld the sanctions, ruling on 26 May 2022, that such advertising could mislead consumers. The court justified its decision by noting the inherent complexity and unpredictability of legal proceedings, which makes accurate predictions virtually impossible.<sup>546</sup>

This ruling sparked considerable debate, particularly because the AI-driven prediction service offered by Law Talk had attracted significant attention as a pioneering AI application in the legal sector. Despite its initial popularity, the service was discontinued by Law Talk following the court's decision and subsequent regulatory scrutiny. This case highlights the challenges and regulatory hurdles associated with integrating AI technologies into the legal services market, especially concerning consumer protection and the quality of the work created using AI-based technologies.

## **8. What is the current status – planned, discussed or implemented – of the sectorial legislation in your jurisdiction on the use of AI in the legal profession or services that are traditionally provided by lawyers?**

Currently, there is no specific legislation exclusively regulating the use of AI in legal services within the jurisdiction. However, the existing regulatory framework, particularly under the Attorney-At-Law Act, provides a comprehensive mechanism to oversee the involvement of AI in the legal sector, especially regarding services traditionally rendered by lawyers.

The Attorney-At-Law Act stringently restricts non-lawyers from providing legal services. It includes a broad category of 'other general legal affairs', which the courts interpret expansively. The Supreme Court of Korea, in its decision dated 9 June 2015,<sup>547</sup> clarified that 'other general legal affairs' encompasses activities associated with the occurrence, modification, extinction, preservation and clarification of legal effects. According to this interpretation, any activity marginally connected to these legal outcomes is subject to regulation under this act.

This legislative approach effectively controls the use of AI in providing legal services, as any AI-driven service that might encroach upon the exclusive domain of licensed attorneys could be deemed unauthorised if it performs functions akin to

---

<sup>546</sup> Constitutional Court of Korea 2021Hunma619.

<sup>547</sup> Supreme Court of Korea decision 2014do16204.

those restricted to lawyers. Thus, while there is no explicit legislation targeting AI use in legal services, the broad interpretation of the existing laws ensures that AI's integration into the legal profession remains under careful scrutiny.

## **9. What is the role of the national bar organisations or other official professional institutions?**

National bar organisations and other professional legal institutions play a pivotal role in regulating and shaping the use of AI within the legal profession. Under the Attorney-At-Law Act, these organisations, such as the Korean Bar Association, have a duty to enforce regulations that restrict non-lawyers from providing legal services. These regulations are crucial when considering the integration of AI technologies by law firms, as certain AI applications could potentially infringe upon these established rules.

For example, when a particular Korean law firm considered launching an AI chatbot service, several regulatory concerns were raised. These included the possibility of the chatbot service being perceived as an unauthorised advertisement offering free or low-cost legal consultations, which violates the Lawyers Advertising Regulations. Additionally, there were concerns about the AI service operating without proper lawyer supervision, potentially amounting to the delegation of legal work to non-lawyers, a practice that is strictly prohibited.

Given these complexities, there is a growing call within the legal tech community for the Korean Bar Association to take an active role in developing clear, specific guidelines for the use of AI in legal services. Such guidelines would not only clarify what is permissible under current laws but also help manage the legal risks associated with AI, thereby supporting the development and ethical deployment of AI technologies in the legal sector. These efforts are seen as essential for fostering innovation while ensuring compliance and maintaining the integrity of the legal profession.