

Chile

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

The term artificial intelligence (AI) is understood in Chile as a computational system that can, for a given set of objectives defined by humans, make predictions and recommendations, or take decisions, that influence real or virtual environments, and is designed to operate with different levels of autonomy (according to the definition provided by the Organisation for Economic Co-operation and Development (OECD)).

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?

There are some AI tools and real use cases in practice for legal services, both in the private and public sectors.

There are several law firms in Chile that apply legal technology in the field of document management systems (DMS) to control versions of the documents they generate for their clients and to access legal background of the latter. Some law firms are implementing internal tools that, by applying AI, work or will work as document managers, allowing document analysis or locating legal information among the different areas of the firms.

Likewise, there has been a boom in startups that provide legal services. One case is the legal startup Lexnova, which uses an AI tool developed by a law firm in alliance with a consulting firm specialising in technologies and AI. This company seeks to provide Spanish-speaking countries in Latin America with innovative products and services that use AI to make legal processes in companies and public agencies more efficient.

Another such example is SEPKTR, an AI tool designed specifically for the legal sector, which aims to be a specialised assistant in legal consultations and research, based on the Chilean legal system.

In the public sector, the Public Prosecutor's Office last year announced the use of an AI tool, called Detective Heredia, which, through the same technology used by ChatGPT, is capable of detecting relationships between subjects of criminal interest in order to identify potential members of a group associated with a specific

criminal act. The idea is for the system to function as an assistant to the prosecutor in charge of the investigation.

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 implementation of AI in the legal field is still under development and many of the tools mentioned above are in their early stages or are being internally developed. Currently, most law firms use software to track their cases, such as CaseTracking, or search for case law and the legal literature in databases such as vLex or Microjuris. Although these tools are not necessarily AI, they are used by independent law firms, international law firms and in-house counsel, so it is reasonable to expect a similar development in the future with AI tools.

However, it is important to note that most of the firms that are developing or implementing their own AI tools are international law firms, especially those headquartered in Europe. While international law firms may be at the forefront at the moment in terms of implementing AI tools, the adoption of these technologies is constantly evolving. Over time, more law firms, both independent and in-house, will adopt and benefit from AI tools as they become more accessible and mature in the market.

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

Currently Chile does not have a comprehensive AI regulation.

In 2021, the Ministry of Science, Technology, Knowledge and Innovation published a National Artificial Intelligence Policy, which generates a framework of understanding around AI systems. This policy was updated in 2024. It is divided into three interdependent pillars and is accompanied by a specific action plan that details the initiatives comprised in each of the actions, including the responsible and execution deadline, to achieve the policy's goal of covering the proposed strategic guidelines proposed for 2031.

In addition, in May 2024, the Chilean government submitted a bill to Congress regulating the use of AI. The bill is based on the definition of AI systems proposed by the OECD: among its references are the European Union's AI Act and the Unesco Recommendation on AI Ethics.

The bill proposes a risk-based approach on the use of AI systems, establishing four levels of risk associated with the development, implementation and use of

AI systems: unacceptable, high, limited and no evident risk. The bill prohibits the use of AI systems that pose an unacceptable risk, and establishes specific rules, regarding risk management, data governance, technical documentation, record-keeping systems, transparency mechanisms and human oversight for the use of high-risk AI systems.

In order to avoid generating disincentives in the development of these technologies, the bill takes an *ex-post* approach, ie, AI systems will not be required to undergo certification or evaluation before entering the market, but the developers must qualify themselves by risk and, based on this assessment, comply with a series of obligations. In addition, the bill proposes, as a measure to support innovation, that public institutions can provide a controlled space to facilitate the development, testing and validation of AI systems.

Regarding the institutional framework, an AI Technical Advisory Council will be created, in which the government, academia and the private sector will participate. This AI Technical Advisory Council will be in charge of drawing up the lists of high and limited-risk AI systems among others. In addition, the future Personal Data Protection Agency will be the organism responsible of the control and enforcement of the bill.

Although there is currently no comprehensive AI regulation in Chile, the implementation of the National Artificial Intelligence Policy and the proposal of the aforementioned bill demonstrate the country's efforts to establish a regulatory framework in this area. These initiatives seek to address risks and promote the ethical and responsible adoption of AI for the benefit of Chilean society.

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

Currently, AI is not yet explicitly regulated in any aspect of the law; however, there are bills seeking its regulation in different areas.

Given that AI requires the use of large volumes of data, the protection of personal data will be fundamental in its regulation. Although the current bill that amends Law 19.628 on the protection of privacy does not explicitly regulate the use of personal data by AI, the bill that regulates the use of AI gives the supervision of the latter to the future Personal Data Protection Agency, whether it is personal data or possible risks of AI systems that go beyond the use of data.

In addition, a bill that seeks to amend the Criminal Code to punish the misuse of AI is currently being debated in Congress, but limited to those cases in which fraud is committed using AI.

In general, in the absence of specific regulations, the general rules of law would apply to the use of AI.

6. Is free data access an issue in relation with AI?

Free access to data is fundamental to AI operation. Data processing operations are present throughout the entire AI life cycle, and the more access AI has to relevant and quality data, the more accurate its results and answers will be.

In Chile, the National Artificial Intelligence Policy seeks to promote and consolidate a public interest data agenda as one of its objectives. This agenda promotes a public-private ecosystem that encourages the generation and access to quality data for the use and development of AI and related technologies. Initiatives include a government Open Data Portal, and fostering and developing the institutional framework, trust and mechanisms for the industry to share and make data available at the industry level.

This Open Data Portal, called 'data.gob',³⁰⁵ is already available for the general public. It consists of a portal in which public institutions publish their data in a transparent and accessible way. The objective of this website is to make public sector data and statistics available, free of charge and for free consumption. Currently, more than 3,500 datasets can be found, classified into 23 different categories – including science, education, finance, health and technology – shared by more than 530 public institutions, such as the Financial Market Commission (Comisión para el Mercado Financiero) and the State Defence Council (Consejo de Defensa Nacional).

It is important to note that the processing of personal data through AI systems must comply with the principles and legal requirements established by Law 19.628 on the protection of privacy and its amendments, to ensure the privacy and security of personal data used in AI systems.

Regarding legal information, in Chile, most court decisions are public, with some exceptions related to family matters, minors and some non-contentious proceedings. Judgments and other court documents are available directly on the virtual judicial office platform, and other platforms such as vLex or Microjuris. While these judicial databases are accessible and can be used as sources of information for legal AI systems, with the new policy proposals a continuous expansion is to be expected.

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?

The Chilean courts have, in some cases, dealt with the use of legal tech and AI, predominantly in cases of layoffs due to replacement of workers. However, to date,

³⁰⁵ See Open Data Portal, 'datos.gob', <https://datos.gob.cl/> accessed 12 June 2024.

no rulings have been issued regarding the provision of legal services using AI or other sectors that may be applicable.

It is worth noting that in 2020, the Constitutional Court issued a ruling that addressed the issue of evidence and adjudication in criminal matters. In that ruling, it stated that in no case can the subjectivity of the sentencer be replaced by mechanisms or algorithms specific to the latest AI deployment. Judges are called to become true custodians of the scientific method to ensure the admissibility of scientific evidence from the methodological perspective, which in no way can be replaced by alternative mechanisms to the subjectivity and individuality of the judge.

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?

To date, Chilean legislation has not specifically regulated the use of AI in the legal profession or in services traditionally provided by lawyers, since there are currently no specific legal provisions that address in detail the use of AI in this particular field.

However, it is worth mentioning that one of the objectives noted in the National Artificial Intelligence Policy is to incorporate AI as a cross-cutting discipline in professional training, regardless of whether the career is related to technological areas or not. This suggests the intention to foster understanding and knowledge of AI in different professional fields, including law.

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

The Chilean Bar Association already plays an important role in educating and raising awareness about the use of AI by lawyers. An example of this is the specific talks and workshops that the institution has organised to provide lawyers with information on the use of AI.

On the other hand, there is also the National Centre for Artificial Intelligence (CENIA), an organisation created in 2021 with the purpose of promoting the development of the AI industry at a national level and promoting its responsible use. It gathers researchers from 15 Chilean universities: its main focus is to promote AI research and generate instances of communication with society to address the challenges and opportunities presented by this technology.

In the academic sector, some universities offer training programmes in AI aimed at lawyers and professionals in related areas, such as diploma courses and seminars, which help to strengthen knowledge and skills in this field and promotes the development of specialised AI professionals.