Presentation of the CEPEJ European Ethical Charter on Artificial Intelligence in the Field of Justice to the French Bar on 6 September 2019 in Paris (France), with the participation of Clementina Barbaro, Special Advisor on Justice and New Technologies

[The General Assembly received Clementina Barbaro, Secretary of the Working Group on Quality of Justice within the European Commission for the Efficiency of Justice (CEPEJ).]

Question: What is the CEPEJ?

CB: *"The objective of the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe is to promote the efficiency and proper functioning of justice in the 47 member States of the Council of Europe. »*

Question: The CEPEJ has drafted the Ethical Charter on the use of artificial intelligence in the judicial environment. What are the risks resulting from the increasing use of artificial intelligence in the judiciary?

CB: *"The answer given by the CEPEJ to this question is based on an analysis of the adequacy of artificial intelligence solutions to the needs of professionals on the one hand and on their compatibility with the fundamental rights enshrined, for example, in the European Convention on Human Rights on the other.*

A response will have to be provided by analysing each application. For example, there are legal research applications that offer significant benefits to legal professionals and allow for much more effective and efficient legal research than in the past, while respecting the impartiality or independence of the judge. On the other hand, other applications being qualified as predictive justice were considered problematic because they raise the problem of crystallization of case law and could therefore undermine the principle of the impartiality of the judge. "

Question: Does artificial intelligence also have biases that are increased by the use of the machine?

CB: *"Yes, of course, and the column gave us several examples, especially when using predictive software in criminal matters. It is not the software that is targeted, but the data that feeds it is the data that is biased. Risk assessment software, for example, has penalized black populations that are much more subject to police action. Therefore, the risk of recurrence was estimated to be twice as high as in white populations. "*

Question: How can lawyers contribute to the rational use of artificial intelligence?

CB: *"Lawyers have a key role to play. They must fight for the affirmation of the principles to which they are particularly committed. For example, equality of arms. When artificial intelligence software is used by a judge in a trial, lawyers must be able to access it and examine it in a contradictory manner. I also believe that lawyers have an important role to play, in agreement with all the other actors, including judges, with regard to the certification of tools, by upholding ethical rules; the fact that they must meet minimum criteria; respect for fundamental rights, but also transparency criteria, because we often talk about the "black box" effect of these tools. "*