2024 Questionnaire of the 1st Study Commission IAJ-UIM
"The Effects of Artificial Intelligence on the Judiciary"

Questions:

1) Do judges in your country utilize artificial intelligence technology ("AI"), and how so?

Yes. There are different use-cases, eg. meta data extraction, use of AI to search and structure the court file and support for judicial decision-making, eDiscovery for example to flag child and youth pornography, anonymisation of court decisions, or automatic speech recognition (of dictations). Most use cases are currently at the stage of pilot projects.

> **a) If not, have judges in your country considered utilizing AI, and, if so, in what ways?**
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> **b) Is the use of AI in legal proceedings regulated?**
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> According to Article 92 GG (the German constitution) human judges exercise the judicial power. This is also stipulated in the paragraphs 1, 2, 5, 5a pp., 9 No. 4, 25 p., 27 para. 1, 38 para. 1 DRiG (German Judges Act) and paragraph 348 para. 1 sentence 1 ZPO (Code of Civil Procedure). There is no special legislation regarding AI yet.
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> **c) Does the use of AI impact the handling of evidence?**
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> The discussion how courts should deal with the danger of falsified evidence generated by AI is currently ongoing. Research projects are examining how AI can be used to search for relevant evidences more efficiently.

2) What are the pros and cons of having judges utilize AI?

There is less personnel, the law is becoming more complex, the files are getting thicker, the cases are more complex. AI can help to handle the rising workload. At the same time the decision must be made by a human being. The applications used by German courts must be designed to assure this.

a) What are the possible effects of AI on the administration of justice?

In Germany, the aim is currently to use AI only to support judicial decision-making. It should only be accelerated, but not fundamentally changed. Further developments remain to be seen.

b) What are the possible effects of AI on judicial independence?

The choice of the use-cases and the design of the application need to take into account that judicial independence must not be restricted. In Germany no judge can be forced to use an AI system. Due to the intransparency of machine learning based "black box" systems judges cannot understand how the system arrives at a proposed decision. If a German judge bases his or her decision on the work of someone else, he or she needs to understand the complete thought process underlying the decision and agree with the decision-making process. Measures must be taken to make this possible.

3) Should there be limits on the use of AI by judges, and, if so, to what extent?

The verdicts must be made by human beings. AI might only serve as an assistant. We must make sure that decisions are still made on a case-by-case basis and minorities are not discriminated against.