The Introduction of Artificial Intelligence

in the decision-making of the Court of Audit

Dear members of the Conference

I

I have asked the organizer of the conference Ms. Fereniki Panagopoulou to partake of your conference with a brief intervention as I deemed it would be useful for the participants to be informed of what has taken place or is due to take place at the Court of Audit with respect to the topic you are contemplating. I consider this useful for two reasons: Firstly, because you will be informed of a development which renders possible the introduction, in the future, of artificial intelligence in the judicial decision-making process, and secondly, because you will become aware of the problems and limits of this development.

It goes without saying that the Court of Audit will benefit from participating in the workings of your conference.

II

So, firstly, let us begin with the legislative provisions pertaining to the Court of Audit.

They are all included in the recent law 4820/2021, the Organic law of the Court of Audit. As you shall soon see, and this is the central idea which guides us, nowhere in the provisions which I am about to present to you is there the utopian, in my opinion, notion that software will be issuing our judicial decisions provided that all case data have been fed into it.

The idea, upon which the provisions of law 4820/2021 were constructed, is that there exist three distinct stages in decision making, and to each of these we can apply a different, completely distinct from the other stages, software: The three stages comprise the constitution of the major premise of the judicial reasoning, the recording in the minor premise of the judicial reasoning of the facts of the case, and finally, the drafting of the submission, of the conclusion, where the major and minor premises are united.

In article 176 par. 1 of the Organic Law on the Court of Audit you will first find the provision for the major premise (art. 346 par. 1 law 4700/2020 as replaced): "At the Court of Audit, artificial intelligence software is being developed for scanning the files that are submitted in electronic format. The scanning must allow for the files to be read automatically, so that they can be categorised thematically and the case law and legislation pertaining to the case can be identified, along with the decisions of the Court which deal with the same issues as those in the scanned legal document (…). "By decision of the Plenum of the Court of Audit, published in the Government Gazette, the manner of formatting legal documents is defined in order to render their scanning possible". This is the provision for the major premise of judicial reasoning. Sufficiently succinct so as not to require, in this brief intervention, more specific commentary.

As for the minor now, the same article of the Organic Law stipulates the following: "At a later stage of this software's development [that is, the one that has already been mentioned just now], the aim is for the mechanical reading of the electronic file of the case in order to identify critical data for the compilation of the minor premise of the judicial reasoning". At this point we should clarify that the electronic file of the case can be either the one that has been digitally made available to the Court as a whole, wherein the judge can seek whatever they deem expedient using key words or expressions, or the scattered digital documents that exist in various electronic records of the administration in which the judge, based mainly on the name of the litigant, seeks what is relevant to them.

For the submission, the Organic Law contains a provision for a specific case only. After setting the criteria of liability with regard to the financially liable persons along with the reasons for the reduction of their liability, which entail the reduction of the amount of the deficit that will be attributed to them, the Organic Law provides for the following (article 15 par. 6): By decision of the Plenum of the Court of Audit, which is published in the Government Gazette, weighting factors and quotas may be set numerically for the reduction of the imputed amount on the basis of the principles and criteria [already referred to in the preceding paragraphs].

III

One can object arguing that what has been described above as the content of the

provisions enacted by the Organic Law is not stricto sensu. I would not object. It is, however, a first step. A realistic first step.

Whatever digital technology system, that may be introduced to accelerate the administration of justice, it will find its limits in judicial decision making. There, a judge is needed, who will act as the rapporteur of the case, and a deliberation, which will hear the report, confer and decide. These require the thinking and acting of human beings. If, via technology, we want to speed up the delivery of justice, technology must necessarily facilitate this key point in its delivery.

We must not forget, however, that the judge, as a human being, will find it very hard, not only due to their institutional mission, but also because of their innate conservativism, to accept to relinquish their authority, and at the same time, their duty to administer justice, being in complete control of all the crucial facts of the case. They cannot, morally and institutionally, relinquish in favour of a machine, unless convinced with the deepest conviction, their obligation, their competence to judge and decide being fully aware of the case file and in complete control over the decision-making.

And let us not forget that the judge controls the constitutionality of laws. A law that would force him to relinquish complete control to a machine would not pass the test of constitutionality.

IV

In closing, I will share my experience that shows the judge's conservatism and how it is overcome.

Disappointed with the sluggishness of EFKA (Single-Payer Social Security Fund), which did not provide us with the pension calculations necessary to hear cases upon legal remedies regarding pensions complaints, we tried, with the help of a judge and two judicial employees-specialists from the IT Commissioner’s Unit, a software that calculated this critical amount. But how to convince the judges that the calculation of the amount originating from the software was correct?

This is what we did. We invited the 20 judges who were handling such cases to convene in a courtroom with 20 computers, asked them to bring with them the certificates they had already received from EFKA and helped them apply the software we had prepared to the information of each case. They knew the

correct calculation because they had the EFKA certificate. The point was for it to match the calculation that would result from the use of the software.

The judges trusted the software only when they themselves ascertained that in all the cases they tried, the EFKA administration, and the software, gave us the same amount.

V

The ideas that I would like you to keep in mind from this intervention are, first, that court decision-making software can be tried, which, being self-powered, will evolve into artificial intelligence systems, if adapted to the three phases, the three stages which decision making goes through; and, secondly, that in order for such an endeavor to succeed, the judge must understand and trust whatever software is made available to them, verifying for themselves its credibility.