

Challenge Accepted!

Exploring Pathways to Civil Justice in Europe

19 and 20 November 2018 @ Erasmus University Rotterdam, Erasmus School of Law

Access to civil justice is of paramount importance for enforcing rights of citizens. Key issues in the current efforts to improve access to justice at the EU and national levels regard the digitisation of justice and the use of artificial intelligence in dispute resolution, the privatisation of justice and the multiplication of alternative dispute resolution schemes, the increased possibility of self-representation, and the ever-increasing specialisation of court systems. Each of these trends greatly influences the emerging EU civil justice system but also raises a number of questions and doubts. On 19 and 20 November 2018, policymakers, practitioners, academics and civil society representatives from all over Europe will meet in Rotterdam to exchange and reflect on these innovative pathways to civil Justice. Together, they will aim at defining a sustainable framework for a 21st century European civil justice system.

This conference is organised by Erasmus School of Law in the context of the ERC-Consolidator Research Project 'Building EU Civil Justice: Challenges of Procedural Innovations Bridging Access to Justice' (more information at: www.euciviljustice.eu).

Panel 1: The computer as the court: Artificial Intelligence (AI) research is fast advancing on new frontiers, which promise to make computers replicate traits of human intelligence. In the near future, we might see robots or machines that handle legal cases and might even replace humans as judges. We might see the computer as the court. However, AI is a term that encompasses many technologies with as many applications. This panel aims at providing an overview of the different AI technologies and their benefits. Furthermore, it explores what ethical issues are raised by replacing judges with AI units. It will try to map near-future AI innovations in the court system.

Panel 2: Consumer ADR/ODR: Justice behind closed doors? ADR (and its digital incarnation, ODR) are commonly presented as tools facilitating informal, accessible, fast and cost-effective access to justice for consumers while preserving public resources. However, such new forms of privatised Justice have raised a number of questions relating, among others, to their transparency, effects on due process or accountability. Representatives of ADR providers from several Member States and academics will critically discuss the role and potential of ADR/ODR in 21st century justice systems.

Panel 3: Access to civil justice: Taking lawyers out of the equation? Richard Susskind's 'The End of Lawyers?' underscored the existential need of the legal profession to adapt to an ever-changing landscape of legal services under the influence of the increased use of information technology, commoditisation, outsourcing, and so on. Not only are lawyers subject to change in the way they work, lately we see that, in attempts at making the administration of justice cheaper, faster and accessible, lawyers may not be part of the equation at all. Increasing possibility for self-representation in the Netherlands and the drastic cuts to legal aid in the UK provide the backdrop for a discussion about the changing landscape of civil justice and representation. This panel focuses the discussion on the relevance of legal assistance for effective dispute resolution and critically assesses the impact of the diminishing role of lawyers on the administration of justice.

Panel 4: Court specialization: Turning the tide of the 'vanishing trial'?

Court specialization may enhance the efficiency of civil justice, provide expertise and, as a result, improve the quality and uniformity of court decisions. However, one cannot turn a deaf ear to the concerns expressed. Specialized courts may impair the geographical proximity of justice, put in question the independence and

impartiality of the judiciary, establish stereotype procedures and lastly lead to a proliferation of forums resulting in a judicial labyrinth. Although specialized courts have long existed, recent legislative initiatives signal a shift towards an even greater court specialization. Courts specializing in international commercial cases, patent or company matters are only some to mention. By mapping the risks and benefits of specialized courts this panel assesses the impact court specialization has on access to justice on a European level.

Programme

[10:15-12:00 Closed meeting ERC Group and Advisory Board]

Monday 19 November 2018

13:00 - 13:30 Registration

13:30 - 13:45 Opening: Access to Justice and Building Bridges in Europe
Xandra Kramer and ERC team

13:45 - 14:20 Keynote
Ruth de Bock (Advocate General Supreme Court of the Netherlands, Professor University of Amsterdam)

14:20 - 16:20 Panel 1: *The computer as the court*

Chair: John Sorabji (University College London, UK)

- Dory Reiling (Senior judge - Amsterdam District Court, NL)
- Guglielmo Tamburrini (Universita' di Napoli Federico II, IT)
- Katie Atkinson (University of Liverpool, UK)
- Erich Schweighofer (University of Vienna, AT)
- Nicolas Vermeys (University of Montreal, CA)

Rapporteur: Erlis Themeli (Erasmus University Rotterdam)

16:20 - 16:40 Coffee break

16:40 - 18:40 Panel 2: *Consumer ADR/ODR: Justice Behind Closed Doors?*

Chair: Chris Hodges (Oxford University, UK)

- Naomi Creutzfeldt (Westminster University, UK)
- Frederique Coffre (Energy Ombudsman France, FR)
- Gerhard Wagner (Humboldt University, DE)
- Lewish Shand Smith (Chief Ombudsman and Chief Executive, Ombudsman Services, UK)

Rapporteurs: Emma van Gelder & Alexandre Biard (Erasmus University Rotterdam)

19:45 Conference dinner

Tuesday 20 November 2018

9:00 - 9:30 **Coffee**

9:30 - 11:30 **Panel 3: *Access to Civil Justice: Taking Lawyers out of the Equation?***

Chair: Burkhard Hess (Max Planck Institute Luxembourg)

- John Sorabji (University College London, UK)
- Nigel Balmer (University College London, UK)
- Paulien van der Grinten (Dutch Ministry of Justice, NL)
- Roland Eshuis (Research and Documentation Centre, WODC, NL)

Rapporteur: Jos Hoevenaars (Erasmus University Rotterdam)

11:30 - 12:00 **Coffee break**

12:00 - 12:45 **General Speech**

Courts and their Alternatives: The forms and functions of dispute resolution
Judith Resnik (Yale Law School, USA)

12:45 - 13:45 **Lunch**

13:45 - 15:15 **Panel 4: *Court Specialization: Turning the tide of the ‘vanishing trial’?***

Chair: Sebastian Spinei (Sibiu University, RO)

- Elaine Mak (Utrecht University, NL)
- Elisabetta Silvestri (Pavia University, IT)
- Stefaan Voet (Leuven University, BE)
- Gerard Meijer (Erasmus University Rotterdam & NautaDutilh, NL)

Rapporteur: Georgia Antonopoulou (Erasmus University Rotterdam)

15:15 - 15:30 **Concluding remarks and rapporteurs’ takeaways**

Xandra Kramer and Panel Rapporteurs

15:30 **Drinks & Goodbye**