

Frontiers in Civil Justice

16 and 17 November 2020 @ Erasmus University Rotterdam, Erasmus School of Law

Civil justice remains in constant flux. The design of a sustainable civil justice system for the 21st century is continuously discussed both at national and international level. Particularly at international level, several soft law instruments have been adopted in recent years such as the UN 2030 Agenda for Sustainable Development, the ELI/UNIDROIT Principles of Transnational Civil Procedure and the ELI statement on the relationship between formal and informal justice. The conference addresses four key trends in civil justice, which require a deeper and renewed reflection in light of their contribution of facilitating access to justice. Those trends concern the shaping of the interaction between formal and informal justice, the digitalization of consumer dispute resolution, the collectivizing and monetizing of civil litigation and efforts of bringing justice closer to citizens. The conference will bring together academics, policymakers, practitioners and representatives of civil society to critically reflect on the opportunities and possible drawbacks ensuing from these paramount developments.

Panel I: ADR and the Courts – Shaping the Interaction between Formal and Informal Justice

Informal justice is a vital part of today's civil justice systems. In the past decades, there has been a significant growth in and use of alternative forms of dispute resolution (ADR) throughout Europe. ADR can be conducted either in the context of judicial proceedings or can offer a separate route of justice. The advantages of informal routes of justice in offering wider access to justice are commonly recognised: they offer simple, efficient, fast and low-cost ways of resolving disputes. Informal justice therefore stands side-by-side and/or in conjunction with traditional procedures of formal justice such as court proceedings. Recognising the indisputable importance of both routes of justice, it becomes crucial to address their relationship, interaction and possible directions of communication between them. The panel will tackle this issue by evaluating how the relationship between formal and informal justice should be shaped in view of the overall goal of a sustainable civil justice system.

Panel II: Consumer ODR - Digitalization of Consumer Dispute Resolution

The use of the Internet and Technology within the dispute resolution process can improve access to justice by increasing speed, simplifying procedures and reducing costs. Consumer online dispute resolution (cODR) can therefore lower the sometimes high thresholds preventing consumers from accessing the traditional offline court procedure, by providing the procedure online. This panel focuses on online dispute resolution for consumer claims. The field of cODR is scattered and fragmented and includes various types of procedures using different techniques and operating in regulated as well as unregulated sectors. The aim of this panel is to use case-studies as a starting point to discuss how those different types of cODR procedures can contribute to consumers' access to justice. The discussion constitutes the EU certified ODR route and the uncertified/private ODR route, the latter including online private companies offering ODR procedures like Paypal and eBay. Questions on what technologies are used and what functions they fulfil in the dispute resolution process are answered. Furthermore, the panel focuses on the question which schemes best protect consumers by safeguarding due process standards and thereby which schemes are most suited to achieve access to justice for consumers. The panel aims to explore lessons learned from the different experiences and to identify best practices.

Panel III: Collective Actions and their Funding Routes - Collectivizing & Monetizing Civil Litigation

This panel focuses on solutions for one of the most decisive thresholds in accessing justice: litigation costs. It does so within the topic of collective actions, which in situations of mass harm have the potential to reduce litigation (and adjudication) costs due to economies of scale. Yet, for collective actions, funding plays a pivotal role as well. This panel explores the pros and cons of three routes: collective actions by or via public funding

entities, semi-public consumer organizations and private entrepreneurial entities. As collective actions often result in a settlement, the panel will give special attention to such settlements and the extent to which they can or should be monitored by courts and/or other bodies. The overall aim is to provide a practice-based overview of the legal, economic and ethical issues related to the different funding routes within the context of collective actions.

Panel IV: Innovations in Civil Justice - Bringing Justice Closer to Citizens

Recent experiments throughout Europe show a shift towards a more low-threshold and accessible justice, with procedural innovations allowing for a more communicative, interactive and solution-oriented approach bringing justice closer to citizens. These innovations can be found for instance in the mediatory/conciliatory role of the judge, the idea of the “proximity judge” (both in terms of practice and in geographical distance) or the institution of community courts, which have a close relationship with local issues. With the presence of debt counsellors at hearings, directly accessible to those suffering debt problems, or the introduction of a free reconciliation procedure for the parties with a judge who mediates through an informal conversation, such innovations seek to design a socially effective and inclusive administration of justice. The last panel will present some of these shifts targeting litigants that – due to lack of self-reliance, in combination with the existing barriers to access to justice – are not or insufficiently accommodated in the current civil justice systems.

Programme

[13:30 - 15:00 Closed meeting ERC Group and Advisory Board]

Monday 16 November 2020 [Forumzaal, Erasmus University Rotterdam]

16:00 - 16:15 Registration

16:15 - 16:30 Welcome

Xandra Kramer, Betül Kas & Ilja Tillema

16:30 - 17:10 Keynote

Hrvoje Grubisic (DG Justice and Consumer, European Commission)

17:10 - 19:00 Panel I: *Shaping the Interaction between Formal and Informal Justice*

Chair: Elisabetta Silvestri (University of Pavia)

17:10 - 17:30 Diana Wallis (Hull University; former ELI president)

17:30 - 17:50 Anna Nylund (The Arctic University of Norway)

17:50 - 18:10 Masood Ahmed (University of Leicester)

18:10 - 18:30 Stefaan Voet (KU Leuven)

18:30 - 19:00 Panel discussion

20:00 Dinner at Erasmus Paviljoen

Tuesday 17 November 2020 [Theaterzaal, Erasmus Paviljoen]

9:15 - 11:00 Panel II: *Digitalization of Consumer Dispute Resolution*

Chair: Burkhard Hess (Max Planck Institute Luxembourg)

- 09:15 - 09:35 Martin Ebers (University of Tartu)
09:35 - 09:55 Marco Giacalone (Vrije Universiteit Brussels)
09:55 - 10:15 Eline Verhage (Leiden University)
10:15 - 10:35 Emma van Gelder (Erasmus University Rotterdam)
10:35 - 11:00 Panel discussion

11:00 - 11:20 Coffee break

11:20 - 12:00 Keynote

Dame Hazel Genn (University College London)

12:00 - 13:00 Lunch break

13:00 - 14:45 Panel III: *Collectivizing & Monetizing Civil Litigation*

Chair: John Sorabji (Barrister, 9 St John Street; University College London)

- 13:00 - 13:20 Ianika Tzankova (Tilburg University)
13:20 - 13:40 Astrid Stadler (University of Konstanz)
13:40 - 14:00 Ilja Tillema (Erasmus University Rotterdam)
14:00 - 14:20 Catherine Piché (Université de Montréal)
14:20 - 14:45 Panel discussion

14:45 - 15:00 Coffee break

15:00 - 16:45 Panel IV: *Innovations in Civil Justice*

Chair: Alan Uzelac (University of Zagreb)

- 15:00 - 15:20 Iris van Domselaar (University of Amsterdam)
15:20 - 15:40 Pietro Ortolani (Radboud University Nijmegen) & Catalina Goanta (Maastricht University)
15:40 - 16:00 Naomi Appelman, Anna van Duin, Joris van Hoboken, Natali Helberger & Brahim Zaraouli (University of Amsterdam)
16:00 - 16:20 Nicolas Kyriakides & Anna Plevri (University of Nicosia)
16:20 - 16:45 Panel discussion

16:45 - 17:00 Concluding remarks and take-aways

ERC Team: Xandra Kramer, Jos Hoevenaars, Betül Kas, Erlis Themeli, Alexandre Biard, Emma van Gelder & Georgia Antonopoulou

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. The conference is set up as a blended event, with speakers at the site and some presenting online. If necessary, in the light of the COVID-19 situation, the conference will take place online entirely. You can register and participate online for free at https://frontiers_civil_justice.eventbrite.nl.