

## TOWARDS THE DIGITALIZATION OF THE ESCP: A PANACEA FOR ALL EVILS?

Fulvio M. Palombino\*

Università degli Studi di Roma "Tor Vergata"

Eloisa M.B. Bellucci\*\*

Università degli Studi di Napoli Federico II

**ABSTRACT:** After 17 years since its entry into force, the ESCP Regulation is still scarcely applied by national courts of EU Member States. Against this backdrop, the objective of this paper is evaluating whether digitalizing the procedure could save it from obsolescence. In this regard, it will be contended that the automation of the ESCP would not provide solutions to topical problems affecting the system, such as its limited integration in domestic legal systems and its full reliance on the Member States' existing internal organization of the judiciary.

**KEYWORDS:** ESCP Regulation, on-line dispute resolution platforms, digitalization, artificial intelligence, administration of justice.

**SUMMARY:** 1. INTRODUCTION.— 2. THE WEAKNESSES OF THE ESCP.— 3. THE E-JUSTICE STRATEGY OF THE EU AND ITS IMPACT ON THE ESCP.— 4. IMAGINING A FULL AUTOMATION OF THE ESCP IN THE EU DIGITAL ERA.— 5. CONCLUSIVE REMARKS: DIGITALIZATION AS A PANACEA FOR ALL EVILS?— BIBLIOGRAPHY

---

\* Full Professor in International Law, Università degli Studi di Roma "Tor Vergata", Department of Law; e-mail: fulvio.maria.palombino@uniroma2.it.

\*\* Post-doctoral Research Fellow in International Law, Università degli Studi di Napoli Federico II, Department of Law; e-mail: eloisamariabenedicta.bellucci@unina.it. This paper is the result of the joint work of the two Authors. However, section 1 is to be attributed to Fulvio M. Palombino, whereas sections 2, 3, 4 and 5 are to Eloisa M.B. Bellucci.

## 1. INTRODUCTION

More than 15 years ago, the Regulation (EC) No 861/2007<sup>1</sup> (hereinafter referred to as “ESCP Regulation”) introduced the first autonomous European procedure of adversarial nature: the European Small Claims Procedure (hereinafter referred to as “ESCP”)<sup>2</sup>. The ESCP is a standardized written procedure available in all the Member States of the European Union (hereinafter referred to as “EU”)<sup>3</sup> for transnational claims concerning civil and commercial matters, with a value not exceeding €5000 (excluding the litigation costs)<sup>4</sup>. With the establishment of the ESCP, the European legislator provided private plaintiffs with an alternative to the procedures existing under domestic legal systems for claims of small entity. The ambition of the ESCP was to overcome the substantial differences among national procedural laws and to remedy, at the same time, the most common flaws shared by national small-claims procedures, such as the disproportionate high costs, the long duration and the excessive complexity of the litigation. In the view of its drafters, the ESCP Regulation could have fostered the access to justice and facilitated the circulation of goods and capital within the EU<sup>5</sup>; in practice, after 17 years since its entry into force, the Regulation has not complied with its objectives yet. This is testified by the scarce national jurisprudence it produced and by the lack of familiarity with the procedure that still may be found in legal practitioners operating across the EU<sup>6</sup>.

<sup>1</sup> Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, *OJ L 199*, 31.7.2007, pp. 1–22. The procedure was later modified by the Council Regulation (EU) No 517/2013 of 13 May 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, company law, competition policy, agriculture, food safety, veterinary and phytosanitary policy, transport policy, energy, taxation, statistics, trans-European networks, judiciary and fundamental rights, justice, freedom and security, environment, customs union, external relations, foreign, security and defence policy and institutions, by reason of the accession of the Republic of Croatia, *OJ L 158*, 10.6.2013, pp. 1–71, the Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and the Regulation (EC) No 1896/2006 creating a European order for payment procedure, *OJ L 341*, 24.12.2015, pp. 1–13 and the Commission Delegated Regulation (EU) 2017/1259 of 19 June 2017 replacing Annexes I, II, III and IV to Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, *C/2017/3982*, *OJ L 182*, 13.7.2017, pp. 1–19.

<sup>2</sup> The ESCP was preceded by the European Order for Payment Procedure, the first autonomous procedure established within the EU. Differently from the ESCP, the European Order for Payment Procedure only concerns the enforcement phase, providing a simplified procedure of enforcement for uncontested claims. Cf. Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, *OJ L 399*, 30.12.2006, pp. 1–32.

<sup>3</sup> As reflected in Articles 29 and 2(3) of the ESCP Regulation, the mechanism is available in all the Member States of the EU, except from Denmark.

<sup>4</sup> On the matter, see the first three articles of the ESCP Regulation. Article 2, in particular, lays out a list of matters to which the Regulation does not apply, such as employment contracts, maintenance claims, violation of privacy and defamation claims, matters concerning wills and succession, bankruptcy, arbitration and others.

<sup>5</sup> This is evidenced by the tone of the recitals of the Regulation.

<sup>6</sup> The issue will be further analyzed in the second section of the paper.

Against this backdrop, some commentators suggest that the partial or even full digitalization of the procedure may redeem the ESCP and save it from obsolescence. As contended by these authors, this process would bring tangible benefits to the ESCP in terms of a further simplification of the proceedings, a reduction of the overall litigation costs and a sensible acceleration of procedural timings. According to this view, these factors would be decisive in advancing the accessibility and diffusion of the ESCP and would, hence, provide a solution to the shortcomings of this procedure<sup>7</sup>.

In order to establish whether this hypothesis is well-founded, the paper will conduct an all-round assessment of the relationship between ESCP and technology. It will be carried out a three-tiered analysis focused on the EU initiatives impacting the digitalization of the procedure, the proposals set out at an academic level to transform the ESCP into an on-line dispute resolution mechanism (or “ODR” mechanism) and, finally, the effective contribution that the digitalization could bring to the overall improvement of the ESCP.

Before delving into the merits of the discussion, it will be premised an overview of the major criticisms addressed to the ESCP mechanism. In the following section, the paper will outline the main features of the EU policy concerning the digitalization of justice, illustrating in parallel the projects of automation of the ESCP explored by the doctrine. The final part of the work will be dedicated to some general considerations on whether digitalization could represent the ultimate cure for the wounds affecting this procedural tool. It will be concluded that, while there are several elements that should make us welcome the digitalization of the ESCP with favor, we should not fall into the trap of looking at technology as a “one fits all” remedy. Indeed, the automation of the ESCP would not provide solutions to some topical problems affecting this legal instrument, such as its limited spread and integration in domestic legal systems, on one side, and its full reliance on the Member States’ existing internal organization of the judiciary, on the other.

## 2. THE WEAKNESSES OF THE ESCP

Academic studies conducted on the ESCP show that this mechanism has registered a limited success among EU Member States<sup>8</sup>. As a matter of fact, when having to choose between the ESCP and the alternative domestic pro-

---

<sup>7</sup> Cortés & Mañko (2016), p. 56 ff.; Giacalone & Sajede Salehi (2022), p. 209 ff.; Mesquita & Marques Cebola (2022), p. 14 ff.; Veersalu & Hoffmann (2023), p. 163. See also the guidelines contained in Abignente, Giacalone, & Tuccillo (2020). The work delivers a series of recommendations for the improvement of the ESCP, formulated on the base of the results obtained within the Small Claims Analysis Net (SCAN) Project. The project, which took place between 2018 and 2020, was co-funded by the European Union’s Justice Programme.

<sup>8</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017). The reference is also to the multiple studies published in the framework of the SCAN Project (these papers are listed at <https://www.scanproject.eu/output/papers/>).

cedure, plaintiffs tend to elect the second<sup>9</sup>. There are several reasons behind such phenomenon, elements that hinder the implementation of the ESCP in similar ways among national jurisdictions. The major impediment to the spread of ESCP is the general lack of knowledge and experience of the instrument registered among potential applicants as well as legal professionals such as lawyers, clerks, judges and bailiffs<sup>10</sup>. The scarce awareness of the ESCP among judiciary staff is a datum that raises serious concerns, considering that such mechanism fully depends on national judicial systems<sup>11</sup>. In this regard, it should be noted that Member States tendentially decided to confer jurisdiction over ESCP claims to the same domestic authorities in charge of managing the equivalent national procedures and did not opt, instead, for instituting separate bodies or specialized sections within the competent judicial offices dedicated to ESCP disputes<sup>12</sup>. This choice should have been followed by a great work of dissemination of the ESCP among judges or honorary magistrates (such as the Italian *giudice di pace*) that are competent to hear *minoris generis* civil claims. Nevertheless, the lack of an adequate training on the ESCP among national authorities is still a systemic problem. The surveys conducted among legal practitioners on the use of the ESCP further show that even in cases where the interviewees had a general awareness of the procedure, the national mechanism was still preferred due to its more familiar nature<sup>13</sup>.

The lack of acquaintance with the ESCP and the reluctance to resort to the procedure remain the biggest hurdles to the correct functioning of this mechanism. Apart from these topical issues, there are a number of procedural

---

<sup>9</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p. 365.

<sup>10</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p. 347, where is disclosed that the 86% of the EU citizen interviewed had never heard about the procedure. The datum has been further confirmed by the Country reports published in the framework of the SCAN Project concerning the implementation of the ESCP in Belgium, France, Germany, Italy, Lithuania and Slovenia (hereinafter referred to as “Country reports”). Cf., respectively, Sajedeh Salehi & Giacalone (2021), p. 80; Winkler & Baquero (2021), p.37; Hinrichs & Thevis (2021), p. 76; Abignente, Rolando & Ruggieri (2021), p. 43; Simaitis, Vebraitė & Markevičiūtė (2020), p. 267; Gale & Zajc (2020), p. 264.

<sup>11</sup> Article 4 of the ESCP Regulation establishes that a claimant may commence the procedure by lodging a standard form with the court or tribunal with jurisdiction. The municipal courts or tribunals designed by the Member States as competent under Article 25 will deal with the whole procedure.

<sup>12</sup> This occurs, for example, in Belgium, France, Italy, Lithuania and Slovenia. Cf., respectively, Sajedeh Salehi & Giacalone (2021), p. 80; Winkler & Baquero (2021), p. 36; Abignente, Rolando & Ruggieri (2021), p. 40; Simaitis, Vebraitė & Markevičiūtė (2020), p. 268; Gale & Zajc (2020), p. 262. The case of Germany is slightly divergent. In Germany, in fact, § 1104 of the ZPO (the German code of civil procedure) enables federal States to centralize jurisdiction for ESCP claims in one or several municipal courts. Thus far, five federal States resorted to this possibility (Hesse, Saxony-Anhalt, North Rhine-Westphalia, Baden-Wuerttemberg, Schleswig-Holstein). While the centralization on some specific courts does not significantly impact the procedural rights of defendants and plaintiffs, given that the ESCP is conceived as a written procedure, this allowed the courts entrusted with the ESCP to become more acquainted with the subject matter; cf. Hinrichs & Thevis (2021), p. 76.

<sup>13</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p. 347.

aspects that are referred to as problematic in a large number of States. Most of the drawbacks identified are related to the poor implementation of the procedure in domestic legal orders, resulting in a «lack of dedicated national provisions or clear guidelines as to which national rules and mechanism apply»<sup>14</sup>. For example, it has been held that the right to apply for a review, which according to Article 17 of the ESCP Regulation is regulated by internal laws, is not well implemented in a number of national systems<sup>15</sup>. The same concern has been expressed on the duty of Member States to provide technical guidance to the parties to an ESCP, as enshrined in Article 11 of the ESCP Regulation. It appears, in fact, that States are not very active in this sense and that the national bodies providing primary legal aid, as well as consumer protection centers, are scarcely involved in the procedure<sup>16</sup>. Another point that has been raised in some States concerns the inefficiency of national judicial systems and their practical inability to comply with the strict time limits set by the ESCP Regulation for the proceedings<sup>17</sup>.

A significant barrier to the use of the ESCP is the one related to its language requirements and the need to translate «the claim form, the response, any counterclaim, any response to a counterclaim and any description of relevant supporting document» to the language of the court that manages the procedure<sup>18</sup>. The other documents attached by the parties do not need to be submitted in the language of the court, but the latter may still order the translation of such documents if it is deemed necessary for giving the judgment<sup>19</sup>. In general, national judicial systems do not provide the parties with translation services; this burdens the litigants with additional costs that discourage the resort to the ESCP<sup>20</sup>.

Actually, the disproportionate costs of the proceedings, compared to the small value of the claim, represent another important deterrent to the filing

---

<sup>14</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p. 348. See also Kramer (2011), p. 132.

<sup>15</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p. 352. The report mentions Belgium, Romania and Slovakia among the States in which such problem has been registered.

<sup>16</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p.351. The issue has been also pointed out in the Country reports of France, Germany, Italy, Lithuania, Slovenia. Cf., respectively, Winkler & Baquero (2021), p. 38; Hinrichs & Thevis (2021), p. 79; Abignente, Rolando & Ruggieri (2021), p. 42; Simaitis, Vebrate & Markeviciute (2020), p. 269; Gale & Zajc (2020), p. 265.

<sup>17</sup> This has been identified as a major obstacle to the implementation of the ESCP Regulation in Cyprus, Greece and Netherland in European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p. 351.

<sup>18</sup> ESCP Regulation, Article 6(1).

<sup>19</sup> ESCP Regulation, Article 6(2).

<sup>20</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p.352. The issue was acknowledged, as well, by the Country reports of Belgium, France, Germany, Italy, Lithuania and Slovenia. For further reference, see Sajedeh Salehi & Giacalone (2021), p. 81; Winkler & Baquero (2021), p. 37; Hinrichs & Thevis (2021), p. 77; Abignente, Rolando & Ruggieri (2021), p. 44; Simaitis, Vebrate & Markeviciute (2020), p. 270; Gale & Zajc (2020), p. 264.

of an ESCP<sup>21</sup>. Apart from court fees, the parties should bear other costs such as the ones deriving from translations, legal representation (if desired)<sup>22</sup> and enforcement, if the losing party refuses to comply with the ESCP judgment and the enforcement needs to be carried out by an enforcement officer<sup>23</sup>.

One last obstacle to the proliferation of ESCP that is shared by many jurisdictions is the inadequacy of the IT instruments made available to judicial offices<sup>24</sup>. Municipal courts are often ill equipped in terms of technological tools, while the ESCP Regulation is inclined towards the digital handling of the procedure. This is demonstrated, for example, by the prescription of videoconferencing or other communication technologies as the preferred means to hold oral hearings or taking evidence<sup>25</sup>.

### 3. THE E-JUSTICE STRATEGY OF THE EU AND ITS IMPACT ON THE ESCP

In the last few years, the EU has been fully committed to the acceleration of the digital transition in many key areas such as the administration of justice. Simplified and standardized procedures such as the ESCP could make the perfect test bench to experiment a more pervasive use of IT tools in legal proceedings, until the point of reaching their full computerization. Before discussing the argument of whether or not this would be a desirable outcome, it is important to understand where the ESCP currently stands in its digital transformation and what is the role that the EU legislator has played so far in this process. Thus, a panorama of the most recent initiatives endorsed by the EU to advance the digitalization of justice may prove useful.

In December 2022, the Parliament and the Council jointly issued the Decision (EU) 2022/2481 establishing the Digital Decade Policy Programme 2030 (hereinafter referred to as the “Path to the Digital Decade” programme)<sup>26</sup>. The “Path to the Digital Decade” sets out the EU policy strategy for the digital transformation of European societies and economies. It is aimed at develo-

<sup>21</sup> It is worth underlying that the ESCP Regulation imposes on Member States the obligation to guarantee that the court fees in ESCP are not disproportional or higher compared to fees charged in national small claims procedures (ESCP Regulation, Article 15).

<sup>22</sup> According to Article 10 of the ESCP Regulation, the legal representation by a lawyer or another legal professional is not mandatory in ESCP proceedings.

<sup>23</sup> European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, Hess & Cuniberti (2017), p. 350, where it is remarked how the problem of the unsustainable litigation costs of the ESCP has been reported among many jurisdiction (such as Austria, Cyprus, Finland, Germany, Greece, Latvia, Lithuania, Romania, The Netherlands, Spain, Sweden).

<sup>24</sup> This inadequacy has been observed, for instance, in France and Italy; in this direction, see Winkler & Baquero (2021), p. 37 and Abignente, Rolando & Ruggieri (2021), p. 43. On the other side, virtuous examples on the state of digitalization of justice include Lithuania and Slovenia, as acknowledged in Simaitis, Vebraitė & Markevičiūtė (2020), p. 268 and in Gale & Zajc (2020), p. 265.

<sup>25</sup> ESCP Regulation, Articles 8 and 9.

<sup>26</sup> Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030, *OJ L* 323, 19.12.2022, pp. 4–26.

ping a safe, high-performing ecosystem of digital and data infrastructures, while reducing the digital divide among Member States<sup>27</sup>. The programme identifies a series of targets and milestones to be reached by 2030, a set of goals mainly ascribable to four fields of action: skills, business, government and infrastructure. Among the key policy areas that are affected by the EU digital transition, the focus must be kept on the digitalization of justice (e-Justice). In this sense, the recent adoption of the e-Justice Strategy 2024-2028 represents an important acknowledgment in the framework set by the “Path to the Digital Decade”<sup>28</sup>. The document stems from the results of the e-Justice strategy and Action Plan for 2019-2023<sup>29</sup>, in the context of which the EU made some important legislative efforts to foster the use of digital services in the administration of justice. For what concerns the measures which specifically affected civil and commercial proceeding, ESCP included, it is worth mentioning the Regulation (EU) 2020/1783<sup>30</sup> and the Regulation (EU) 2020/1784<sup>31</sup>, aimed at facilitating the cross-border taking of evidence and service of documents through the establishment of a network of national IT systems able to communicate with each other. As a further elaboration of this vision, the Regulation (EU) 2022/850 on a computerized system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system) created an appropriate legal framework for the interchange of judicial information across the EU through secure digital channels<sup>32</sup>.

Finally, in the last days of 2023, the European institutions enacted the Regulation (EU) 2023/2844 (the so called “Digitalization Package”)<sup>33</sup>, a major step towards the accomplishment of a digital justice in the EU. The Regulation on the digitalization of cross-border judicial cooperation and access to justice is conceived to boost the use of electronic means to ease the judicial cooperation among Member States in civil, commercial and criminal mat-

---

<sup>27</sup> See Article 3 of the “Path to the Digital Decade” programme, setting the general objectives of the digitization strategy.

<sup>28</sup> Council of the European Union, European e-Justice Strategy 2024-2028, Act No. 15509/23, approved on 17 November 2023.

<sup>29</sup> Council of the European Union, European e-Justice Strategy and Action Plan 2019-2023, *OJ C 96/6*, 13.3.2019, pp. 3-8 and pp. 9-32.

<sup>30</sup> Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence), *OJ L 405*, 2.12.2020, pp. 1-39.

<sup>31</sup> Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), *OJ L 405*, 2.12.2020, pp. 40-78.

<sup>32</sup> Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerized system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), *OJ L 150*, 1.6.2022, pp. 1-19.

<sup>33</sup> Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalization of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation, *OJ L*, 2023/2844, 27.12.2023, hereinafter referred to as “Regulation (EU) 2023/2844”. For a first insight on the novelties introduced by the Regulation it is possible to refer to Ho-Dac (2024).

ters. In first place, the Regulation prescribes that the communication between national authorities of different Member States or a national authority and an EU body that is made pursuant to specific legal acts, among which the ESCP Regulation, must be carried out «through a secure, efficient and reliable decentralized IT system». An exception to this rule is envisaged only in cases where the authorities are unable to comply due to the disruption of the IT systems in use, the specific physical or technical nature of the act to be transmitted, force majeure, or if the resort to digital means is regarded as non-appropriate in a particular situation<sup>34</sup>. Among the novelties put forward by the Regulation, one of the most relevant is the institution of a European electronic access point: a virtual platform through which natural and legal persons, as well as their representatives, could easily communicate with the competent authorities. The system will be opened to some types of cross-border procedures, including the ESCP, and it will grant the parties the possibility to establish a direct contact with judicial offices by filing claims, sending and receiving communications, proceeding with the service of documents all via telematic means<sup>35</sup>. The Regulation also clears the way for a wider participation by the parties and other relevant persons in oral hearings by means of videoconferencing or other distance communication technologies<sup>36</sup>. Other provisions contained in the Regulation deal with the recognition of electronic documents and electronic signatures and seals<sup>37</sup>, as well as the opportunity to pay court fees through digital instruments<sup>38</sup>. As anticipated, this new set of rules directly affects the ESCP procedure. This is further clarified by Article 20 of the “Digitalization Package”, specifying that the act amends the ESCP Regulation in order to ensure that the lodging of applications, the communications between the competent authority and the parties or other persons involved in the proceedings, the payment of the litigation fees, all take place in accordance with the rules and principles set out in Regulation (EU) 2023/2844.

All the initiatives ascribable to the e-Justice strategy and Action Plan for 2019-2023 necessitate a number of technical and administrative follow-up actions on a national base. In this sense, the e-Justice strategy 2024-2028 stands in the wake of its predecessor by supporting the Member States in this process, giving them guidance in the implementation of domestic measures to speed up the digitalization process and allow a more integrated use of digital tools in judicial proceedings. The strategy revolves over four pillars, that are improving the access to digital justice, enhancing digital judicial cooperation, increasing the efficiency of digital justice and promoting an innovative digital justice. Among the recommendations put down under this last pillar, the EU expresses the urgency of identifying some fields where to safely apply

---

<sup>34</sup> Regulation (EU) 2023/2844, Article 3.

<sup>35</sup> Regulation (EU) 2023/2844, Article 4.

<sup>36</sup> Regulation (EU) 2023/2844, Article 5 and 6.

<sup>37</sup> Regulation (EU) 2023/2844, Articles 7 and 8.

<sup>38</sup> Regulation (EU) 2023/2844, Article 9.

Artificial Intelligence (hereinafter referred to as “AI”) in the justice domain. As one could have expected, the immense usage possibilities of AI-powered products, alongside with the major legal challenges they pose, have rapidly sparked the interest of the European institutions. It was only 2021 when the Commission proposed the adoption of an instrument prospecting a comprehensive regulatory framework on the use of AI (hereinafter “AI Act”). The drafting process recently concluded with the adoption of the Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024, laying down harmonized rules on artificial intelligence<sup>39</sup>. The purpose of these rules is twofold. From one side, they aim at fostering the employment of AI and increasing users’ trust in these systems; on the other, they intend to address the specific risks associated with the utilization of AI, establishing clear safety standards and prohibiting the practices that expose to excessive dangers<sup>40</sup>.

In the AI Act, justice is identified once again as one of the policy areas where the support of AI may bring huge benefits in terms of «improving prediction, optimizing operations and resource allocation, and personalizing digital solutions available for individuals and organizations»<sup>41</sup>. The approach followed by the Commission is however a cautious one<sup>42</sup>; evidence of this is the classification of the systems intended for the administration of justice as inherently high-risk, due to their potential impact on democracy, the rule of law and procedural rights<sup>43</sup>. Under the scheme provided by the AI Act, the categorization as “high-risk AI systems” entails that the AI technologies employed in the justice field must comply with a series of strict obligations concerning risk management systems, data governance, technical documen-

---

<sup>39</sup> Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828, *OJ L*, 2024/1689, 12.7.2024 (hereinafter referred to as “AI Act”). For a concise overview of the AI Act, its content and the implications related to its adoption, cf. Pehlivan (2024).

<sup>40</sup> As clarified by the Commission, the objective of the AI act is «to make the EU a world-class hub for AI, while ensuring that AI is human-centric and trustworthy». See European Commission, *Fostering a European approach to Artificial Intelligence*, COM(2021) 205 final, declaration of 21 April 2021, p. 1.

<sup>41</sup> AI Act, Recital n. 4.

<sup>42</sup> In general terms, the cautious approach showed by the European institutions towards the regulation of AI has been positively welcomed by the majority of commentators, who praised the EU for having reached a satisfactory compromise between the fostering of the rapid dissemination of AI technology and the safeguard of EU’s values; a goal that could be accomplished only pursuing the highest attainable levels of protection and safety. See, in this sense, Nikolinakos (2023), p.720 ff. and Ebers, Hoch, Rosenkranz, Ruschemeier, & Steinrötter (2021), p. 603. Other scholars are more critic towards the proposal and the level of security it would be able to grant to AI users, arguing that there is room for improvement. For instance, some suggest that the EU should increase the communication with manufacturers of AI-powered products in order to be more aware of the risks connected to the use of AI and provide a better, more precise regulation of the obligations conferred upon manufacturers and consumers of AI tools; cf. de Graaf & Veldt (2022), p. 817.

<sup>43</sup> AI Act, Recital n. 48 and Annex III(8).

tation, transparency, human oversight and cybersecurity<sup>44</sup>. The qualification as “high-risk AI system” does not extend, instead, to the ones carrying out administrative tasks that are ancillary to the delivery of justice, such as pseudonymization of judicial decisions, documents or data or allocation of resources<sup>45</sup>.

The integration of AI in legal proceedings is a phenomenon that could completely transform the outlook of simplified procedures in the next few years, as they represent the most suitable candidates for testing high levels of automation in the justice domain. In this light, it is unsurprising that several scholars have already suggested to take advantage of AI to enhance the efficiency of the ESCP in terms of accessibility, timings and costs<sup>46</sup>. Putting temporarily aside the future of the ESCP and focusing on the state of the art, it appears that the EU legislator is settling the bases for a more integrated use of IT tools in the handling of ESCP cases and urges Member States to reform their judicial systems accordingly<sup>47</sup>. Looking at the full picture, it may be observed that the existing regulatory environment is paving the way for the dematerialization of many segments of the ESCP, from the transmission of documents and communications between the parties and the competent authorities, to the celebration of oral hearings and the payment of court fees. Even if the EU seems to have embraced the concept of a digital ESCP, it should be kept in mind that the carrying out of the procedure through technological means remains purely optional for judges and parties. In fact, the EU lawmaker has limited its action to the expression of a preference towards a digital management of ESCP cases, but it has never scrutinized, so far, the imposition of a complete telematization of the procedure.

#### **4. IMAGINING A FULL AUTOMATION OF THE ESCP IN THE EU DIGITAL ERA**

While the stage of the full digitalization of the ESCP has not yet been reached at normative level, there are some academic works that have reflected upon this opportunity from both a legal and a technical standpoint<sup>48</sup>. All these initiatives explore the possibility of amending the ESCP Regulation in order to enable the conduction of ESCP proceedings in a full virtual mode. The idea is to create an ODR platform specifically designed for the resolution of such disputes, with the conviction that technology could put a patch on

---

<sup>44</sup> The obligations established on providers and users of high-risk AI systems are extensively described in Articles 8-27 of the AI Act.

<sup>45</sup> AI Act, Recital n. 61.

<sup>46</sup> This point will be addressed by the following section of this paper.

<sup>47</sup> Giacalone & Sajedeh Salehi (2022), p. 210.

<sup>48</sup> Mesquita & Marques Cebola (2022) and Veersalu & Hoffmann (2023). The development of a ESCP platform is also included among the objectives set by the project SCAN 2 - Small Claims Analysis Net. For more information, it is possible to refer to the official website of the project, available at <<https://scan2.vub.be/about/>>.

the shortcomings of the ESCP<sup>49</sup>. In particular, the full digitalization of the ESCP would tackle some issues that are typically associated with cross-border proceedings, such as the lack of a sufficient degree of uniformity among national procedural laws<sup>50</sup>. It would also target the problem of the scarce access to justice caused by the overload of work burdening national courts, while it would maximize the efficiency of the procedure by cutting its costs and length. These changes would allegedly help turn the ESCP from an underutilized legal instrument to a more attractive alternative to the procedures regulated by national laws.

The projects at hand suggest the implementation of a single-point online platform, desirably administered by the European Commission<sup>51</sup>, where the national authorities appointed by each Member State could manage the procedure on a full remote mode. To put it in the words of these authors, the platform would operate as a «single point of procedural management where each interested party could trigger the process [...] through the online system provided by the platform itself»<sup>52</sup>. Hence, the individual wishing to file an application would be able to fill out and send the dedicated ESCP forms to the competent authority, all through the software of the platform. The requested authority would later invite the defendant to join the platform to view and respond to the allegations of the actor. All the phases of the procedure would be managed through the electronic means provided by the system, from oral hearings (if deemed necessary) to the publication of the decision, that would be made available on the platform<sup>53</sup>. The platform would strongly rely on AI to automate a series of passages that would require time, professional expertise and costs. Thanks to the functions of AI, the platform could take on many administrative tasks such as notifications, translations and the control of the timeframes of the procedure<sup>54</sup>. This technology would be able to assist the user before the institution of the proceedings, by indicating the national body that has jurisdiction over the claim on the base of the data uploaded on the

---

<sup>49</sup> Mesquita & Marques Cebola (2022), p. 14 ff. and Veersalu & Hoffmann (2023), p. 170. This view further emerges in Giacalone & Sajedeh Salehi (2022), p. 185.

<sup>50</sup> Veersalu & Hoffmann (2023), p. 154.

<sup>51</sup> This has been specifically proposed in Mesquita & Marques Cebola (2022), p.15. As explicitly stated by these authors, their proposal is inspired to the ODR platform for consumer conflicts established by Article 5(2) of the Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), *OJ L 165*, 18.6.2013, pp. 1–12. The potential that such a digital platform may express in advancing the technologization of EU dispute resolution mechanisms has attracted the interest of several scholars, among which Cortés (2016), Palao Moreno (2016) and van Gelder (2022). Despite some of them have welcomed the platform created by Regulation (EU) No 524/2013 with great enthusiasm, cf. Palao Moreno (2016), p. 404, the latter has also attracted criticisms. In this sense, some scholars pointed out that the system is not sufficiently user-friendly and warned on the possibility that issues of due process may arise from the full digital nature of such a platform. For a brief assessment of the inadequacies of this mechanism, cf. van Gelder (2019), p. 222 ff.

<sup>52</sup> Mesquita & Marques Cebola (2022), p. 19.

<sup>53</sup> Mesquita & Marques Cebola (2022), p. 19 ff. and Veersalu & Hoffmann (2023), p. 163 ff.

<sup>54</sup> Mesquita & Marques Cebola (2022), p. 17; Veersalu & Hoffmann (2023), p. 164.

platform<sup>55</sup>, as well as after the delivery of the judgment, providing the parties with information on the possibility of an appeal or the rules applicable to enforcement<sup>56</sup>.

In their substance, the existing proposals on the institution of an ESCP platform do not present significant differences among each other. All these projects propose to delegate to AI a wide range of legal and administrative tasks that would be otherwise fulfilled manually, by the personnel of judicial offices or other professionals. Given the standardized character of the procedure, some scholars have gone so far as to imagine an «implementation of an AI judge as an additional feature on the ESCP Platform»<sup>57</sup>, to later conclude that automating the judgment-making process is not viable for ESCP at the moment, as the topic has proven to be extremely controversial. Indeed, entrusting a “robot-judge” with the resolution of ESCP disputes would trigger legal and ethical questions that largely remain unanswered<sup>58</sup>. There is literature that looks at AI-judges as a practical solution in terms of costs-benefits ratio, at least in the context of simplified procedures administered by lower courts (like the ESCP)<sup>59</sup>. On the opposite side, some commentators warn that many of the fallacies that AI systems may present, such as the lack of algorithmic transparency, cybersecurity vulnerabilities and the exposure to technical bias, might irremediably affect the enjoyment of the individual rights to a fair trial, due process, and the right to an effective judicial remedy<sup>60</sup>. Other authors focus on the added value of the “human element” to decision making, arguing that being a judge means having the ability to meaningfully follow the rules, as well as «being a member of the community, understanding its history, its moral convictions, having a point of view about its current character and having a stake in its future»<sup>61</sup>. Furthermore, some scholars highlight that the “human factor” is essential to accord social legitimacy to judicial decisions, as it is rooted in the assumption that justice is delivered by other human beings<sup>62</sup>. The existing doctrine is profoundly divided on the matter and, while it is true that AI is still at an early stage of development, so is the scholarly debate on the legal, ethical, governance and policy challenges

<sup>55</sup> The applicable rules on matters of jurisdiction remain the ones established by Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I bis), *OJ L 351*, 20.12.2012, pp. 1–32.

<sup>56</sup> Mesquita & Marques Cebola (2022), pp. 16, 19 and Veersalu & Hoffmann (2023), pp. 166, 168.

<sup>57</sup> Veersalu & Hoffmann (2023), p. 168.

<sup>58</sup> Veersalu & Hoffmann (2023), p. 168. For some scholarly works exploring the pros and cons of an automated delivery of justice in deeper detail, it may be possible to refer to Kerr & Mathen (2014); Sourdin, & Cornes (2018); Pasquale (2019); Volokh (2019); Langford (2020); Sourdin (2021); Zekos (2022); Molbæk-Steensig & Quemy (2023); Schäferling (2023).

<sup>59</sup> Sourdin (2021), p. 210 ff.

<sup>60</sup> Langford (2020); Molbæk-Steensig & Quemy (2023).

<sup>61</sup> Kerr & Mathen (2014), p. 39. On the same vein, Pasquale (2019), p. 54 ff.; Schäferling (2023), p. 78 ff.

<sup>62</sup> Sourdin, & Cornes (2018), p. 98. See also the report published in 2023 by the Council of Europe Commissioner for Human Rights, named ‘Human rights by design future-proofing human rights protection in the era of AI, Follow-up Recommendation to “Unboxing AI” (2019)’, p. 6.

posed by this technology. This uncertain scenario makes the regulation of the phenomenon particularly tough for lawmakers who, in navigating uncharted waters, prefer to maintain a conservative attitude towards the fundamental values characterizing their legal orders. As a result, if it is called to strike a balance between the need to accelerate the technologization of judicial systems and the safeguard of the rule of law and individual rights, the legislator will probably lean towards the second<sup>63</sup>. This tendency has already been observed in the case of the EU and its AI Act, the first-ever legal framework on AI<sup>64</sup>. All these elements combined uphold the view that charging an algorithm with the resolution of ESCP disputes is not a realistic option. The use of AI-powered systems in the ESCP to carry out research and interpretation of facts and laws and the application of laws to specific facts would be hindered by the strict rules that came into force under the AI Act of the EU and would probably be disregarded by the European literature and public opinion.

Not considering this last proposal, it seems that the project of developing an online ESCP platform supported by AI tools would be consistent with the regulatory landscape that the EU is setting for the digital transition of justice in the EU area. By boosting innovation in the administration of legal procedures, the institution of the platform would comply with the objectives laid out in the e-Justice strategy 2024-2028. Furthermore, the project would easily encounter the EU standards of safety for the integration of AI in the judiciary, as the text of the AI Act does not raise particular barriers to the use of AI in the performance of simple administrative functions such as translations and communications. On the contrary, it encourages the employment of AI tools when it poses minimum risks to individuals and their rights.

---

<sup>63</sup> The situation may be different in jurisdictions with a legal culture that is distant from the one shared among Western countries. Evidence of this may be found in the liberal attitude showed by China towards AI since the early days of this technology. As a matter of fact, China has already experimented internet courts and virtual judges to make the resolution of small claims disputes more efficient. AI judges are used to set schedules, take evidence, ask questions to the parties of the procedure and issue dispositive rulings on the base of previous case law, that dealt with similar cases. Usually, the automated decision can be later appealed to human judges. For further details, see Yuan (2019); Roberts, H., Cowsls, J., Morley, J., Taddeo, M., Wang, V. & Floridi, L. (2021), p. 66 and Papagiannas, S. & Junius, N. (2023), p. 3 ff.

<sup>64</sup> The explanatory memorandum of the AI Act makes it clear that «Rules for AI available in the Union market or otherwise affecting people in the Union should therefore be human centric, so that people can trust that the technology is used in a way that is safe and compliant with the law, including the respect of fundamental rights». This “human-rights based” approach to the regulation of AI is in line with the positions expressed by prominent human rights bodies such as, in first place, the Council of Europe. In this regard, it is worth underlying how the Commission for the Efficiency of Justice of the Council of Europe (hereinafter referred to as “CEPEJ”) has already drafted a Charter aimed at setting out ethical principles relating to the use of AI in judicial systems (cf. CEPEJ, European Ethical Charter on the Use of Artificial Intelligence in Judicial systems and their environment, adopted on 3 December 2018). More ambitiously, the Council of Europe has recently opened for signature the Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law, the first-ever international legally binding treaty in this field (cf. Council of Europe, Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law, 5 September 2024).

The overall suitability of the project with EU policies and values has been ascertained; nonetheless, there is still a point that is missing. The fact that the online transition of the ESCP is feasible under the framework set by EU law does not automatically entail that it would be decisive in overcoming the difficulties that the ESCP is registering. In other words, one may wonder to what extent a platform designed for the full digitalization of the ESCP would contribute to neutralize the problems that affect the procedure in practice. The issue will be addressed in the conclusive section of the paper.

## **5. CONCLUSIVE REMARKS: DIGITALIZATION AS A PANACEA FOR ALL EVILS?**

The previous sections of the contribution provided an insight on the present and future of the ESCP. The analysis spanned from the elements that obstacle the correct functioning of the ESCP to the main solution that has been prospected, so far, by both the European legislator and the academic environment: its progressive digitalization. The EU law that currently applies to the ESCP prescribes the digital form as the default one for a series of incumencies that go from communications, document transmissions, conduction of oral hearings and the payment of litigation fees. Nevertheless, the use of IT tools to carry out these tasks is still elective. The study emphasized that imposing a full dematerialization of the ESCP, which may be achieved through the equipment of an ad-hoc ODR platform, could be compatible with the EU strategy for the digitalization of justice. As the platform models proposed by the doctrine would strongly rely on AI technology, in order to assess the realizability of the projects it is also vital to ensure that they would comply with the harmonized rules on AI recently finalized by the EU (the AI Act). If the deployment of AI to simplify the undertaking of administrative tasks is not seen as particularly challenging, this observation cannot be extended to the use of algorithmic technology to automate the decision-making process. Because of the negative repercussions that the latter may have on democracy, the rule of law and human rights, the integration of a virtual judge within a hypothetical ESCP platform must be denied. After having verified to what degree the digitalization of the ESCP is possible, the only knot that is left to untie pertains its capacity to address the weaknesses of the procedure.

The fast pace at which technology is mutating social, legal and economic relations requires the subsequent update of judicial systems and procedural legislations. In this sense, the modernization of the judiciary is not only inevitable, but also desirable. The systematic transfer of proceedings to the digital mode presents a number of positive aspects that revolve around the accessibility of the procedure and the simplification of its management. In first place, online dispute resolution lowers the access barriers to judicial facilities as it makes justice more affordable and eliminates the problem of the geographic spread of legal services. This allows a wider participation of disputants, witnesses and other individuals that take part in the proceedings,

including the subjects that might be disadvantaged for physical or economic conditions. AI technologies may also be programmed to provide basic legal assistance to the litigants, such as the indication of the competent forum. This could be extremely useful in small claims procedures where legal representation is not mandatory, like in the ESCP, to guide the parties throughout the phases of the procedure without the need to ask for professional advice.<sup>65</sup> Other kinds of utilities that digitalization brings to the administration of justice are more efficiency-related. Routine processes among which, *inter alia*, document processing, exchanging of communications, translations and tracking the progress of the procedure are facilitated online, because they become faster and cheaper. The IT tools allowing such a deflagration of the administrative workload represent a formidable support for the judiciary; an aid that would permit governments, in the long term, to overrun vexing issues like the excessive length of legal proceedings or the disproportion between available resources and those which would be necessary in the interests of justice<sup>66</sup>.

In this light, expediting the digitalization process of the ESCP would surely be beneficial. On the other hand, it is equally sure that it would not be sufficient to overcome all the difficulties that this procedural tool is facing. Recalling the data on the use of the ESCP reported in the second section of this work, it emerges that the problem which is more frequently invoked by consumers and legal practitioners across the EU is the general lack of awareness surrounding the procedure. This illiteracy encompasses plaintiffs, lawyers and the same judicial offices, that have never had the chance to develop an expertise on the ESCP due to the fact that citizens and legal experts have not been properly introduced to the procedure. To break this vicious circle, targeted initiatives are required<sup>67</sup>. In fact, even if the digitization could increase the popularity of the ESCP for a series of reasons, transforming the ESCP into an online procedure would not *per se* contribute to spread knowledge of this legal remedy. The same point can be made in relation to the problem of the unproper implementation of the ESCP Regulation that has interested many EU Member States; an issue to which national legislators should provide a remedy independently from the state of digitalization of the procedure.

Before aspiring to a full dematerialization of the ESCP, there is another elephant in the room that must be addressed, which is the digital divide among the Member States of the EU<sup>68</sup>. On one side, there are virtuous exam-

---

<sup>65</sup> Donoghue (2017), p. 1019 ff.

<sup>66</sup> Schmitz (2019), p. 89; Reiling (2020), p. 3; Giacalone & Sajedeh Salehi (2022), p. 189. The potential of technology in terms of fostering the efficiency of the judiciary was grasped also in earlier scholarly works, such as Rabinovich-Einy (2006), p. 29 ff.

<sup>67</sup> As acknowledged by Abignente, Giacalone & Tuccillo (2020), p. 24 ff.

<sup>68</sup> For information on the different levels of digitization within the EU Member States, it is possible to refer to the data analyzed within the framework of the Digital Economy and Society Index (hereinafter referred to as "DESI"), that summarizes indicators on the digital performance of the EU, tracking the progresses of EU Countries. In compliance with the Digital Decade Policy Programme

ples of European States whose judicial systems have already gained a significant degree of automation, especially within civil proceedings<sup>69</sup>. Some of them even transitioned their national small claims procedures to a wholly telematic mode, with satisfactory results<sup>70</sup>. Indeed, it is evident that these States could proceed with the digitalization of the ESCP without making particular efforts. On the other side, there are States whose domestic courts are lacking an adequate digital infrastructure to take this major step. If the affirmation is true in general, the shortage of technical equipment usually reaches its peak in the case of lower courts and honorary magistrates offices, which are typically charged with small claims procedures<sup>71</sup>. Considering that the ESCP is a uniform European procedure, this divergence constitutes a major impediment to the realization of an ESCP platform which is completely web-based. The digital divide is a structural problem that goes far beyond the justice domain and represents a major slowdown for the completion of the objectives fixed by the EU for the innovation and efficiency improvement of the public administration of its Members States. Nonetheless, in respect of the digitization of the ESCP, the issue could be partially countered by assigning the ESCP to functionally-specialized sections or chambers within national courts. Reducing the number of bodies potentially involved in the procedure would make it easier for States to supply the competent judicial offices with the IT tools needed for the correct running of the ESCP. The centralization of jurisdiction for the ESCP would also speed up the proceedings and favor the creation of a class of specialized magistrates, finally allowing the development of an expertise on the ESCP among jurists<sup>72</sup>. Conferring the ESCP to specialized bodies would further facilitate the communication and the coordination among the offices concerned, consenting a more uniform application of the ESCP throughout the EU<sup>73</sup>. Another measure that could be adopted to enhance the application of the ESCP Regulation is imposing the abrogation of the national alternatives and making the EU law procedure the only viable mechanism for the resolution of cross-border, low threshold claims<sup>74</sup>. Such an initiative would sensibly accelerate the accomplishment of the ultimate goal inscribed in the ESCP Regulation, and namely the harmo-

---

2030, from the year 2023 the DESI is integrated into the State of the Digital Decade report. See European Commission, DESI 2023 dashboard for the Digital Decade, available at <<https://digital-decade-desi.digital-strategy.ec.europa.eu/datasets/desi/charts>>.

<sup>69</sup> This is the case, for example, of Lithuania, Slovenia and Estonia. See, respectively, Simaitis, Vebraitė & Markevičiūtė (2020), p. 268; Gale & Zajc (2020), p. 265 and Giacalone & Sajedeh Salehi (2022), p. 207 ff.

<sup>70</sup> This is, for instance, what occurred in Malta, as reported in Giacalone & Sajedeh Salehi (2022), p. 209.

<sup>71</sup> The concern has been expressed, for example, in regard to Italy and France; cf. Abignente, Rolandi & Ruggieri (2021), p. 43 and Winkler & Baquero (2021), p. 37.

<sup>72</sup> Such centralization has already been tested in Germany, with a positive outcome. See *supra* at note 12 and, more extensively, Hinrichs & Thevis (2021), p. 76.

<sup>73</sup> Abignente, Giacalone & Tuccillo (2020), p. 16.

<sup>74</sup> Abignente, Giacalone & Tuccillo (2020), p. 15. The proposal had already been submitted by authoritative doctrine, among which the Italian scholars Leandro (2009), p. 90 ff. and Bertoli (2008), p. 405 ff.

nization, within the EU area of judicial cooperation, of procedural laws on small civil and commercial claims with a transnational character.

The ones mentioned were just a few examples that are functional to point out how the ESCP should undergo other urgent interventions before programming to compel its full digitalization. With that being said, providing a panacea for all the evils affecting the ESCP is out the scope of the paper. It is noteworthy observing, however, that the solutions given by the digital transition do not necessarily respond to the defiance challenging the procedure. Defiance that are mostly due to the permissive approach followed by the EU, which left to its Member States an enormous margin of discretion in defining the ways of implementing the ESCP at a domestic level. In practice, this usually translated into the plain transposition of the European normative within national legal orders. In most of the cases, in fact, the integration of the ESCP has not been accompanied by adequate policies directed at both modifying internal procedural laws and restructuring domestic judicial systems, in order to stimulate the use of this mechanism and ensure its smooth functioning. This made the ESCP an undesirable option for plaintiffs and legal practitioners who, in the absence of particular incentives, are naturally inclined towards the more consolidated national procedures.

To conclude, technology will have a crucial role in revolutionizing the administration of justice across the EU and its potential will certainly be employed in the modernization of the ESCP. It is probably only a matter of time that States will be obliged to arrange its complete digitization. However, unless the EU lawmaker does not lay the foundations for a digital ESCP to prosper, its realization would remain an unrealistic project.

## BIBLIOGRAPHY

- Abignente, I., Giacalone, M. & Tuccillo, R. (2020), SCAN Deliverable 4.1. Harmonised Guidelines. [https://www.scanproject.eu/wpcontent/uploads/2021/05/D4.1\\_HARMONISED\\_GUIDELINES.pdf](https://www.scanproject.eu/wpcontent/uploads/2021/05/D4.1_HARMONISED_GUIDELINES.pdf).
- Abignente, I, Rolando, F. & Ruggieri, P.C. (2021). The Implementation of the European Small Claims Procedure in Italy. *Journal of European Consumer and Market Law*, 10(1), 40-44.
- Bertoli, P. (2008). Verso un diritto processuale civile comunitario uniforme: l'ingiunzione europea di pagamento e le controversie di modesta entità. *Rivista di Diritto Internazionale Privato e Processuale*, 44(2), 395-428.
- Cortés, P. (2016). The New Landscape of Consumer Redress. The European Directive on Consumer Alternative Dispute Resolution and the Regulation on Online Dispute Resolution. In Cortés, P. (Ed.), *The New Regulatory Framework for Consumer Dispute Resolution* (17-40). Oxford University Press.
- Cortés, P. & Maňko, R. (2016). Developments in European Civil Procedures. In Cortés, P. (Ed.), *The New Regulatory Framework for Consumer Dispute Resolution* (41-64). Oxford University Press.
- de Graaf, T. & Veldt, G. (2022). The AI Act and Its Impact on Product Safety, Contracts and Liability. *European Review of Private Law*, 30(5), 803-834.
- Donoghue, J. (2017). The Rise of Digital Justice: Courtroom Technology, Public Parti-

- cipation and Access to Justice. *The Modern Law Review*, 80(6), 995-1025.
- Ebers, M., Hoch, V.R.S., Rosenkranz, F., Ruschemeier, H. & Steinrötter, B. (2021). The European Commission's proposal for an Artificial Intelligence Act—a critical assessment by Members of the Robotics and AI Law Society (RAILS). *J*, 4(4), 589-603.
- European Commission, Directorate-General for Justice and Consumers, Gascón Inchausti, M., Hess, B., Cuniberti, G. (2017). An evaluation study of national procedural laws and practices in terms of their impact on the free circulation of judgments and on the equivalence and effectiveness of the procedural protection of consumers under EU consumer law: strand 1: mutual trust and free circulation of judgments. Publications Office. <https://data.europa.eu/doi/10.2838/38491>.
- Ho-Dac, M. (2024). Digitalisation of Justice Systems in the European Union: Towards a European Judicial Area 2.0. *The EAPIL blog*. <https://eapil.org/2024/02/06/digitalisation-of-justice-systems-in-the-european-union-towards-a-european-judicial-area-2-0/>.
- Gale, M. & Zajc, K. (2020). The Implementation of the European Small Claims Procedure in Slovenia. *Journal of European Consumer and Market Law*, 9(6), 267-270.
- Giacalone, M. & Sajedeh Salehi, S. (2022). Small claims and the pursuit of (digital) justice: a tiered online dispute resolution perspective. *Revista Ítalo-Española de Derecho Procesal*, 1, 181-213.
- Hinrichs, O. & Thevis, J. (2021). The Implementation of the European Small Claims Procedure in Germany. *Journal of European Consumer and Market Law*, 10(2), 75-79.
- Kerr, I. & Mathen, C. (2014). Chief Justice John Roberts is a Robot. *University of Ottawa Working Paper*. <https://ssrn.com/abstract=3395885> or <http://dx.doi.org/10.2139/ssrn.3395885>.
- Kramer, X.E. (2011). Small claim, simple recovery? The European small claims procedure and its implementation in the member states. *ERA Forum*, 12, 119-133.
- Langford, M. (2020). Taming the Digital Leviathan: Automated Decision-Making and International Human Rights. *American Journal of International Law Unbound*, 114, 141-146.
- Leandro, A. (2009). Il procedimento europeo per le controversie di modesta entità. *Rivista di diritto internazionale*, 92(1), 65-93.
- Mesquita, L.V. & Marques Cebola, C., (2022). European Small Claims Procedure: An Effective Process? A Proposal for an Online Platform. *Access to Justice in Eastern Europe*, 5(2), 7-21.
- Molbæk-Steensig, H. & Quemy, A. (2023). Artificial Intelligence and Fair Trial Rights. In Quintavalla, A. & Temperman, J. (Eds.), *Artificial Intelligence and Human Rights* (265-280). Oxford University Press.
- Nikolinakos, N.T. (2023). EU Policy and Legal Framework for Artificial Intelligence, Robotics and Related Technologies - The AI Act. Springer.
- Palao Moreno, G. (2016). Cross-border Consumer Redress after the ADR Directive and the ODR Regulation. In Cortés, P. (Ed.), *The New Regulatory Framework for Consumer Dispute Resolution* (393-406). Oxford University Press.
- Papagiannas, S. & Junius, N. (2023). Fairness and justice through automation in China's smart courts. *Computer Law & Security Review*, 51, 1-13.
- Pasquale, F. (2019). A Rule of Persons, Not Machines: The Limits of Legal Automation. *The George Washington Law Review*, 87(1), 1-55.
- Pehlivan, C.N. (2024). The EU Artificial Intelligence (AI) Act: An Introduction. *Global Privacy Law Review*, 5(1), 31-42.
- Rabinovich-Einy, O. (2006). Balancing the Scales: The Ford-Firestone Case, the Internet, and the Future Dispute Resolution Landscape, *Yale Journal of Law & Techno-*

- logy, 6, 1-54.
- Reiling, A.D. (2020). Courts and Artificial Intelligence. *International Journal for Court Administration*, 11(2), 1-10.
- Roberts, H., Cowls, J., Morley, J., Taddeo, M., Wang, V. & Floridi, L. (2021). The Chinese approach to artificial intelligence: an analysis of policy, ethics, and regulation. *AI and Society*, 36(1), 59-77.
- Sajedeh Salehi, S. & Giacalone, M., (2021). The Implementation of the European Small Claims Procedure in Belgium. *Journal of European Consumer and Market Law*, 10(2), 80-84.
- Schäferling, S. (2023). *Governmental Automated Decision-Making and Human Rights*. Springer.
- Schmitz, A.J. (2019). Expanding Access to Remedies through E-Court Initiatives. *Buffalo Law Review*, 67(1), 89-164.
- Simaitis, R., Vebraitė, V. & Markevičiūtė, M. (2020). The Implementation of the European Small Claims Procedure in Lithuania. *Journal of European Consumer and Market Law*, 9(6), 267-270.
- Sourdin, T. & Cornes, R. (2018). Do Judges Need to be Human? The Implications of Technology for Responsive Judging. In Sourdin, T. & Zariski, A. (Eds.), *The Responsive Judge: International Perspectives* (87-121). Springer.
- Sourdin, T. (2021). *Judges, Technology and Artificial Intelligence*. Edward Elgar Publishing.
- van Gelder, E. (2019). The EU Approach to Consumer ODR. *International Journal of Online Dispute Resolution*, 6(2), 219-226.
- Veersalu, K. & Hoffmann, T. (2023). Automation Within a Novel Platform for the European Small Claims Procedure. *TalTech Journal of European Studies*, 13(2), 152-176.
- Volokh, E. (2019). Chief Justice Robots. *Duke Law Journal*, 68(6), 1135-1192.
- Winkler, M. & Baquero, P.M. (2021). The Implementation of the European Small Claims Procedure in France. *Journal of European Consumer and Market Law*, 10(1), 36-40.
- Yuan, S. (2019). AI-assisted sentencing speeds up cases in judicial system. *China Daily*. [https://www.chinadaily.com.cn/cndy/2019-04/18/content\\_37459601.htm](https://www.chinadaily.com.cn/cndy/2019-04/18/content_37459601.htm).
- Zekos, G.I. (2022). *Advanced Artificial Intelligence and Robo-Justice*. Springer.

