

The End of Civil Procedure? Challenges of Automatization, Specialization and Privatization

Civil procedure may be described as a system of mandatory rules designed for the operation of public courts as the pillars of the state (civil) justice system. Textbooks teach us that civil procedure is the primary method of dispute resolution for all individual disputes regarding civil rights and obligations in a broad sense (including commercial, family, labour and other types of disputes). As such, civil procedure is presented as an elaborate network of rules that are universally applicable, with very few exceptions, to all matters, and enforced by legal professionals. In the center of this process is the (human) judge, as a skillful individual, sometimes assisted by other (lay or professional) judges. The central stage of the civil process often is the public hearing(s) in court, where legal arguments are presented and evidence is taken. This process is designed to lead to its most important result: a judgment, i.e. a reasoned judicial decision on the merits of the case. If serious errors occur, means of recourse are available, whereby another court composed of one or more judges will check the process and its outcome. This understanding of civil procedure is shared by most legal systems, almost without exception. But is this understanding still correct, and will it be correct in the future?

Some recent developments seem to challenge the conventional perception of civil procedure. The XIVth Public and Private Justice Course and Conference aims at exploring these developments and challenges, including (but not only) the following questions:

1. Are public courts still the main place for dispute resolution? Are some disputes regarding civil rights and obligations *de facto* transferred to other mechanisms of dispute resolution (arbitration, mediation or automatic claim processing)?
2. Are rules of civil procedure still universally applicable to all types of cases? Are they still mandatory and unchangeable? Or, is the emergence of specialized procedures (e.g. for consumer cases or intellectual property) and conventional rules agreed by the parties (both in the public and private domain) threatening the universality and uniformity of civil procedure?
3. Should civil proceedings in the future be dominated by courts and judges? In the context of development of automated claims processing, and the growing power of artificial intelligence, is there any remaining field where parties in civil cases would have the right to a human judge? Can 'justice with a human face' be achieved by way of automated proceedings?
4. Should civil procedure be designed as if a judgment on the merits is its optimal outcome? Is dispute resolution moving away from reasoned decisions, and towards other purposes?

The goal of the course and conference is to explore whether new trends and tendencies lead to the end of civil procedure as we know it today and to a new and redefined understanding of civil justice and its function.