e+Justice

good and bad examples in national law and European civil procedure

Prof. Dr. Alan UZELAC, University of Zagreb
Future of Civil Justice?

Adapt or die!
... also applicable to European civil procedure!

Can autonomous European civil procedures survive the reality check?
e+Justice
Achieving harmony through collaboration.
BEST EUROPEAN EXAMPLES OF COLLABORATION

Collaboration of University, Ministry of Justice and tech community (since 1986)

Dr. Martin Schneider

Collaboration of judges, legal academia, IT sector and the Supreme Court (since 2008)

Rade Brezovar

Highly automated, IT-based systems for production of payment orders supervised by courts and court administration.
Less successful example

Unique outsourcing of judicial functions to notaries, introduced without previous research and consultations, in an arbitrary fashion to cater for the interests of a specific professional group.

High transaction costs, slow process, issues with fairness and right to be heard.

Pula Parking Case - C-551-15
Zulfikarpašić Case – C-484/15 (9 March 2017)

Enforcement writs issued by notaries public in a decentralized, paper based, manual but bureaucratized manner.
Why poor success of European civil procedures?

- European payment order (& small claims)
  - No e-processing
  - Very modest use of best practices
  - Narrow scope

- Consumer ADR
  - No e-processing
  - No harmonization
  - No effective control

- Consumer ODR
  - Uniform system, e-processing, but:
  - Counter-factual presumptions (voluntary acceptance)
Why poor success of European civil procedures?

Choosing which procedure to use
A claimant therefore has a choice of procedures; how should the choice be made?
The following flow chart gives an indication as to the suitability of the different procedures for the different types of case.

Is the claim for money?

- Yes
  - Is the claim uncontested?
    - Yes
      - Consider using the European Order for Payment.
    - No
      - Consider using the Small Claims Procedure. This can be used even if the defendant replies to, admits or defends the claim.

- No
  - Is the claim for less than €2000, for money, goods or something else?
    - Yes
      - Consider using the national system. This will be the country where the claim will be dealt with.
    - No
      - You can use either the European Order for Payment or the European Small Claims Procedure if the claim is cross-border in nature. You should make your claim in the country with jurisdiction to deal with it.
Technology needs to help justice to be better and have a human face!

- Automatization of routine tasks, concentration on essential legal matters!
- Speeding-up of repetitive operations, more time for human contact!
- Enabling access to justice through ease of communication and low costs!
Thank you!

Muito obrigado!

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