



Changing Status Naturalis

How eJustice Might Reshape the very Nature of Continental Civil Litigation

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Tento projekt je spolufinancován Evropským sociálním fondem a státním rozpočtem České republiky.



INVESTICE DO ROZVOJE VZDĚLÁVÁNÍ



Main teleology - efficiency

Cannot rely on customs (well elaborated laws needed)

Has to reflect recent state of development of the society (incl. competences, ergonomics, ...)

Critical infrastructure (security)

eJustice is not eGovernment (trust, value, distinction of powers, ...)

Immanuel Kant, Perpetual Peace

'[t]he state of peace among men living side by side is not the natural state (status naturalis); the natural state is one of war. This does not always mean open hostilities, but at least an unceasing threat of war.'

John Locke, Two Treatises of Government

"And here we have the plain difference between the state of nature and the state of war, which however some men have confounded, are as far distant, as a state of peace, good will, mutual assistance and preservation, and a state of enmity, malice, violence and mutual destruction, are one from another."

Settling the dispute - UK

Having the dispute resolved - EU

Do people (really) tend to litigate?

Court procedure - ‘making people to act like idiots (?)’

Settling the dispute - not natural - efforts of the judge

Love your dispute - excessive caseload, but legal certainty, state influence



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Kant might have been wrong - status naturalis might be peace
Parties would in fact like to have their dispute settled

- Ergonomics, psychology, aesthetics
- Simplicity
- Subject matter - quality, persuasiveness

Standard eJustice (efficiency) - alternating formal handling
Semantic eJustice (quality) - alternating settlement roles of a judge

eJustice might not just foster the efficiency, but might even help to

Change the conflict nature of the dispute

Implement state-protected values into broader variety of disputes

... thanks for your attention

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