Rethinking the judicial duty to state reasons in the age of automation?

JUST-AI Jean Monnet Center of Excellence
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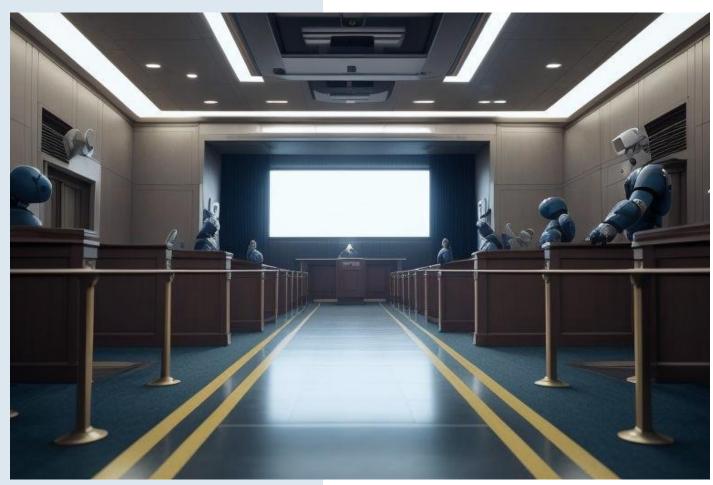Centre for IT & IP Law (CiTiP) – imec

Outline

Rethinking the judicial duty to state reasons in the age of automation?

1) Contextualisation
   - ➢ Emergence of algorithmic and AI systems in the judiciary
   - ➢ The judicial duty to state reasons and its importance
   - ➢ Impact AI systems on the judicial duty to state reasons and its normative goals

2) Rethinking the judicial duty to state reasons: potential measures and approaches

3) Critical reflections

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Contextualisation

("Robot judges" – generated by Perchance)

- Emergence of algorithmic and AI systems in the judiciary
  - Opportunities
  - Risks, including on the rule of law
  - Focus: the judicial duty to state reasons
- The judicial duty to state reasons
  - Key characteristics
  - Different functions
  - Normative goals: (i) legitimacy, (ii) transparency, (iii) accountability
- Potential adverse impact on the judicial duty to state reasons and its normative goals

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Rethinking the judicial duty to state reasons

Different potential measures and approaches

How to enhance legitimacy, accountability and transparency of the judicial decision-making process?

- General measures: fostering AI literacy & avoiding outsourcing
- Specific / Radical: substantive duty to state reasons

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Critical reflections

- AI literacy → concrete implementation?
- Outsourcing → realistic?
- Substantial duty → (too) many hurdles (?)
  - Which kind of explanations?
  - Access to software
  - Information overload / transparency paradox
  - Decreased trust in judiciary
  - Added workload and financial pressure
  - Undesirable accountability shift to judges
  - Unwanted consequence: ground of appeal
  - Constitutional constraints

Conclusion
  - No straightforward answer
  - Nuanced approach
  - Other safeguards, overall fairness

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Thank you! Questions?

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