



AI IN CROSS-BORDER LITIGATION AND ARBITRATION

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THE PROBLEM AND RESEARCH QUESTION(S)

The problem

The use of artificial intelligence in litigation and arbitration is rapidly increasing. However, different jurisdictions regulate and implement AI in different ways and at different speeds, creating uncertainty regarding its risks, compliance with legal principles, and its impact on the recognition and enforcement of judgments and arbitral awards in cross-border disputes.

The Research Question

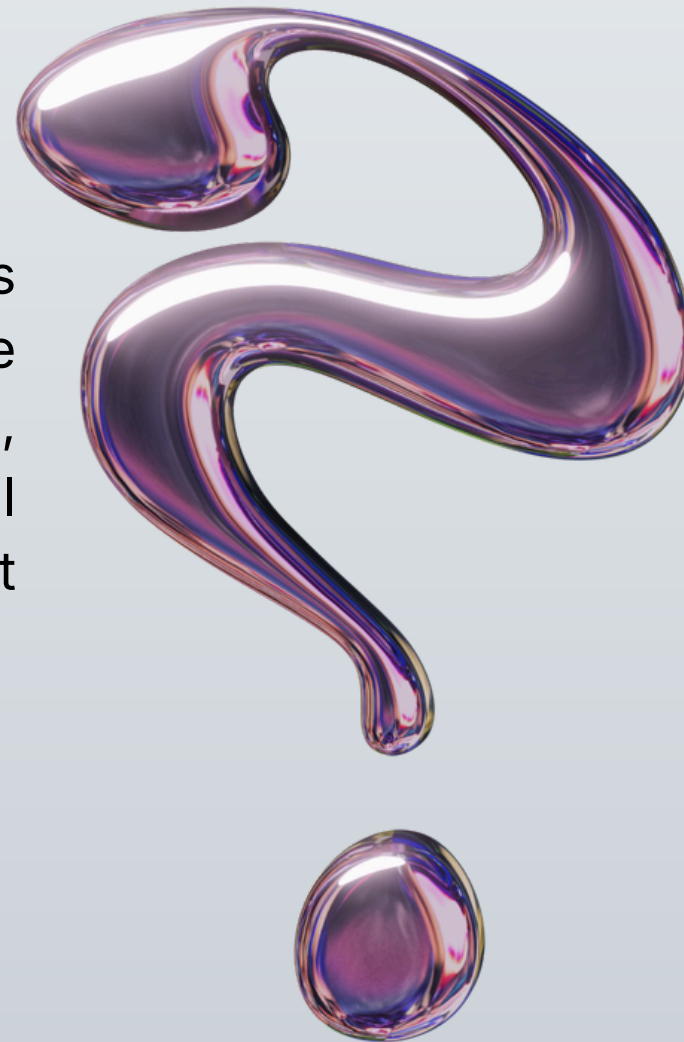
To what extent is artificial intelligence currently used in cross-border litigation and arbitration, how is such use regulated across different jurisdictions, and what legal challenges and opportunities does it create for cross-border dispute resolution?

Research Objectives and Scope

This research aims to examine the use of artificial intelligence in cross-border litigation and arbitration. In particular, it seeks to:

- identify the main types of AI tools used in dispute resolution;
- analyze their practical application in courts and arbitration;
- evaluate the benefits and risks associated with their use;
- analyze the existing legal framework and assess the compatibility of AI in litigation with fundamental legal principles;
- examine potential implications for the recognition and enforcement of judgments and arbitral awards abroad.

Jurisdictions Examined: United States, China, European Union (represented by Estonia)



WHAT YOU DID AND HOW YOU APPROACHED THE PROJECT

- Regular meetings with my mentor and incorporation of feedback.
- Collection and analysis of academic literature, legislation, and policy documents.
- Preparation of the research structure and outline.
- Comparative analysis of selected jurisdictions (USA, China, and the EU/Estonia).
- Examination of practical AI applications in litigation and arbitration.
- Identification of key legal challenges, risks, and opportunities.
- Writing and revision of the research paper.
- Development of policy recommendations and future scenarios to demonstrate the practical relevance of the research.

Methodology

- Doctrinal legal research
- Comparative legal analysis
- Case study approach – (AAA AI Arbitrator, Pennsylvania Supreme Court policy, Chinese Smart Courts).
- Policy analysis



KEY FINDINGS AND INSIGHTS

- Current AI use in dispute resolution is concentrated in **supportive and replacement technologies**, such as legal research, document analysis, drafting assistance, predictive analytics, and decision-support systems. Fully autonomous adjudication remains largely theoretical and is not currently accepted in the examined jurisdictions.
- The United States, China, and the European Union have adopted **different governance models**:
 - USA – innovation-driven and market-oriented approach
 - China – state-led and technology-driven integration of AI
 - EU – rights-based and risk-oriented regulatory approach
- Despite increasing automation, AI currently functions primarily as a **decision-support tool** rather than a decision-maker. Human judges and arbitrators remain responsible for final decisions.
- **The main benefits** identified are efficiency, cost reduction, consistency, and improved access to justice, particularly in document-heavy proceedings and low-value disputes.
- **The most significant risks** are bias, lack of explainability, data protection concerns, confidentiality risks, and the danger of excessive reliance on AI-generated recommendations.
- **Meaningful human oversight is the key safeguard.** The critical issue is not whether a human is formally involved, but whether they can effectively understand, review, and challenge AI-generated outputs.
- AI may affect the recognition and enforcement of judgments and arbitral awards. Challenges are most likely to arise where AI use undermines transparency, due process, or public policy requirements.
- The most likely future scenario is a **hybrid model of dispute resolution**, in which AI supports legal decision-making while humans retain final authority and responsibility.

POLICY RECOMMENDATIONS

1. Strengthen Human Oversight, Explainability, and Transparency

- Ensure that AI systems used in litigation and arbitration remain transparent, reviewable, and subject to meaningful human oversight.

Responsible actors:

- Courts and judicial authorities
- Arbitral institutions
- National regulators

Implementation instruments:

- Judicial guidelines
- Arbitral rules
- Professional codes of conduct

Proposed measures:

- Introduce minimum explainability requirements for AI systems used in adjudication.
- Encourage the development and use of Explainable Artificial Intelligence (XAI).
- Require meaningful human review before any AI-assisted judicial decision or arbitral award is finalized.
- Introduce disclosure obligations regarding the use of AI together with a brief explanation of how such systems were used during the proceedings.

Expected impact:

- These measures would strengthen transparency, due process, and trust in AI-assisted dispute resolution, while reducing potential difficulties regarding recognition and enforcement in cross-border disputes.

POLICY RECOMMENDATIONS

Recommendation 2: Improve Data Governance and Technical Safeguards

Reduce risks related to bias, poor data quality, confidentiality breaches, and non-compliance with data protection requirements.

Recommendation 3: Promote International Harmonisation of AI Governance

Reduce regulatory fragmentation and improve legal certainty in cross-border litigation and arbitration.

Recommendation 4: Clarify Existing Legal Frameworks and Adapt Them to AI

Ensure that existing legal instruments remain effective in the context of AI-assisted dispute resolution.

Recommendation 5: Strengthen Institutional Capacity and Professional Training

Ensure that legal professionals possess the necessary skills and institutional support to use and supervise AI systems responsibly.

THANK YOU FOR YOUR ATTENTION

AI in arbitration should be viewed not as a robotic judge, but rather as a “digital telescope” — a tool that amplifies human vision without replacing the discernment of those who use it. (Sharma (2024))