

Harmonizing European Insolvency Regimes: The Impact of Artificial Intelligence and the Role of the EU AI Act

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ABSTRACT

The insolvency landscape within the European Union is rapidly advancing with integration of technologies, more specifically Artificial Intelligence (AI) into the very fabric of the prevalent regimes. This presents a unique opportunity to harmonize and optimize the European Union's insolvency regime. A major milestone in this integrative exercise would be to study the multifaceted impact of AI on insolvency practice across EU member states while examining its potential to enhance efficiency, transparency and predictability. Further, it is also a valuable proposition to explore the crucial implications of the EU AI Act on the present insolvency framework which is due to be applicable in the forthcoming year.

This paper and presentation shall examine the transformative potential of AI in insolvency, with a specific focus on the contrasting yet interconnected jurisdictions of Germany, on the one hand and Poland, on the other. The aim is to analyze how AI is being adopted and regulated in these countries, highlighting both best practices and challenges, particularly in light of the forthcoming EU AI Act. The paper shall contrast the current state of insolvency procedures while highlighting the diverse approaches and challenges each jurisdiction faces. Germany represents a well-established Western European legal system in contrast with Poland which is undergoing rapid economic and legal development in Eastern Europe. This comparative analysis will set the stage for understanding how AI can bridge existing gaps.

The paper shall further delve into the specific applications of AI in insolvency including but not limited to predictive analytics, automated due diligence, process optimization, enhanced decision-making and fraud detection. Thus, the investigation will encompass, inter alia, how AI is used to assess financial distress in Western European jurisdictions, and its potential in predicting SME vulnerability in Eastern Europe. Additionally, the paper shall also present research on the comparative analysis of how AI streamlines asset valuation and creditor analysis in the mature German market versus the developing digital landscape of Poland.

Crucially, the paper will scrutinize the impact of the EU AI Act on the deployment of AI in insolvency within the jurisdictions in question. It will be useful to analyze how the Act's risk-based approach will influence the development and implementation of AI tools, focusing on compliance strategies, data governance and harmonization of insolvency legislative frameworks.

The ultimate goal of the paper is to develop a set of best practices and learnings which can be uniformly adopted by the EU member states to leverage AI and create a more efficient, equitable, and resilient insolvency framework. The paper shall also provide a nuanced understanding of how AI and the EU AI Act can contribute to bridging the gaps in Europe's insolvency regimes, fostering greater efficiency, transparency and fairness.

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