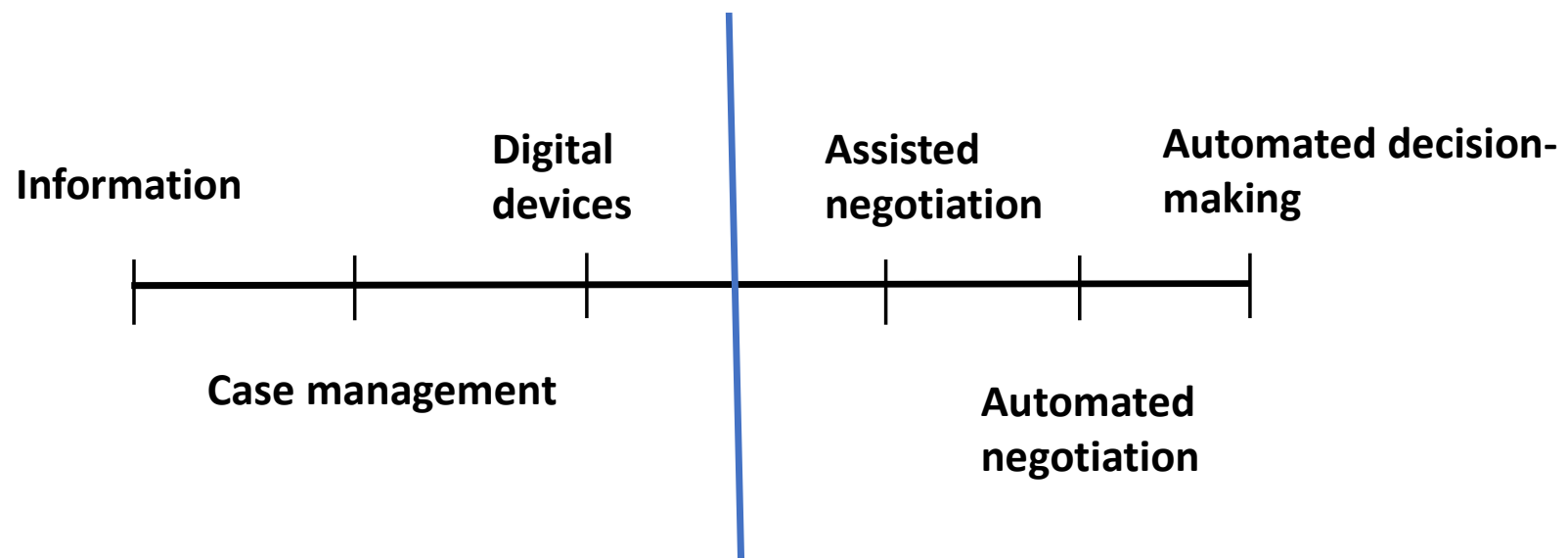


CAN MEDIATION BE DIGITAL? Challenges to the digitalization of mediation

Petra Hietanen-Kunwald |
post-doctoral researcher HY |
petra.hietanen-
kunwald@helsinki.fi

ODR



From: Lin Adrian, *SMART konflikthåndtering – online dispute resolution og access to justice*, 2018

Examples

- Mediation Room
 - Platform for information management; exchange documents and communicate with parties without having to meet face to face.
- E-bay dispute resolution procedure
 - Questionnaire based algorithmic expert system mediates small claim disputes that have arisen in e-commerce.
- Smart settle
 - Decision support system that aims to find the settlement zone among the parties on the basis of the parties' listed interest.
- Justice42 (Rechtwijzer)
 - Online-platform for solving legal disputes; Uitelkaar.nl: divorce platform.

Distinctive elements of mediation

Process - related

- structured
- predictable
- role models
- legal rules and principles
- quality in relation to training/codes of conduct

People - related

- trust building
- interests and needs
- emotions
- communication

Two dimensions in mediation

legal dimension

- guides behaviour (stabilizes normative expectations)
- processes legal communication (rules and principles)
- "due process"

psychological dimension

- consciousness
- cognition/feeling/motivation
- "mentalizing"

And technology

Technological dimension

- analyses data
- processes data
- executes rules/values

Input

- gathering, evaluating and communicating data relevant for the parties' decision-making
- information
- calculating the *pareto* optimal model
- prognosis (calculating possible outcomes in court – BATNA)
- Generating (brainstorming) and proposing solutions
- sentiment/language analysis/ affective computing

