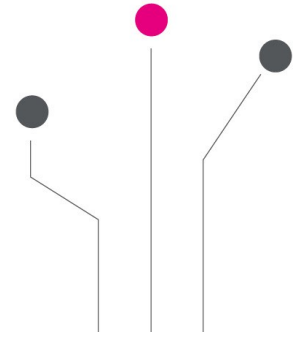


## to the point technology & digitalisation



### Preface

#### AI in civil proceedings?

According to the Supreme People's Court, China's three internet courts in Beijing, Hangzhou and Guangzhou allegedly closed 200,000 cases within three years using AI. Meanwhile, Estonia introduced the development of the first "AI judge" in 2019 and in London drivers can appeal parking tickets via a "robot lawyer app". Will AI be used in domestic courts? And if so, when?

Not anytime soon. In Germany, the "Modernisation of Civil Procedure" working group advocated earlier this year – amongst other [proposals](#) – to finally abolish fax submissions to reserve the deadline before filing electronically. Also, the German government recently submitted proposed [legislation](#) to expand the electronic delivery system beyond courts and attorneys. Austria's justice system struggles with digitalisation; hardly any cases are solely administered electronically, i.e. paperless.

AI in court – let alone an AI judge – seem a long way off; but AI could be used to assist judges. The German Working Group sees potential for AI to assist in rendering decisions on determination of court costs and lawyers' fees. The limited and regulated scope of cost decisions could indeed be a potential trial run for using AI in court proceedings – once electronically administered cases and virtual hearings are no longer a taboo.

See also [Court hearing via social network – has Europe missed its chance?](#)



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#### Webinar | **NFT: An all-round legal view of Non-Fungible Tokens | 23 June and 30 June 2021**

Join our webinar to get a 360° NFT legal perspective - from ip law to it & technology law, civil law & contract law and energy law! [Learn more and register here.](#)

#### To the Point:

- **NFTs – Let's talk about energy and climate issues**  
Non-fungible tokens and cryptocurrencies are often criticised for their energy consumption and connected greenhouse gas emissions. How is it possible that almost every other sector is occupied with multiple regulations on energy efficiency and GHG-emission restrictions while in crypto-related projects, energy in general, and energy from fossil fuels in particular is used on a big scale? [Christoph Cudlik](#) and [Michael Kern](#) provide answers [here](#).
- **Formulating a smart contract and minting an NFT**  
The process of creating a token and deploying it onto the blockchain is commonly referred to as minting. Minting requires, among other things, a smart contract. No, that's not a super smart contract in the legal sense, but a program that runs on the blockchain.

Click [here](#) to learn more about the [technical aspects](#) of the process of creating an NFT, i.e. considerations on whether to formulate and deploy or use an existing standard smart contract, the process of minting an NFT, and how an NFT can become unambiguously assignable and permanently linked to the artwork and the associated data (keywords: URI, IPFS, hash value), as

well as about the related [legal aspects](#), i.e. whether a smart contract may be protected by copyright and why you should be aware of misleading advertising in the process of creating an NFT.

[Guido Kucsko and Anna Katharina Tipotsch](#)

- **Insects: the diet of the future?**

With Regulation (EU) 2021/882 of 1 June 2021, the EU Commission has authorised dried yellow mealworms (*Tenebrio molitor*) as a novel food. A novel food had not been consumed to a significant degree by humans in the EU prior to 15 May 1997 as it required an authorisation. Prior to the decision, the EFSA considered the consumption of dried yellow mealworms to be safe. And there's more to come. Several applications for authorisations are still pending, including for crickets, grasshoppers and buffalo worms. Bon appétit!

[Andreas Natterer](#)

- **Austria's Digital Green Certificate**

On 26 May, the Austrian Parliament agreed on a domestic legal basis for the Digital Green Certificate. This certificate is intended to prove COVID-19 vaccination, a negative test result or recovery wherever such proof is required (e.g. vis-à-vis controlling authorities such as the Border Police, event organisers, accommodation facilities, airlines, restaurants, sports venues, recreational facilities, etc.). Following a proposal of the European Commission, the Europe-wide green certificate is designed to standardise the use of the digital certificates of all EU Member States to ensure the Intereuropean freedom of travel.

Austria intends to implement its Digital Green Certificate even before the other EU Member States and to exceed the intended scope of application, planning to use it in parts as a replacement for the national vaccination card and as evidence for entry and exit tests from high-risk regions.

After widespread criticism from various stakeholders on the first governmental proposal for the legal basis of the certificates, which mainly concerned issues of necessity, data protection and constitutionality, the government decided to amend the proposal and to refrain from implementing some planned features. The amended version was then approved. Still, it remains to be seen whether the certificate will work as intended and, more

importantly, whether the legal concerns are justified and will lead to a review by the Constitutional Court.

[Read the full article online!](#)

[Florian Terharen](#)

- **Now it's official! Digital securities in Germany**

At the end of May, the German Bundesrat finally approved the introduction of digital securities through the "eWpG", which it passed at the beginning of May.

This opens German law to digital securities. The current requirement for securities to be issued in paper form will no longer apply without restriction. In future, securities can also be issued purely by digital means. The paper form is to be replaced by e-registration either in a register kept by a central securities depository or a custodian (*Zentralregisterwertpapier*) or in decentralised crypto securities registers based on blockchain technology (*Kryptowertpapier*). This is surely a great development for the future of digital assets and brings Germany yet again to the forefront of technological adoption.

[Dominik Tyrybon](#)

- **New crypto AML requirements?**

The German Federal Ministry of Finance recently published the first draft of the KryptoTransferV, a new legislative act specifying AML requirements for crypto transactions between regulated custodians / financial service providers and unregulated addresses (i.e. "unhosted wallets"). To read the whole draft, please click [here](#) (note: only in German).

[Dominik Tyrybon](#)

- **Risks in the surge of SPACs**

The COVID-19 crisis has led to a surprising upsurge in transactions using special purpose acquisition vehicles (SPACs), which are now a popular alternative to taking companies public. Through SPACs, retail investors can invest in companies that otherwise would have to face several VC financing rounds before launching an IPO.

A turning point may have been reached, however, as the market for SPACs is oversaturated, according to analysts. In the US, hedge funds are increasingly shorting SPACs (USD 724m of short positions at the beginning of 2021 has jumped to USD 2.7bn in less than three months).

Due to the uptick in SPAC transactions, the Securities and Exchange Commission (SEC) has also drawn attention to SPACs and criticised the information transparency in particular. It has also published guidance on SPAC disclosures and criticised the liability rules and the lack of control over SPAC deals.

Any regulatory changes for SPACs would probably be even more damaging than regulatory scrutiny. Currently, SPACs can provide financial projections for the target company, as is typical in VC transactions. Their liability framework is much more limited than for publicly traded companies, and extending it would wipe out this significant advantage of SPACs to offer projections.

While no significant SPAC lawsuits have been filed yet, this may be expected due to the litigious nature of M&A. New disclosure requirements by the SEC may provide a

basis for plenty of litigation. Similarly, the do-or-die nature of SPAC settlements causes vulnerability to fiduciary breach lawsuits. But whether SPACs manage to retain a place in the market in the long-term will depend on their performance.

[Stepan Nikolaus](#)











- **AI, Machine Learning & Big Data in 2021**

The latest insights into AI, Machine Learning & Big Data in 2021 are ready for you to read! The Global Legal Insights series provides essential insights into current legal issues, providing readers with expert analysis of legal, economic and policy developments. We enjoyed contributing our knowledge to the Austrian chapter of this Global Legal Insights publication.

[Enjoy the read!](#)

[Thomas Kulnigg](#) and [Günther Leissler](#)

For further information, please contact any of the individuals named above, your usual contacts at Schönherr or any member of our [technology & digitalisation group!](#)

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