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EUROPEAN
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PART 2/2

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828

{COM(2023) 649 final} - {SEC(2023) 347 final} - {SWD(2023) 334 final} - {SWD(2023) 337 final}

TABLE OF CONTENT

GLOSSARY 2
1. Context 3
1.1. General Introduction 3
1.2. Purpose and Scope of the Evaluation 4
2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION? 4
2.1. Background to the ADR Directive 4
2.2. ADR Directive Intervention Logic 5
2.3. Baseline and Points of Comparison 7
2.4. State of Play on the Implementation of the ADR Directive across the EU 9
3. HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD? 9
4. EVALUATION FINDINGS 14
4.1. Effectiveness 14
4.2. Efficiency 18
4.3. Coherence 24
4.4. Relevance 27
4.5. EU added value 32
5. WHAT ARE THE CONCLUSIONS AND LESSONS LEARNED? 36
5.1. Six main lessons from the evaluation of the ADR legislation 36
5.2. Conclusion 36
ANNEX I: PROCEDURAL INFORMATION 38
ANNEX II: METHODS AND ANALYTICAL MODELS 39
ANNEX III: QUESTIONS MATRIX FOR THE ADR DATA COLLECTION STUDY 67
ANNEX IV.A: AMENDMENTS TO THE NATIONAL LEGAL FRAMEWORKS IMPLEMENTING THE ADR DIRECTIVE 87
ANNEX IV.B: STATISTICS ON ADR DISPUTES (2018-2021) 90
ANNEX IV.C: NATIONAL MONITORING SCHEMES 104
ANNEX IV.D: LIST OF ADR GRANT AWARDEES 112
ANNEX V: OVERVIEW OF COSTS AND BENEFITS 118

GLOSSARY

Acronym	Definition
ADR	Alternative Dispute Resolution
AI	Artificial Intelligence
B2B	Business to Business
C2B	Consumer to Business
C2C	Consumer to Consumer
CJEU	Court of Justice of the European Union
CPC	Consumer Protection Cooperation
DSA	Digital Services Act
EEA	European Economic Area
ECC-Net	European Consumer Centres Network
FIN-Net	Network of Financial ADR entities
MS	Member State(s)
NEB	National Enforcement Body
ODR	Online Dispute Resolution
RAD	Representative Actions Directive
SME	Small and Medium Enterprises
TFEU	Treaty on the Functioning of the European Union

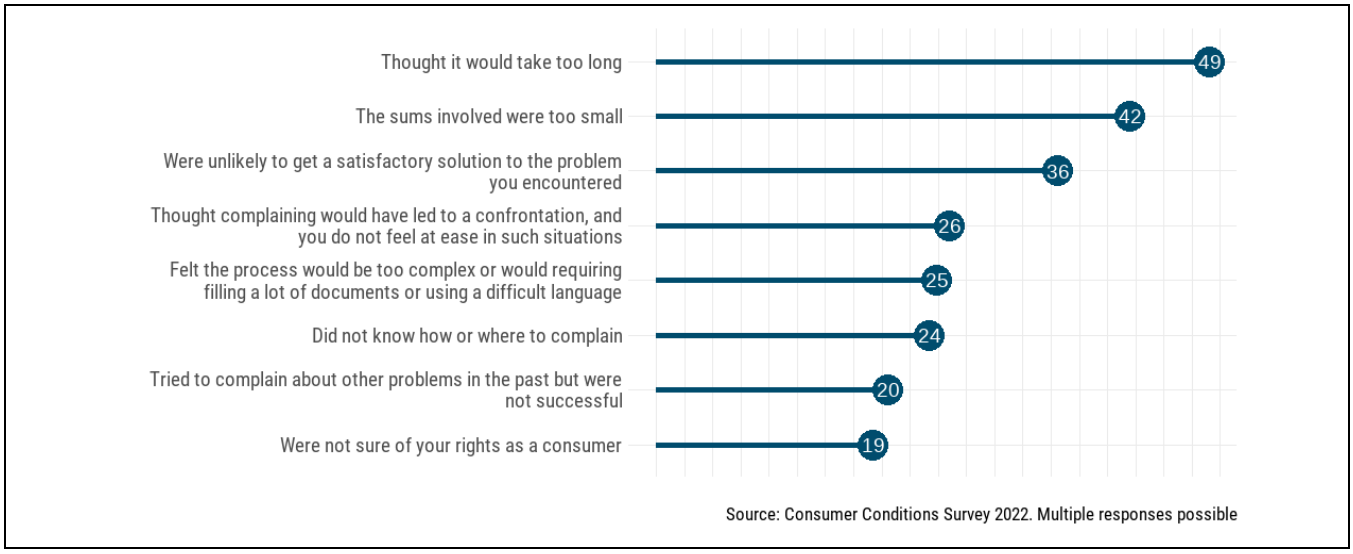
ANNEX 7 EVALUATION

1. Context

Consumer expenditure in the EU generates more than half of the EU GDP. Overall, consumer transactions take place smoothly in the EU thanks to the extensive body of consumer protection laws. Consumer requests are mostly resolved by a talk with traders thanks to sound after-sales mechanisms.

However, there is a significant share of EU consumers who are not complaining because they do not trust their problems will be solved in an efficient and/or rapid manner. Data from the 2022 Consumer Conditions Survey indeed shows that 25% of consumers encountered a problem when buying goods or services from a trader in their own country in the last 12 months, for which they felt there was legitimate reason to complain but almost half (12% of all consumers) took no further action. Among those, 49% felt it would take too long, 42% considered the sums involved were too small and 36% felt it was unlikely to get a satisfactory solution (see graph below).

REASONS WHY CONSUMERS ENCOUNTERING PROBLEMS DID NOT COMPLAIN (%)



In this respect, the EU out-of-court dispute resolution legal framework established in 2013 aims at helping EU consumers and traders resolve domestic and cross-border disputes in a fair, transparent, affordable and fast way. The rationale for an EU intervention in the domain was to encourage and empower consumers to take action to resolve disputes when they do not manage to reach an amicable solution with traders. Respecting quality criteria in out-of-court dispute resolution was indeed considered key to ensure equal access to consumer redress across the EU and a higher level of trust in such schemes. Although ADR is not meant to replace court litigation, it is an effective redress mechanism to resolve low-value disputes, as resorting to court is more costly and often much more time-consuming.

1.1. General Introduction

The Alternative Dispute Resolution (ADR) Directive[1] was adopted in 2013 **with a minimum harmonisation approach, to cater for the different ADR cultures and national frameworks that existed across the different EU Member States**. It reflects the no one-size-fits-all method adopted by the EU for enforcement matters which are mainly the responsibility of Member States. The objective was to propose a set of harmonised quality requirements to ensure that ADR schemes are fair, independent and impartial whatever the model, including where ADR schemes are financed by industry/trade associations.

1 Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR), OJ L 165, 18.6.2013, p. 63.

Member States are required to ensure that all EU consumers can benefit from out-of-court dispute resolution across all economic retail sectors for free or at an affordable fee.

The parallel adoption of the Online Dispute Resolution (ODR) Regulation[2] enabled the Commission to design and manage the ODR Platform which is a single multi-lingual point of entry to put consumers seeking to resolve disputes out-of-court in contact with the trader. The Commission lists the quality ADR entities notified by the ADR Competent Authorities on the Platform to ensure clear information and easier access to consumers.

The 2019 Commission ADR/ODR Application Report[3] concluded that all Member States registered progress in their ADR landscape thanks to the ADR Directive although the overall uptake of ADR, especially to resolve cross-border disputes, remained low. The main issues flagged were:

- consumers may not be sufficiently aware and informed of the applicability of consumer protection rules and of the existence of cross-border means of redress;
- traders are not always keen to engage in ADR;
- other practical challenges e.g. costs, language barriers, no clarity on the applicable law to be used in a cross-border context, lack of easily accessible online procedures.

1.2. Purpose and Scope of the Evaluation

This evaluation of the ADR Directive is being carried out in line with the Better Regulation Guidelines and Toolbox. It assesses the 5 main evaluation criteria (efficiency, effectiveness, relevance, coherence, EU added value), highlighting how ADR has been applied on the ground, as well as at the challenges and shortcomings in the implementation of ADR at national and cross-border levels across all the EEA countries. It is based on the outcome of consultations and studies carried out over the last 2 years[4], providing extensive quantitative and qualitative data from 2018-2021, as well as lessons learnt from the ADR Directive implementation. The 2019 Commission ADR/ODR application report focused on the period between the entry into application of the ADR Directive in 2015 until 2018.

Article 26 of the ADR Directive obliges the Commission to report every 4 years to the European Parliament, the Council and the European Economic and Social Committee on the application of this Directive on the development and use of ADR entities and the impact of the ADR Directive on consumers and traders, in particular on the awareness of consumers and the level of adoption by traders. That report shall be accompanied, where appropriate, by legislative proposals for amendment of the ADR Directive. This evaluation is to complement the application report and is necessary to support the Commission's proposal to review the ADR Directive. This is why, in 2022, the Commission launched on the "Have your Say" website two public consultations: i.e. backward-looking approach[5] and forward-looking approach and a Call for Evidence[6] to highlight possible policy options should the need arise to revise the ADR Directive.

An external data collection study[7] was also carried out in 2022 by a contractor to support the Commission's above-mentioned work, following a call for services under a framework contract.

2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?

2 Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), OJ L 165, 18.6.2013, p. 1.

3 COM/2019 425 final, Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the application of Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2019:425:FIN

4 For an overview of all consultation actions and desk-based review, please consult the Stakeholder Annex to the Impact Assessment.

5 Available in all EU languages between 4 April and 27 June 2022; https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13417-Resolving-consumer-disputes-out-of-court-report-_en.

6 Available in all EU languages between 28 September and 21 December 2022; https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13536-Consumer-rights-adapting-out-of-court-dispute-resolution-to-digital-markets_en

7 https://data.europa.eu/doi/10.2838/15448

2.1. Background to the ADR Directive

The current ADR Directive aims to ensure EU consumers have access to high-quality ADR to resolve their contractual disputes arising from the sale of goods or services. To benefit from the ADR system, consumers need to reside in the EU and the traders need to have their statutory seat, central administration or place of business in the EU. The Directive covers both domestic and cross-border consumer-to-business (C2B) disputes throughout the EU. Member States are to establish all the aspects of their national ADR framework, including its governance and the model that ADR entities must follow.

ADR entities may be public or private independent bodies or closely connected to traders and trade associations, and they may have sectoral or general competence in terms of market sectors. Some Member States also provide geographical competence i.e. at regional level (e.g. ES and HU) or a residual system i.e. a centralised ADR scheme resolving a wide range of disputes or covering all disputes not covered by the other ADR bodies (e.g. EE, LV, LT, SK) to ensure there are no gaps in access to ADR.

The procedures vary from consumer arbitration[8] to mediation[9] or ombudsman schemes to reach mediated or arbitrated settlements with traders, delivering binding or non-binding outcomes.[10] Direct negotiation between the consumer and the trader (amicable settlement) is excluded, as well as internal complaint handling procedures operated by the trader. Judicial settlements fall outside of the scope of the Directive. In most countries, ADR proceedings are voluntary for traders although many Member States adopted sector-specific provisions that make trader participation mandatory.

To qualify as quality ADR entity, the entity has to comply with all the quality requirements outlined under Chapter II of the ADR Directive (expertise, independence, impartiality, transparency, effectiveness, fairness, liberty, legality). Member States have to set up one or several competent authorities[11] that should accredit and monitor the compliance of ADR bodies with the quality requirements and notify them to the Commission.

The Directive was built on the European Commission Recommendations 98/257/EC[12] and 2001/310/EC[13].

2.2. ADR Directive Intervention Logic

The below intervention logic summarises how the EU action was originally expected to work at the time of adoption of the ADR Directive (in 2013):

8 In arbitration, the third party listens to both sides, assesses what the outcome of the dispute should be and proposes a solution based on the assessment.

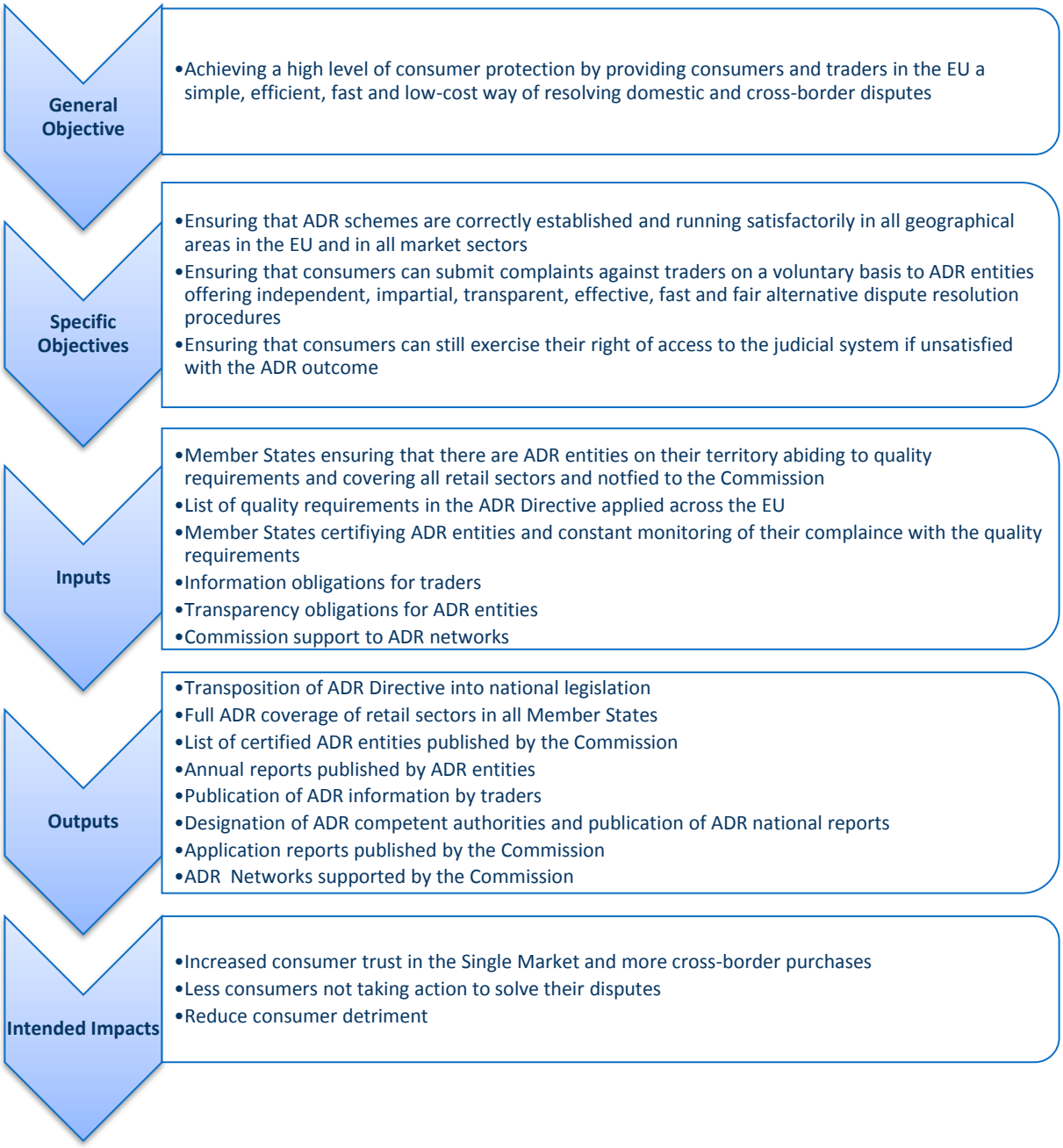
9 In mediation, the ADR entity clarifies the facts of a dispute, establishes the views of the parties and helps them agree on a solution acceptable to both parties.

10 According to the Swedish Consumer Agency, more consumers would turn to ADR if they are guaranteed a qualified legal assessment in the form of a recommendation rather than mediation.

11 The following MS notified more than one ADR Competent Authority: AT, DE, ES, IT, NL.

12 Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.

13 Commission Recommendation 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes.



Considering the minimum harmonisation approach, the aim of the Directive was not to be prescriptive, but principle based. It assigned the following roles to the various parties which should be considered as the EU level **input into the system**:

Member States:

Permit ADR entities to maintain and introduce procedural rules that allow them to refuse to deal with a given dispute

Encourage ADR entities to join sector-specific ADR networks

Designate a competent authority to assess whether ADR entities comply with the listed quality requirements or not;

Communicate to the Commission the designated competent authority, including the single point of contact if relevant, and notify the Commission the list of qualified ADR entities on their territory;

Ensure sufficient assistance to consumers on cross-border ADR

Ensure that every 2 years, ADR entities send a report to the competent authority

Publish and send to the Commission a report on th and functioning of ADR entities every 4 years

ADR entities:

Explain procedures on a website with easy access to information, enabling consumers to submit a complaint online; or on a durable medium, if requested;

Ensure access by parties to ADR without being obliged to have a lawyer or a legal advisor;

Charge a nominal fee to consumers;

Deliver an outcome within a period of 90 days from the date on which the ADR entity has received the complete complaint file unless the dispute is complex;

Enable the parties to withdraw at any stage if they are dissatisfied with the performance or the operation of the procedure;

Inform the parties of the binding nature in advance, if so.

Roles assigned by the ADR Directive

Traders:

Inform consumers about the ADR entity or entities, and their contact details, by which they are covered;

Provide the information in a clear, comprehensible and easily accessible way on their website, if applicable and in the general terms and conditions of sales or service contracts;

Be encouraged to participate in ADR, unless ADR is mandatory in their market sector through national or EU legislation

European Commission:

Support and facilitate the networking of ADR entities and exchange of best practices;

Publish a list of qualified ADR entities notified by the competent authorities on its website;

Submit an application report, every 4 years, to the European Parliament, the Council and the European Economic and Social Committee; and where appropriate to be accompanied by proposals for amendment of the ADR Directive.

These inputs in turn lead to **outputs** consisting in the transposition, the practical application and enforcement of the Directive. These outputs are directly observable.

The overall expected output is access to quality ADR schemes across the EU providing assurance that ADR entities are up to the required quality standards and subject to assessment and monitoring of ADR competent authorities. The structural aspect of this output was already confirmed by the 2019 Commission report: all Member States had designated competent authorities and put in place accreditation and monitoring procedures and the required sectoral coverage was achieved. The Commission, received over the last eight years a very small number of complaints from consumers flagging gaps in the system e.g. scepticism on the non-impartiality of some ADR entities, delays in providing a final result, traders not complying with the ADR outcome. The limited number of questions permit to conclude that the Directive delivered its desired quantitative output.

However, this output is not sufficient to conclude that the overall objective of a swift and affordable handling of low-value consumer disputes in all markets is achieved, especially in respect to digital markets, which are continuously gaining market share and where consumer disputes are becoming more complex (e.g. involving an intermediary providing a service on a marketplace, involving non-EU traders or hidden marketing techniques and dark patterns) as extensively described in the driver section of the Impact Assessment to which this evaluation is annexed.

2.3. Baseline and Points of Comparison

During the preparatory work of the ADR Directive in 2010-2012, digital markets were not so complex, online shopping had not picked up to the extent we know it today, and the ADR culture in some Member States was either weak or non-existent. The 2011 Impact Assessment[14] which had accompanied the original legislative proposal provided a snapshot of consumer ADR in that era:

14 SEC(2011) 1408 final. Pg. 22.

- 57% of EU consumers considered the resolution of problems more difficult when shopping cross-border;
- 78% of EU consumers did not take their dispute to court because they thought it would be too expensive, lengthy and complicated;
- 48% of EU consumers thought it was easy to resolve disputes through ADR rather than in court,
- only 9% of businesses reported having ever actually used ADR. 54% of businesses said that they preferred solving disputes through ADR rather than in court and 82% of traders who had already used ADR would use it again in the future.

Losses incurred by EU consumers because of problems with purchased goods or services were estimated at 0.4% of the EU GDP[15]. The ECC annual report 2010[16] reported that out of 44,232 requests for advice and assistance with cross-border complaints and disputes, more than 900 cases (58.5% of the transferred cases) were passed on to out-of-court settlement bodies (ADR); i.e. approximately 0.02% of the total number of disputes. In contrast, below is a more recent snapshot of the transferred cases by ECC-Net to ADR implying that in many Member States, ADR is working well and that the ECCs and ADRs engage in knowledge sharing and cooperation activities at national level. Given the expertise of the ECC-Net in handling cross-border disputes, the Network is geared to take a more active role in facilitating cross-border ADR i.e. in signposting and assisting consumers to file a cross-border ADR claim by focusing on improving awareness and acccess to ADR.[17]

Year	ECC transferred disputes to ADR, NEB, ESCP, EPO	To ADR specifically	Total Cases	% ADR
2020	18,785	**9320**	167,788	**6**
2021	14,909	**6713**	126,751	**5.5**
2022	15,745	**7118**	126,898	**6**

The 2011 Impact Assessment[18] reports that before the introduction of the Directive, 22% of the ADR schemes across the EU did not have a website of their own and half of the existing ADRs did not provide online access to ADR procedure. In 41% of ADR schemes, consumers had no information about the use of, the number of cases and the past performance of the ADR scheme. The ADR Directive had improved consumer information on ADR and obliged ADR entities to have online access.

The 2023 Consumer Conditions Scoreboard[19] records that 45% of consumers felt that it is easy to settle disputes with retailers and service providers through an out-of-court body, compared with 34% who felt that going through the courts is easy. This perception difference is common to all Member States, although the difference varies considerably due to the different ADR landscapes found in each Member State.

The below graph (Figure 24) shows the respondents' perception on how easy it is to settle disputes with retailers and service providers through ADR and Courts: **It is easy to settle disputes with retailers and service providers through an out-of-court body (ADR) and courts - (strongly agree + agree, %)**

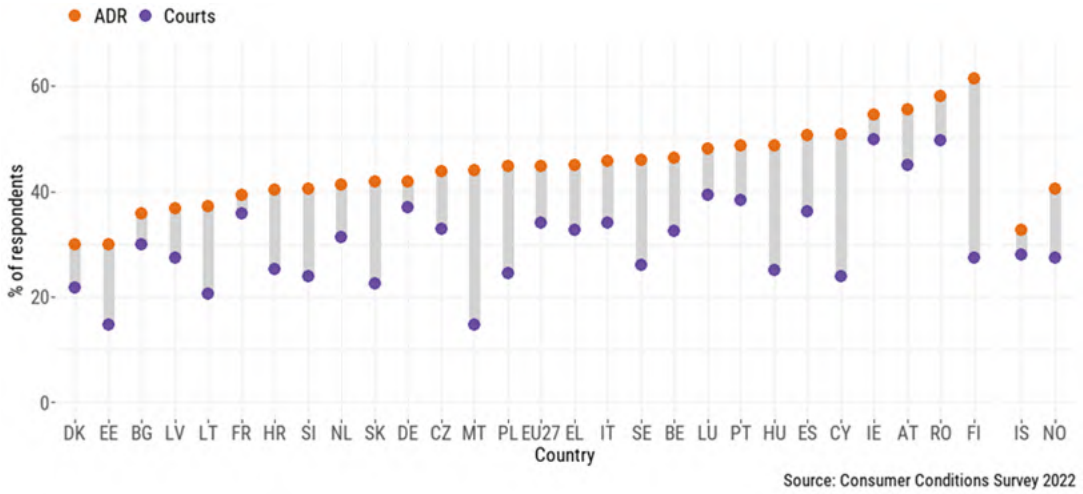
15 See Explanatory Memorandum to the Proposal to the ADR Directive; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52011PC0793

16 https://eccnetmalta.gov.mt/wp-content/uploads/2022/04/ECC-NET-2010.pdf

17 Recent results of the ECC-Net survey on the functioning of ADR and more information about how the ECC-Net foresees its role in the future of ADR: https://www.eccnet.eu/news/eu-cross-border-dispute-resolution-agenda

18 On page 25.

19 https://commission.europa.eu/document/89ea35fe-728f-4749-b95d-88544687583c_en



The oldest cohort (65+) is significantly less likely to agree with the ease of settling disputes via the courts (28%) or through an out-of-court body (39%). When asked about different hypothetical claims of varying value and duration in time, consumers were generally more willing to devote more time and effort to claims of higher value. While 58% of those surveyed would be prepared to drop their case and lose the money for a claim of EUR 50 or less, 31% would use ADR irrespective of the time required for a claim in the range of EUR 5,000 to EUR 10,000.

This evaluation will therefore seek to respond to the **following fundamental question:**

To what extent has the ADR Directive assisted consumers resolve their disputes with traders in a satisfactory manner and in line with its harmonised quality requirements?

2.4. State of Play on the Implementation of the ADR Directive across the EU

In view of the **minimum harmonisation approach**, the Directive does not prescribe a specific model in terms of the ADR entity's corporate identity, funding model or territorial and sectoral coverage. Equally, the Directive does not prescribe a specific type of ADR procedure or regulate the question of whether participation in the procedure is voluntary or mandatory or whether the procedure's outcome is binding or not. Member States may establish or maintain quality requirements that go beyond those laid down in the Directive. In complying with their obligation to ensure 'full ADR coverage' and designing their national ADR landscapes, **Member States therefore enjoy a considerable degree of flexibility in terms of implementation**.

Albeit slight delays by 16 Member States to communicate national implementing measures on time (by mid-2015), a transposition check concluded in 2018 confirmed that all EU countries transposed the ADR Directive in the national legislation in a satisfactory manner. Annex IV.A provides a list of amendments to the national legal frameworks implementing the ADR Directive, as communicated by the ADR competent authorities.

3. HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD?

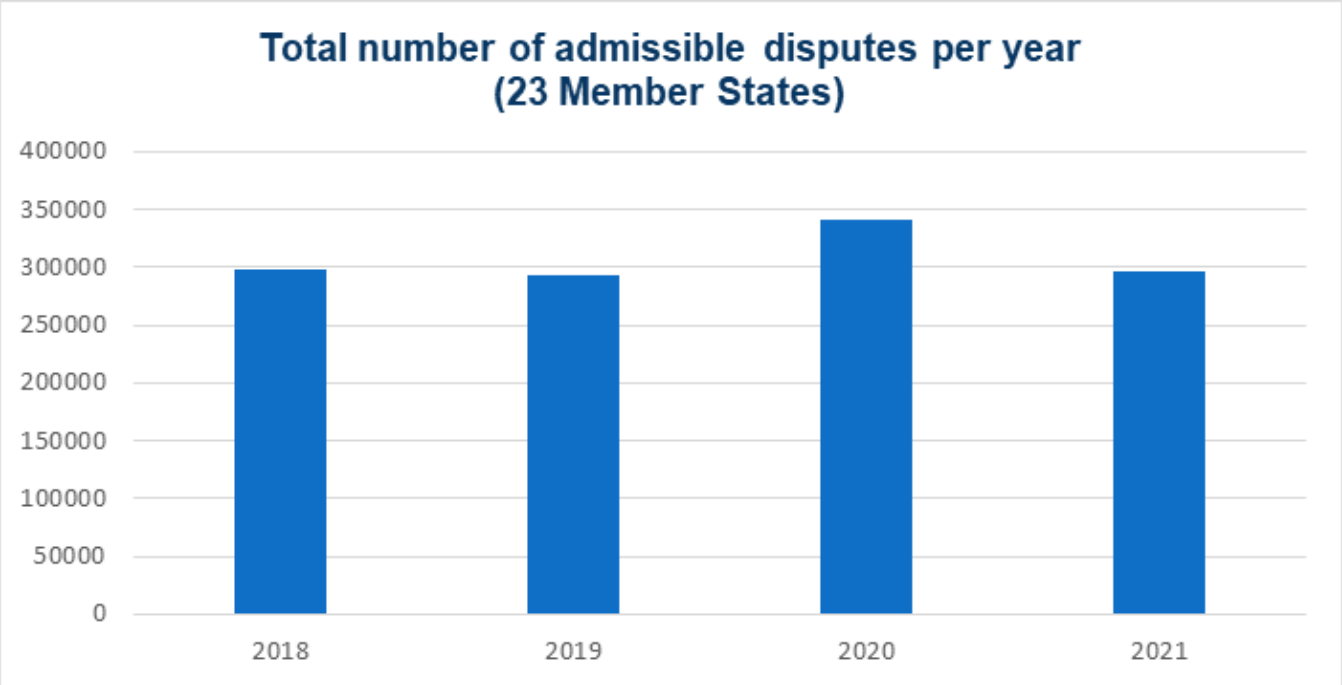
Within the EU, 43% of retailers are unaware of the existence of ADR as a means to resolve disputes with consumers,[20] while 8% are aware but not willing to use it, and 13% report being aware but not finding a suitable ADR in their sector.[21] The Consumer Conditions Survey of 2021[22] revealed that only 5% of EU consumers who encountered a problem reported it to an ADR body, which accounts for roughly 2,250,000

[20] This figure accounts for all retailers, including those operating in sectors in which consumer disputes are unlikely to arise.
[21] Consumer Conditions Scoreboard - Consumers at home in the Single Market, 2019, consumers-conditions-scoreboard-2019_pdf_en.pdf (europa.eu).
[22] https://commission.europa.eu/system/files/2021-03/ccs_ppt_120321_final.pdf.

consumers annually.[23] This figure represents a mere 0.75% of the total number of consumers, and only 15% of those who were dissatisfied with their retailer or service provider's handling of their complaint.[24]

Statistics by ADR competent authorities

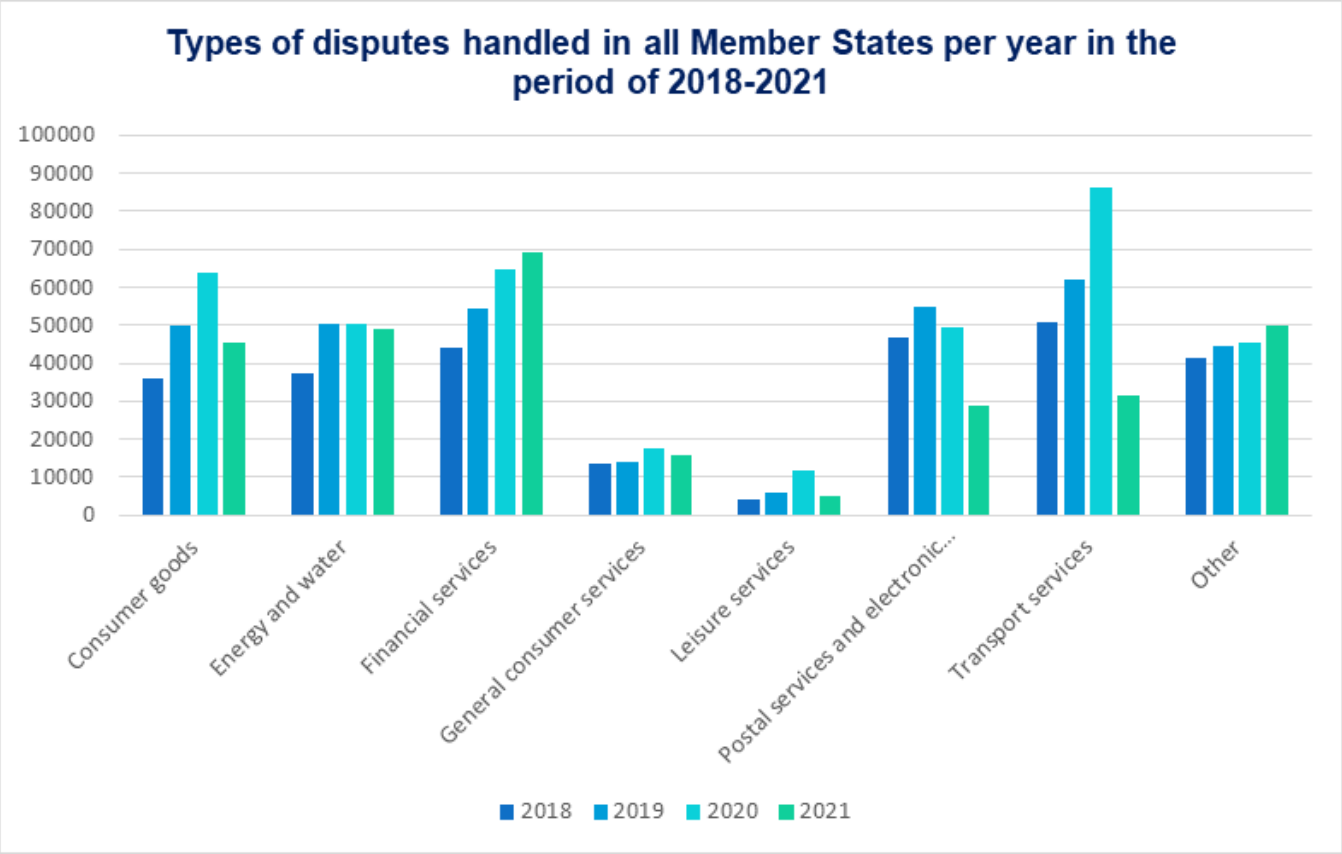
Based on data available from 23 Member States[25], it appears that the **use of ADR has been relatively stable since 2018, with the notable exception of 2020, which was an anomaly due to the impact of COVID-19** mostly due to travel services cancellations and the ensuing reimbursement requests that were refused by airlines and service providers in the tourism industry.



[23] 15% of the total (300 million consumers in the EU above 15 years old), i.e. 45 million consumers, experienced a problem and took action to solve it, out of which 5% brought the matter to an ADR body.

[24] On the other hand, available estimates regarding ADR in the UK suggest that only 28% of consumers in regulated sectors and 16% in non-regulated sectors are aware of its existence. (Resolving consumer disputes - Alternative Dispute Resolution and the Court System, 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698442/Final_report_-_Resolving_consumer_disputes.pdf).

[25] Data for BE, FR, IS, LI, LV, RO and MT was not reported for one or more years, and has therefore been excluded from this analysis.



The total number of admissible ADR cases between 2018-2021 range from around 500 (in HR) to over 264 000 (in DE). The highest number of disputes launched in a given year was in DE (over 80 000 cases in 2020), followed by IT (over 69 000 cases in 2020), closely followed by FR (67 000 cases in 2020). The lowest number of cases in a given year was in HR (49 cases in 2020). But when the population size is taken into account, the picture changes somewhat such that the highest density of ADR cases per capita are found in NO, EE and LT while the lowest are in the South and East of Europe. The average success rate for ADR cases (i.e. actual number of cases resolved by the ADR entities) between 2018 and 2021 varies enormously from just 17% to 87%. The majority of Member States (16) have a success rate of above 50%. This success rate depends on various factors, including: whether consumers had contacted the trader to try to resolve the dispute bilaterally before going to an ADR, whether the procedure is simple to follow, whether the ADR entity contacted is competent to resolve the dispute, whether the trader engages or not in the ADR process, etc. In most cases (all but four Member States), ADR is not a compulsory step before going to court[26].

Average time spent per dispute

The Directive provides a 90-day timeframe to resolve a dispute and allows an extension for complex cases even though no definition of complex cases is given. **Data shows that the average duration of an ADR procedure is 85 days**, although it varies from less than 50 days to 180 days depending on the case. The longest average ADR procedures ranged between 145-180 days (FI, SE, DK), while the shortest average procedures reported took less than 50 days (AT, HR, NL, RO). It is important to remember that these figures refer to averages across the Member States, ADR entities and years (2018-2021), meaning in some cases the ADR procedure took much less time or much longer. For example, Ireland reported that the average in one ADR entity was 25 days (telecom sector), whereas in another (financial services sector), the average case took 847 days across the 4 year period. Similarly, Italy reported annual average ADR procedures between 30 days and 390 days depending on the year and ADR entity. Lengthy procedures may be due to lack of staff or specific expertise within the ADR entity, more time needed to investigate

26 The exceptions being FR, PT, IT and DK.

the case especially complex cases submitted in specific sectors e.g. financial. Most Member States are keen on investing in digital tools which will make complaint-handling faster and more cost-efficient (from the submission of the evidence to decision-making) e.g. the use of AI bots would carry out legal assessments such as checking travel documents and analyse the chances of success in a claim; saving the ADR hours of work and achieving a good accuracy rate.

Diverse trader participation

The ADR Directive does not prescribe that ADR should be compulsory on traders, notably to respect one of its objective that the Directive should not prevent consumers and traders from exercising their right of access to the judicial system. In effect, national ADR frameworks are based on the culture, traditions and resources of the relevant Member States; as they deem fit. In six Member States trader participation is always required[27]. In other seven Member States trader participation is mandatory in specific sectors[28] and in further four, trader participation is required under specific circumstances[29]. Data on trader participation is too limited to draw any firm conclusions across the EU. However even for those Member States where trader participation amounted to 90-95% of the cases, the level of participation varies heavily across sectors. Best practices to increase trader participation are: national or EU-sector specific legislation making trader participation mandatory in problematic sectors, naming and shaming, or blacklisting traders who fail to engage in ADR, obliging traders to respond to an accredited ADR entity's invitation letter to participate in the ADR procedure and ensuring clarity on the intention of the trader to engage or not at an early stage.

Below are some examples where mandatory ADR applies:

MS	Cases/sectors where trader participation in ADR is mandatory
CY	When a complaint is launched before the Office of the Commissioner of Electronic Communications and Postal Regulation and the Financial Ombudsman of the Republic of Cyprus
DE	For the sector of air transport, or if the obligation is included in the collective agreement for the given sector
EL	When a complaint is launched before the Hellenic Financial Ombudsman or the Hellenic Consumers' Ombudsman
HR	Trader members of the Chamber of Commerce are obliged to participate
NL	In the sectors of health insurance, and public housing
PT	Since 2019, it has been mandatory concerning conflicts under EUR 5 000, if the consumer requests so, and for any dispute concerning essential public services
SE	If the trader itself has undertaken to resolve disputes with consumers through ADR

11 Member States reported trader participation to be high even if voluntary (i.e. on average trader participated in 90% of all ADR cases between 2018-2021). In some sectors/countries, trader participation is made compulsory not by law but because the trader is part of an organisation making ADR mandatory for its members. The **average percentage of disputes where the trader did not reply to the claim or refused to participate is generally less than 10%** of the total number of cases accepted for handling by

27 DK, HU, IS, LT, LV, SK

28 AT, CY, CZ, DE, EL, ES, NL

29 BE, HR, PT, SE. LI did not respond and in NO it was unclear if it was required or not.

ADR entities in the period 2018-2021; however this percentage fluctuates significantly among Member States:

- In Spain and Croatia, the average percentage of ADR disputes without trader cooperation in the years 2018-2021 is **35% and 20% respectively**. In Croatia this amounts to 91 cases, whereas in Spain this means there were over 46,000 ADR cases where the trader refused to participate.[30]
- In four Member States (BG, EL, LU, SK) the recorded percentages are **between 5%-10%** of traders not willing to participate in ADR between 2018-2021. In addition, reported data from the residual ADR entity in Sweden also shows a non-participation rate of 10%[31]. Data reported by France for 2019 and 2020, show a non-participation rate of 10% and 6% respectively.
- In four Member States (AT, DE, IT, PL) the percentage for non-participation by traders was between **2%-5%** in 2018-2021.
- In two Member States (IE and SI) non-participation by traders is **less than 1%.** In addition, partial data from NL[32] also shows non-participation by traders is under 1%. The Dutch ADR authorities confirmed the high participation rate was mainly in the context of sectoral ADR where their participation is regulated by trade associations rules.
- One Member State reported no cases where the trader refused participation (LT), as the trader's consent is not necessary in the ADR procedure (trader participation is mandatory).

Some examples of how ADR schemes work

In Italy, ADR in telecommunications is voluntary. The Regional Committee for Communications (Corecom) receives 100,000 complaints a year from telecom users. The parties reach an agreement in over 70% of the cases.

As of 16 September 2019, all consumer disputes in Portugal up to EUR 5000 and disputes related to essential services (energy, telecoms, water and waste, postal services, public transport) are now subject to mandatory ADR when the consumer files an ADR claim. Due to the increase of disputes related to essential services, there is a cooperation protocol to ensure closer cooperation between ADR entities and the regulators of essential services.

In Denmark, where traders refuse to participate in the ADR procedure initiated by consumers, ADR entities may accept as correct the factual part of the complaint as submitted by the consumer if it has not been contested by the trader. This in turn increase the chances of the consumers to receive a decision in their favour. This decision will be legally binding if the trader still does not react.

ADR disputes launched by ADR entities where trader did not cooperate

MS	2018	2019	2020	2021	Number of disputes in which the trader did not participate	Total number of disputes	% of disputes where trader did not participate
Austria	232	259	359	365	1,215	25,823	4.71%

[30] In 2021 in Spain, in 51% of disputes the trader did not participate (compared to the average rate of 30% across 2018-2020). This was a jump from the rate of 22% in 2019 and was followed by a significant decrease to 10% of non-participation in 2021. A rate of 51% of non-participation was also recorded in Croatia (compared to the average rate of 17% in 2018-2019 and 2021), which was a significant increase from the rate of 25% recorded in 2020.

[31] Data for Sweden is available only for the residual ADR entity ARN (out of seven ADR entities). To calculate the average, the reported number of ADR cases examined on the merits during the year by ARN was used.

[32] Data for the Netherlands is available only for three out of four ADR entities, namely SGC, KIFID and SKGZ. Data on trader participation for HC was not available. However it should be noted that the data included for SGC excludes those Committees where participation is mandatory, Hence the average non-participation rate reported is likely to be even lower

Bulgaria	2	9	32	24	67	1,103	6.07%
Croatia	6	45	25	21	97	487	19.92%
Germany	2,177	2,262	3,013	2,277	9,729	263,956	3.69%
Greece	578	786	724	655	2,743	38,157	7.19%
Ireland	20	19	34	34	107	20,078	0.53%
Italy	4,034	2,456	2,216	632	9,338	263,198	3.55%
Lithuania	0	0	0	0	0	22 255	0%
Luxembourg	115	82	119	109	425	4,584	9.27%
Netherlands[33]	31	22	90	6	149	38,124	0.39%
Poland	8	133	127	1,235	1,503	71,785	2.09%
Slovakia	19	18	24	13	74	1,386	5.34%
Slovenia	3	0	2	0	5	896	0.56%
Spain	11,100	12,980	12,069	21,076	57,225	163,396	35.02%
Sweden[34]	602	732	1229	1788	4,351	41,405	10.12%

4. EVALUATION FINDINGS

This Chapter is based on the data collected from ADR actors, including consumers obtained through:

- Studies: the ADR data collection study, the ADR Behavioural study and the mini-legal study[35];
- The multi-lingual backward-looking public consultation published on the "Have your Say" website between 4 April and 27 June 2022;
- The virtual ADR Assembly which the Commission hosted on 28 and 29 September 2021;
- The workshop on digital redress tools during the Consumer Summit which took place on 10 February 2022;
- The hybrid cross-border ADR roundtable which took place on 21 June 2022;
- Workshops organised by the Commission targeting the ADR entities handling travel, financial and energy disputes respectively;
- Conferences organised at national level to which the Commission participated and contributed actively;
- National ADR reports submitted by the ADR Competent Authorities in July 2022;
- Case studies and interviews conducted in view of the ADR data collection study.

More detailed information about the consultation methodology and stakeholders views are found in the dedicated Annex to the Impact Assessment.

[33] Data for Netherlands is available only for three out of four ADR entities, namely SGC, KIFID and SKGZ. Data on trader participation for HC was not available. However it should be noted that the data included for SGC excludes those Committees where participation is mandatory, Hence the average non-participation rate reported is likely to be even lower.

[34] Data on the number of disputes where the trader did not participate for Sweden is available only for the residual ADR entity (out of seven entities). Therefore, the total number of disputes also includes data only from the residual ADR entity.

[35] https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/alternative-dispute-resolution-consumers_en#adr-related-studies

4.1. Effectiveness

4.1.1. How successful has consumer out-of-court dispute resolution, in line with the ADR Directive, been for consumer disputes, in quantitative and qualitative terms?

Since the entry into application of the ADR directive, the Commission received less than ten complaints about its effective application via the CHAP complaint-handling platform, petitions or citizen letters. These complaints have been addressed by the Commission through bilateral contacts with the Member States concerned, showing that there are limited problems of compliance to the Directive by the Member States[36].

4.1.2. What are the challenges flagged by stakeholders?

Diverse trader participation questioning whether or not voluntary participation is the best solution

ADR is based on the concept of voluntary participation of the parties to achieve an amicable solution for the dispute in question. From the data in hand, there is **no evidence that mandatory trader participation in ADR is a better solution for consumer outcomes** and neither that voluntary ADR is a systemic failure of the Directive to ensure efficient access to ADR across the EU. National or EU sector-specific legislation (e.g. see Article 26 in the Electricity Directive[37]) may make ADR mandatory (either in an overarching manner, for specific sectors only, or where disputes do not surpass a specific amount). If the ADR Directive had to introduce mandatory ADR, it would have potentially entered into conflict with constitutional rights in some Member States. One also has to bear in mind the capacity of ADRs themselves potentially facing an immense workload if ADR was mandatory across all sectors. In this context, the specificity of ADR entity in the energy sectors has to be noted, where most ADR follow the "Ombudsman-structure" with guaranteed access to adequate financing which allows them to handle also big-workloads in a cost-effective manner – but this cannot be guaranteed for all sectors.

The issues are **rather to be looked at in how the various Member States have transposed and implemented the Directive** including where there could be some specific sectors where a key ADR entity is not functioning well such as financial services ADR in Spain due to a massive delay (at least 4 years) to establish a public Financial Ombudsman.[38]

Trader compliance to an ADR outcome is uneven

Recital 49 of the ADR Directive provides that the Directive does not require the outcome of the ADR procedure to be binding on traders. Thus, the extent to which an ADR outcome is binding on traders depends on the national rules in each Member State. At present, the ADR outcome is only binding in certain ADR procedures/under certain conditions in 17 Member States, while it is never binding in eight Member States. Although many Member States lack accurate data on the level of compliance of traders with the ADR decisions, almost a third of Member States interviewed in view of the ADR data collection study noted that even where ADR decisions were not binding, traders generally still complied with the result[39], for instance because traders were generally committed to comply with the result if they had already agreed to participate in ADR[40] or where subscription based ADR entities, meant traders were committed to follow their decisions[41]. Voluntary compliance was also driven by traders' wish to give good customer service and find solutions. The main factors which impact the level of compliance of traders are the legal effects of the ADR decision, the extent to which the compliance by traders is monitored and if the decision is binding, the extent to which it can be/is enforced in practice. Some Member States even introduced the "name and shame" and blacklisting practices which according to them induces positive competition between traders. Although this option may be a go-to option for Member States, politically it

[36] E.g. delayed establishment of the financial ADR Body to resolve consumer financial disputes in Spain, the role of consumer organisations in the composition of Hungarian ADR entities, the requirement of mandatory legal assistance in certain ADR disputes in Italy, lack of independence of ADR entities in Latvia, complexity in the ADR framework in France, etc.

[37] Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L0944.

[38] https://cincodias.elpais.com/cincodias/2021/01/20/mercados/1611165017_362328.html [accessible on 6 March 2023].

[39] AT, BG, DK, EE, ES, FI, IS, NO, SE.

[40] AT, BE, DE.

[41] Two other Member States (NL, SE) linked the high compliance rate with the fact that these were

is difficult to be introduced in the Directive as it may be seen detrimental to traders' reputation and potentially increase litigation by traders against ADR entities.

In Finland, the success rate of the traders' compliance is 80-100% and this is linked not to the regulatory approach but to the culture behind it and the importance of traders' reputation and cooperation.

It must be concluded that there is **no systemic issue in the ADR Directive regarding the need to strengthen the enforceability of ADR outcomes** but rather that it may be a factor to address in certain Member States, in the way the Directive has been transposed, the way a certain ADR entity functions or in relation to sector-specific business cultures.

Low uptake of cross-border ADR

Article 2 (Scope) provides that the ADR Directive applies to domestic and cross-border disputes between consumers residing in the Union and traders established in the Union. Article 5(2)(e) provides for Member States to ensure that ADR entities *"accept both domestic and cross-border disputes"*. According to Article 14, *"consumers can obtain assistance to access the ADR entity operating in another Member State which is competent to deal with their cross-border dispute"*. The Directive does not require ADR entities to accept claims against traders located in other Member States. In practice, consumers who wish to settle a cross-border contractual dispute have in the vast majority of cases to approach an ADR entity located abroad.

Cross-border ADR disputes remain rare because there are too many barriers according to stakeholders, including: low awareness by consumers purchasing in a cross-border context that national ADR entities can accept their cases and difficulties for ADR entities due to the lack of knowledge of the legal framework in another jurisdiction.

The Brussels I Regulation (recast) (EU) No 1215/2012[42], which applies to the courts and tribunals (and not to out-of-court procedures) determines that the court of the country where the consumer resides has jurisdiction in cross-border cases over consumer contracts. The purpose of this rule, according to Recital 18, is to protect a weaker party by rules of jurisdiction more favourable than the general ones.

The ADR Directive follows a different approach: as a rule, the consumer will need to use the ADR entity of the trader's country[43]. This adds complexity layers for the consumers: the need to interact with a foreign entity, perhaps in a language they do not understand and/or bear the translation costs. Moreover, while Article 11 of the Directive stipulates that in cross-border cases the ADR entity shall not deprive the consumer of the rights mandatory in the country of their domicile, in practice ADR entities struggle with applying foreign law.[44] Consequently the number of cross-border cases is very low. This should be considered as a serious and systemic issue of the ADR Directive as it does not provide enough guidance and practical elements to ensure access to consumers for cross-border disputes.

ADR awareness in general versus consumer rights awareness

According to findings from the 2022 Consumer Conditions survey[45], most EU Consumers don't have a good knowledge of their economic consumer rights. Based on knowledge of four rights – related to the cooling off period, one sided change to contracts, faulty product guarantee and unsolicited products - consumers were categorised according to their overall level of knowledge: high (aware of at least three of the above rights), medium (aware of two) or low (aware of less than two). Across EU countries more than a third of consumers had a low knowledge of their rights (37%), compared with 28% with high knowledge. There was significant variation in these proportions between countries.

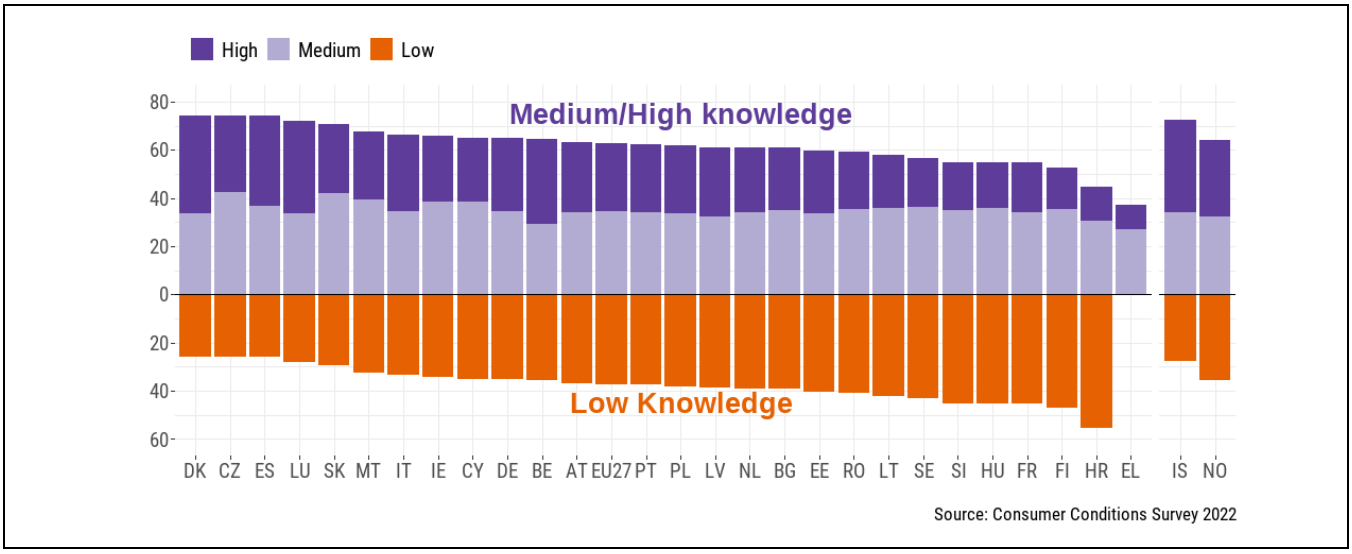
Overall Knowledge of Consumer Rights across the EU

42 Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), OJ L 351, 20.12.2012, p. 1–32.

43 Article 5(1) of the ADR Directive: Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories can be submitted to an ADR entity which complies with the requirements set out in this Directive.

44 Article 5(4)f of the ADR Directive essentially allows the ADR entities to reject consumer complaints if "dealing with such type of disputes would seriously impair the effective operation of the ADR entity" – which, anecdotally, has been used by ADR entities to reject cross-border complaints written in a different language or where foreign law would be applied

45 https://commission.europa.eu/document/89ea35fe-728f-4749-b95d-88544687583c_en



Stakeholders contend that awareness of ADR is low. However, there is no indication that this would be lower than consumer awareness of their rights in general as shown in the graph above. The already low level of understanding of consumer rights is worsened when consumers are faced with the complexity of legal terms and conditions governing transactions, especially in the digital world. Where ADR process is complex and time-consuming to understand, as notably is the case in cross-border ADR, consumers are put off from pursuing a low-value claim, or when they are not convinced that it would lead to a successful solution. In most cases they will drop the claim if an initial contact with the trader proves unsuccessful or when they read that the trader will not participate in an ADR process (e.g. as a consequence of general information obligations imposed by the ADR Directive on traders, including those not willing to participate and who will say so).

Lack of understanding of eligibility requirements

There is also a lack of understanding on the functioning of ADR entities from the consumer side as reflected in the high number of inadmissible complaints (See Annex IV.C). It seems that consumer campaigns or user-friendly information about the benefits of ADR performed in the past for example by the European Consumer Centres[46], the ADR entities, the European Commission or other consumer associations, did not allow to raise the awareness of consumers. This however goes hand in hand with the low level of knowledge of consumers on their rights which has not improved according to successive Commission consumer surveys.

In France, the CECMC reported that only 67,000 out of 168,000 complaints submitted to ADR entities in 2020 were accepted i.e. not considered as inadmissible in line with Article 5(4) or refused, despite ADR entities using tutorials, blogs or newsletter to educate consumers on ADR. In approximately, 70% of inadmissible cases, consumers did not know they had to contact traders before reaching out to the ADR entity.

The level of awareness is uneven across sectors. For example, awareness is higher in the energy/utilities and financial sectors where well-established ADR entities exist and where sector-specific EU legislation requires the compulsory use of ADR to assist vulnerable consumers.

[46] Article 5(2) of the ECC-Net Vademecum requires ECCs to promote consumer ADR and to facilitate access. More information is found on the website https://www.eccnet.eu/consumer-rights/how-enforce-my-consumer-rights/alternative-dispute-resolution.

Uneven compliance by businesses to ADR information requirements

Article 13 of the ADR Directive requires traders to provide the website of the ADR entity they are affiliated with in case of a dispute, although, unless national law provides for mandatory trader participation, they may decide not to participate in the ADR process and therefore not give such an information or explain that they will not participate to ADR schemes, (implying they prefer going to court instead). This information is to be provided in a clear, comprehensible and easily accessible way on the traders' website, where one exists and if applicable, in the general terms and conditions between the trader and consumer.

In 2022, the Commission carried out an ADR behavioural study[47] to assess ADR information to consumers on websites of traders and ADR entities as to how it affects awareness and take-up of ADR. The study concluded that the way the information is presented has a significant impact on consumers' propensity to use ADR, as well as their understanding. Separating ADR information on to its own dedicated, easily accessible page, or raising the salience of ADR information by signposting it at the top of the page, had the largest effects on increasing consumers' propensity to use ADR and may discourage consumers from entering into any agreement with traders who do not wish to join ADR schemes. ADR information in the terms and conditions page is less effective because consumers tend not to visit this page (6%) but instead, they go to the "returns and complaints" page (43%). On the other hand, if an ADR entity website highlights the benefits of ADR relative to court via a salient table comparing the attributes of the two routes significantly increases the consumers' propensity to choose ADR. Such pro ADR disclosure are however not provided for in the ADR Directive and are unlikely to be used by traders as they generally do not want to encourage disputes and would prefer amicable settlements. The Directive however does not provide for sanctions for the breach of information obligations under Article 13 – this is entirely left to national law.

Other barriers

Some stakeholders suggest that access to ADR is made difficult in certain cases due to its cost for consumers. In most countries, ADR entities offer ADR service free of charge or in any case much cheaper than the costs for accessing a court. However, when ADR is not totally free, the consumers calculate the eventual fee and other costs such as the time needed including to understand the process, against the value of the claim. Disproportionate eligibility criteria are also cited by stakeholders in relation to specific countries or sectors and in general the digitalisation of ADR procedures may be a barrier for those with low digital literacy.

A French consumer organisation flagged that in banking disputes, consumers must first contact their banks and then have to follow multiple mandatory steps before being finally able to reach out to an ADR body discouraging many consumers from launching an ADR claim.

Spain reported that special attention is paid to customers with less technological knowledge (usually senior citizens) who require a more personalised treatment. Claims can be lodged in writing. Moreover, there are guidelines and phone information services that can help most vulnerable persons to file their complaint.

The diversity of the ADR landscape may also make it difficult for consumers to find a relevant ADR body, especially in Member States where there are many ADR entities, or where accredited and non-accredited ADRs exist and consumers would not be able to tell the difference. In some Member States, consumers have to reach out to more than one ADR entity to resolve a dispute given the limited competence of each ADR entity. To avoid that consumers remain unsuccessful in trying to find a competent ADR body, the ADR Directive in recital 24 encourages the setting up of residual entities to ensure there are no coverage gaps. Nevertheless, there is no residual ADR entity in ten Member States.

[47] ADR Behavioural study; summary available here: Alternative dispute resolution for consumers (europa.eu)

Conclusion

The evaluation shows that ADR Directive is correctly implemented by all Member States, even though some transposed models may prove to be more efficient than others. One systemic issue which has been identified in terms of effectiveness is in relation to access to cross-border ADR.

4.2. Efficiency

There is no conclusive evidence on the costs borne by the various actors needed to achieve the results of the ADR Directive. A lack of quantifiable data from Member States makes it difficult to carry out a detailed assessment of the Directive's regulatory burden. The extent to which costs have been incurred to implement the Directive in individual Member States largely depends on the national ADR framework in each Member State, including on the existing ADR entities and competent authorities before the Directive was adopted.

4.2.1. What are the costs for each category of ADR actors?

The Directive introduced obligations that were expected to have the following cost implications:

- The setting up of a competent authority and a mechanism to assess and monitor the ADR entities established on its territory;
- A national ADR framework covering all market sectors i.e. either setting up new structures where ADR was non-existent or adding new structures to cover all sectors;
- ADR entities having to set up and maintain a website;
- ADR competent authorities and ADR entities respecting reporting obligations;
- Traders having to provide ADR information to consumers;
- Consumers to access ADR free-of-charge or at a nominal fee;
- The Commission to support ADR entities using the Consumer Programme, list all ADR entities in compliance with the Directive.

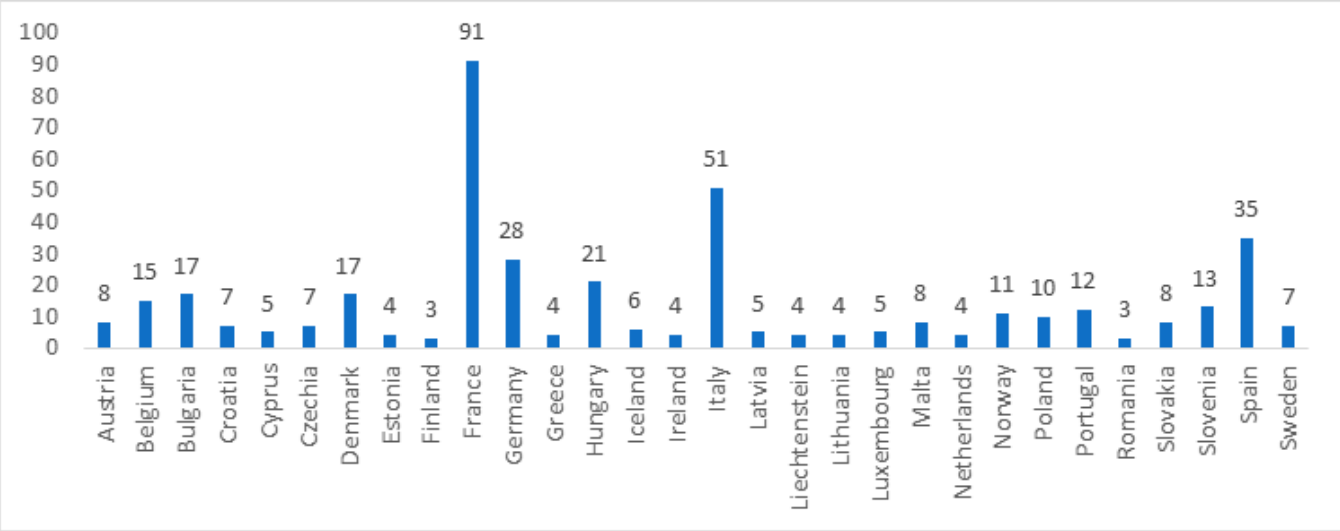
Costs to ADR Competent Authorities

ADR Competent authorities incur costs to accredit and monitor the process of ADR entities. Most competent authorities consider accreditation to be the most time-consuming (and therefore costliest) task, as it is necessary to check the conditions, evaluate the application, issue a decision, register the entity in the list of national ADR entities and notify the Commission, providing information on the registered office, authorised natural persons, detailed rules of ADR between consumers and traders, etc. This however is only particularly burdensome where there are many ADR entities so mainly in FR, IT and ES. The accreditation process can also represent high administrative burden for ADR entities this being a potential reason why some ADR entities prefer not to be accredited[48]. Some ADR entities see the reporting requirements - the publication of annual activity reports per Article 7(2) ADR Directive as burdensome and more of a "tick box" exercise. The extensive reporting by ADR competent authorities to the Commission every 4 years is also considered very time-consuming.

About a third of the Member States have less than one full-time equivalent (FTE) carrying out competent authorities' work. Seven have between one and three, and with 5.5 FTEs France is the exception, and this relates to the unusually high number of ADR entities in France combined with a complex verification processes.

Number of accredited ADR entities per Member State

[48] There are non-accredited ADR entities in AT, BE, DE, DK, ES, FR, IE, IS, LU, NL, PL, PT, SE and SI.



Costs to the European Commission

The European Commission incurs limited costs to oversee the implementation of the ADR Directive (1 FTE per year). EUR 100,000 per year have been attributed from the Consumer credits in the years 2018-2022 to support the digitalisation of ADR entities and their networking. Managing and publishing the list of ADR entities is part of the overall costs for the ODR platform and is considered a neglible cost.

Costs to ADR Entities

ADR entities' main costs are the human resources to manage them and provide the ADR procedures. Their different tasks prescribed by the ADR Directive are:

- Providing quality ADR dispute resolution procedures,
- Training ADR staff,
- Providing information to consumers and traders[49], notably through their website, enabling consumers to submit a complaint online,
- Preparing and publishing annual activity reports[50], including information on the number and types of complaints, their outcomes, the rate of compliance and any systemic issues identified and recommendations as to how such problems can be avoided or resolved in future, to raise traders' standards and to facilitate the exchange of information and best practices, notably on their website,
- Cooperating with ADR entities in the resolution of cross-border disputes and conducting regular exchanges of best practices as regards the settlement of both cross-border and domestic disputes[51],
- Providing biannual communication complaints information to competent authorities[52],
- Providing information for the accreditation process,
- Overhead costs, including IT and compliance to GDPR costs,
- Translation costs, where relevant.

To take an example of costs for an ADR entity, in 2020 the functioning of the Maltese Office of the Arbiter for Financial Services costed EUR 571,592 to resolve 95 "large disputes" and 1,068 "small cases" so an average cost of EUR 492 per request.

[49] Article 5(2), Article 7(1), Article 9 and Article 15 ADR Directive.
[50] Article 7(2) ADR Directive.
[51] Article 16 ADR Directive.
[52] Article 19(3) ADR Directive.

The lack of information, including the financial benefits for consumers and traders, does not allow to calculate the minimum number of disputes ADR entities would need to solve to cover their operations. ADR authorities were also asked whether they had ever tried to calculate the minimum number of disputes. Again, no Member State has performed such a calculation. However, as consumer disputes are usually of a low cost, **the minimum number of disputes per ADR entity should be quite substantial to ensure cost-effectiveness**. The fact that ADR entities may have other responsibilities complicates cost calculation.

The rate of rejected cases by ADR entities is high in some Member States (up to 60% between 2019-2022). Most frequently, reported reasons included "no previous attempts to contact the trader" followed by "the dispute was previously assessed by another ADR entity or a court" and "the value of the claim has not reached an applicable threshold". The lack of understanding of when and how to use ADR leads entities to waste resources on these cases. Reducing the number of inadmissible cases is key to improve cost-effectiveness.

In Belgium, 2575 of the complaints out of the 4100 complaints received in 2021 by the national portal for consumer claims (SMC) were dismissed for various reasons; notably incomplete applications or the SMC is not competent. is often copied from letters sent by consumers to businesses. Consumers clearly use SMC as a means of pressure. Consumers who use this tactic receive a letter informing them that SMC does not declare their case admissible however SMC stands ready to assist if they still fail to reach an agreement with the company.[53]

In most Member States, the entire ADR budget relies heavily on public funding[54], private funding[55] or a mix of public and private funding[56]. See Annex IV.B for more information.

Costs to Traders

The overall administrative costs that traders incur depend on the funding model of ADR (see above). In some countries, traders bear the costs of some or all ADR entities, while in others, ADR entities are publicly funded and may ask a marginal fee to traders. Even where traders bear the costs of ADR entities, the model can vary. In some cases, traders pay membership fees for instance, which are fixed costs, or they pay a fee for each dispute (or both), which means these costs vary depending on the number of disputes. Where traders pay participation fee, this can range from EUR 10 (CZ) to EUR 100 (IE) and even within a country it depends on the sector.[57]

In addition, traders bear the costs of dispute resolution itself, in the form of the financial and human resources needed for dealing with a dispute, including:

Time spent on each dispute, for submitting information and evidence, etc.,

The cost of legal advice (lawyer fees) – if applicable.

Yet, information on these costs is not generally available and will vary widely from one sector to the other, one dispute to the other, etc. In any case, such costs are directly related to the operation of a business which needs to ensure the correct handling of consumers complaints and after sales questions.

Finally, traders incur the costs of the financial and human resources needed for informing consumers of the address and website of the ADR entity/entities that cover their activities. They need to provide this information on their website if they have one, and in the general terms and conditions of sales or service contracts between the trader and the consumer[58], if applicable. Nevertheless, these informational aspects are considered marginal costs, what is most costly for a business is keeping abreast of all the relevant EU

53 https://mediationconsommateur.be/sites/default/files/content/download/files/smc_rapport_annuel_2021-s_0.pdf

54 In 22 countries there are some ADR entities that are funded by the state budget. In some cases, these ADR entities are set up by law. Only in three Member States are all ADR entities publicly funded (HU, LT, and LV).

55 In 22 countries there are ADR entities that are self-funded (such as CZ), or professionals or federations of professionals (such as FR, LT), which are thus indirectly funded by the traders through the membership fees.

56 In 14 countries, there are entities that are privately funded but also receive public money.

57 More information on trader fees is found on page 128 of the ADR Data Collection study.

58 Article 13.

retail market legislation; especially for SMEs to be compliant but also to be able to answer consumer claims.

Costs to consumers

Consumers incur administrative costs when going for dispute resolution. These take the form of consumer fees and time needed for dealing with a dispute. To facilitate consumers' accessibility to ADR, Member States could either make the procedures free of charge or ADR entities could impose a nominal fee (i.e. affordable and not restricting access to ADR). Of the 25 Member States that answered the survey question on consumer fees[59], 12 Member States reported that ADR is always free of charge for consumers (i.e. across all ADR entities) in their country. In the remaining 13 Member States, some ADR entities do charge a fee, and these vary significantly: while in 10 Member States the fees charged do not exceed EUR 70, in a few Member States the fees charged can go up to EUR 100-EUR 300 or even up to EUR 1000 in certain cases concerning financial services where the value of disputes may be high.

Overview of fees charged to consumers by ADR entities

Range of fees charged	Member States
Free of charge	AT, BG, EE, FI, FR, EL, HU, LV[60], LT, LU, RO, ES
Up to EUR 10	SK (fee ranges from EUR 0 to EUR 5) CZ, PT[61], SE (fee ranges from EUR 0 to EUR 10),
Up to EUR 50	SI (fee ranges from EUR 0 to EUR 20); DE (fee ranges from EUR 0 to EUR 30) and IE (fee ranges from EUR 0 to EUR 50)
Up to EUR 75	DK (fee ranges from EUR 0 to EUR 54); IE (fee ranges from EUR 0 to EUR 60) and HR (fee charged is EUR 66)
Over EUR 100	NL (fee ranges from EUR 0 to EUR 127.5); BE (fee ranges from EUR 0 to EUR 332[62]); CY (fee ranges from EUR 20 to EUR 1000[63]).

Additional costs to consumers may include legal fees if they seek legal advice and/or experts' costs with daily/hourly fees varying depending on the country, sector, experts' experience, time needed for the case, length of the report, etc.), which they can share with the trader if both parties agreed to use an expert, for example, to produce a report on the goods or services subject to dispute. Other costs which might be incurred are translation costs and the consumers' effort and waste of time, especially when the trader does not cooperate. The Justice Scoreboard 2022[64] shows that timeframes and court fees differ significantly across the EU Member States; hence putting off many consumers from lodging a court case to resolve a consumer dispute.

The dissuasive cost of court cases for consumer disputes instigated the need to provide the ADR Directive. No evolution has occurred since 2013 which would make court cases comparatively less costly (on the contrary) and therefore **ADR remains the most cost advantageous system both for traders and**

59 IS, MT, NO and PL did not provide detailed information on the consumer fees charged. Iceland reported that most ADR entities charge a small case handing fee, while Norway reported that a minority of the ADR entities require a small fee from the consumers. See more information in Annex IV.B.

60 However, two ADR bodies request to pay security deposit, which is refunded, if the claim is justified.

61 This is the case for two ADR entities in PT. For two other ADR entities, the ADR competent authority noted the fee depends on the value of the damage.

62 Only four of the 15 entities ask the consumer to pay a fee.

63 The cost reported by CY is EUR 640 based on an 8-hour conciliation or mediation procedure. For every additional hour of conciliation or mediation, there is an additional fee of EUR 40 per hour for consumers regarding disputes of amounts over EUR 10 000 – the maximum amount paid by a consumer is EUR 800. For arbitration, the maximum amount paid by a consumer is EUR 1,000. See European Commission, Cyprus Consumer Center for Alternative Dispute Resolution, procedure, A. Fees details, available at: https://ec.europa.eu/consumers/odr/main/?event=main.adr.show2.

64 https://commission.europa.eu/system/files/2022-05/eu_justice_scoreboard_2022.pdf

consumers, but also for Member States which would have instead of financing ADR to give greater financing if each small claim dispute had to go to a court.

4.2.2. Has the ADR system permitted to reduce consumer detriment?

The improved ADR landscape has been beneficial to traders and consumers as there are on average 300,000 ADR cases per year in the 23 Member States which reported data to the Commission. However, what is important is to assess whether the ADR Directive could be expected to lead to a higher number of cases and a proportional further detriment compensated thanks to an ADR.

The extent of this detriment can be measured by considering the consumer harm that is strictly related to the missed opportunity of not using ADR. By taking into account the 120,000 eligible disputes[65] (i.e. filed by a consumer and confirmed by an ADR entity, as per data transmitted by ADR Competent authorities to the Commission in 2022) that are not accepted by businesses on a yearly basis, the maximum consumer detriment (including cases where consumers were wrong[66] in their claim and the ones they successfully pursue in court[67], and considering that not all the value of the purchase is part of the dispute or it is given as amicable solution) amounts to EUR 22.2 million per year.[68] In addition to this, the detriment of consumers who brought a matter to the ADR entity which, for various reasons, was not deemed eligible (including extra-contractual claims) must also be taken into account. This group comprises 1.95 million consumers,[69] and the potential additional detriment stemming from the fact that they cannot settle their dispute through ADR amounts to EUR 361 million per year[70], for a total annual detriment **of EUR 383 million.**

4.2.3. Have ADR entities developed cost saving measures since the entry into force of the Directive?

Significant investments by ADR entities in digitalisation has rendered ADR more cost-effective and increased satisfaction rate among users. ADR entities need a safe, secure and intuitive tech solution to improve negotiations and this infrastructure may come at a high cost at the very beginning (investments in VPN, anti-virus/anti-malware software, spam filtering, etc) although in the long-term, it permits a lot of cost savings and avoids endless processing timeframes. COVID-19 accelerated the transition to remote proceedings and more reliance on emails. Remote hearings are effective and more economical than in-person proceedings. While email is the primary mode of communication in most ADRs, it can pose problems such as limits to file-size attachments and it is not always secure.

ConciliaWeb, a digital platform to solve disputes in the electronic communications market in Italy has facilitated access to the conciliation procedure. Within 12 months since its introduction in 2018, there was an increase of 28% in requests.

Digtalisation in ADR is mainly done in two ways, either by using technology to support or enable existing manual processes of administering dispute resolution, and/or by using technology to fundamentally re-engineer the dispute resolution process.

In the legal context more broadly, other AI technologies can also be regarded as important, such as natural language processing (the application of computational techniques to the analysis and synthesis of natural

[65] See annex IV for further information. In a nutshell, this number is the result of the difference between the number of eligible disputes (300 000) and the number of disputes that are actually referred to ADR entities (180 000).

[66] A few, considering a British study from 2018, 90% of consumers would get a compensation following an ADR. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698442/Final_report_-_Resolving_consumer_disputes.pdf.

[67] For a low value dispute, there is little chance the case ends up in court.

[68] 120,000 x EUR 185 which is an estimate of the average amount brought as dispute to an ADR based on data from the EU ODR Platform. This number is realistic as EUR 121 is the average value of a retail purchase, and it is normal that values brought to a dispute are more on the higher end of the statistical distribution (source: average value of purchases on retail shops, https://www.wolfgangdigital.com/kpi-2019).

[69] As seen above in the problem definition, under 'access barrier to ADR', the number of consumers potentially willing to refer a dispute to an ADR entity is 2,250,000. By assuming that each consumer in involved in one dispute per year, and by taking into account that the average number of eligible ADR disputes per year is 300,000, it is possible to estimate the number of consumers who are willing to use ADR but cannot do so because the disputes is deemed ineligible.

[70] 1,950,000 x EUR 185.

language and speech)[71], as well as sentiment analysis (the process of computationally identifying and categorising opinions expressed in a piece of text).[72]

Half of the respondents in the backward-looking public consultation[73] were open to the use of AI in consumer disputes but felt that the final decision should be made by a human. Around one third of the respondents would use AI but would like to know in advance or be assured that they can appeal the decision. By contrast, just over a third of the respondents were against these systems as they found them too difficult to understand and felt that AI might complicate any disagreement. Finally, only a sixth of the respondents expressed distrust in AI altogether.

Conclusion

ADR costs vary significantly between Member States depending on the existing infrastructure, funding model, number of ADR entities accredited and monitored, consumer and trader fees as well as whether there existed ADR structures previously. The lack of data on costing, makes it difficult to calculate the cost-effectiveness of ADR. However, compared to costs that would be incurred by consumers, traders and Member States if all consumer disputes had to be dealt with in court, the ADR system is much more cost-efficient. Some cost savings could possibly be made by reducing certain reporting burden that have been assessed as disproportionate by many stakeholders. Facilitating digitalisation of ADR and the use of modern technologies, i.e. containing Artificial Intelligence tools, is also a way of increasing the efficiency of ADR systems.

4.3. Coherence

This section assesses whether the ADR Directive is internally and externally coherent. In particular, we evaluate synergies, duplications and overlaps with the other interventions pursuing similar objectives, such as European consumer legislation and sectoral rules relevant for consumer redress. Several horizontal and sectoral interventions that pre-dated the ADR Directive contained provisions on out-of-court consumer redress, some of them were later amended. In view of the possible application of the ADR directive to a very large number of EU law regulating retail markets, it concentrates on the areas where most significant inconsistencies could exist.

4.3.1. Is the Directive consistent with key redress principles in substantive consumer legislation?

Main consumer law principles for remedies have been strengthened in the 2019 amendment[74] to Directive 2005/29/EC on Unfair Commercial Practices Directive (UCPD), new article 11a consumers harmed by unfair commercial practices, shall have access to proportionate and effective remedies, including compensation for damage suffered by the consumer. As the unfair commercial practices cover pre-contractual and also after sales stages, the limitation in the ADR Directive to disputes pertaining to a contract may have restrictive effects on which consumer rights are effectively considered by ADR entities.

Moreover, as the scope of the ADR directive only includes the contract where the consumer pays or undertakes to pay a fee, there may be a situation where a consumer and a professional have a legal relationship (such as accepting terms and conditions of an intermediary website), but the fees are paid by the trader or the consumer does not pay a price but provides personal data to the trader. The Consumer

[71] see also digital assistance technology, which is becoming increasingly popular among consumers, e.g. Siri and Alexa

[72] J Barnett and P Treleaven (2018), Algorithmic dispute resolution – the automation of professional dispute resolution using AI and blockchain technologies, https://academic.oup.com/comjnl/article/61/3/399/4608879

[73] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13430-Consumer-protection-law-cross-border-enforcement/public-consultation_en

[74] Directive (EU) 2019/2161 of the European Parliament and the Council DIRECTIVE (EU) 2019/2161 of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules; https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1585324585932&uri=CELEX%3A02005L0029-20220528

Rights Directive (CRD) has been amended with the new Article 3(1a) to ensure that its rules apply when the contract involves provision of consumer's data *in lieu* of payment. [75]

Sector specific legislation, which provide some ADR provisions usually tend to have a wide scope covering the rights and obligations established in the sector specific instrument: Article 24(1) of the Directive 2008/48/EC (Consumer Credit Directive) [76] puts a specific obligation on the Member States to ensure that adequate and effective out-of-court dispute resolution procedures for the settlement of consumer disputes concerning credit agreements (and not only credit contract) are put in place, using existing bodies where appropriate. The Directive 2014/17/EU (Mortgage Credit Directive)[77] follows a similar approach,[78] but extends the scope to the disputes with the credit intermediaries and appointed representatives. Finally, Directive 2014/92/EU[79] (Payment Accounts Directive), while making specific reference to the ADR Directive, expressly mentions in the scope "pre-contractual disputes concerning rights and obligations established by the Payment Accounts Directive"[80]. Directive (EU) 2019/944 (the Electricity Directive)[81] clarifies the scope to rights and obligations established under this Directive.

The Telecommunication sector is however an exception to the trend. The original Article 34 of now repealed Directive 2002/22/EC (Universal Service Directive)[82] required an option of out-of-court procedures for "unresolved disputes, involving consumers, relating to issues covered by this Directive". Later amendments, and eventually the Directive (EU) 2018/1972 (Electronic Communications Code) limited the obligation to "performance of the contracts".

It must be said that there are some other differences with the sectoral legislation. As the latter applies as *"lex specialis"*, these differences do not pose a coherence issue. For example, while the ADR Directive obliges the traders committed or obliged to use ADR to provide this information spontaneously,[83] on their websites and in terms and conditions, some other legislation, such as Package Travel Directive also requires this information to be included in the confirmation of the contract.

4.3.2. Is the Directive internally coherent?

The ADR Directive sets out requirements related to expertise, independence and impartiality of the ADR entities. Of those criteria, independence is crucial to build the trust of the parties, as confirmed by responses to the public consultation[84] and recent behavioural experiments.[85]

However, due to their wording certain articles may create confusion as to how to ensure that entities ran by a trader or by a professional association are independent. Article 6(5) stipulates that ADR entities that make decision "by college" must be composed of an equal number of representatives of consumers' interests and of representatives of traders' interests. Meanwhile, Articles 6(3) and 4 refer to collegial ADR body (or collegial body nominating ADR representatives) that include representatives of consumer organisations, to counterbalance representatives of the traders or those employed or paid by professional associations.

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[75] See also Recitals 31-33 of the Directive (EU) 2019/2161

[76] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0048. On June 30, 2021, the European Commission published a proposal to revise Directive 2008/48/EC on credit agreements for consumers: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0347

[77] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010; https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32014L0017

[78] Here we may mention that the new CRD proposal includes intermediaries

[79] Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features; https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32014L0092

[80] Recital 52, Article 24. The current stage of CRD proposal includes a similar Recital, but limits this to "credit agreements"

[81] Directive (EU) 2019/944 of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU; https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0944

[82] Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services; https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0022

[83] See also CJEU C-380/19, where the court stated that providing ADR information only after the contract is signed is insufficient if the trader is already obliged and committed to the use of ADR – such information should be given before the consumer decides to engage with the trader; https://curia.europa.eu/juris/liste.jsf?language=en&num=C-380/19

[84] 48% respondents chose independence in response to "What encourage consumers and traders to call on an ADR entity to resolve a cross-border dispute (top 2 answer)

[85] ADR Behavioural study; summary available here: Alternative dispute resolution for consumers (europa.eu)

The difference between the wording (consumer interests vs. consumer organisations) creates an impression that the notion of consumer organisations and representatives of consumers interests are differentiated. This has generated one of the complaints received by the Commission, and observations by BEUC on the lack of clarity in relation to the role of representatives of consumers associations in collegial ADR bodies.

4.3.3. Is the approach to ADR models in EU sector specific legislation compatible with the minimum harmonisation principle of the ADR Directive?

The ADR Directive is a minimum harmonisation directive which leaves it to the Member States to decide on the governance, funding model, mandatory participation and the nature of the outcomes. Sector specific legislation may however go a step further in prescribing how ADR models need to function in the sector in question, for example:

1. The Mortgage Directive requires Member States to ensure that participation in ADR is "not optional" for the financial providers, credit intermediaries or authorised representatives (recital 77);
2. The Electricity Directive stipulates that the participation of electricity undertakings in out-of-court dispute settlement mechanisms for household customers shall be mandatory unless the Member State demonstrates to the Commission that other mechanisms are equally effective;
3. In the field of passengers' rights,[86] while the role of the National Enforcement Bodies (NEBs) is different from ADR, the NEBs may play a role in handling individual complaints and providing consumer compensation, if the national rules provide for it. According to the CJEU judgement in Case C- 597/20[87], NEB, as an administrative body, may compel the trader to issue an individual compensation as long as both parties still have access to court.[88] Some NEBs are also "double-hatting" as ADR entities.

These differences, however, do not pose a problem as the sectoral legislation is specific enough to ringfence the traders to be covered.

4.3.4. Is the ADR Directive coherent with the recently adopted EU laws?

The ADR Directive stipulates that collective redress and ADR are parallel processes and not mutually exclusive. Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on Representative Actions for the protection of the collective interests of consumers (RAD Directive)[89] introduces collective judicial redress and does not impact the ADR Directive as its logic and scope are different. ADR is, by definition, an out-of-court procedure while RAD focuses on actions before the courts and administrative authorities. Further, while the ADR Directive deals with any contractual disputes as long as one party is a trader and another one is a consumer who pays or undertakes to pay a fee, Article 2(1) of RAD limits the scope of Representative Action to infringements of the provisions of EU consumer law which are committed by traders and which harm or may harm the collective interests of consumers, or, for redress action, interests of the group of consumers.

Article 21 Digital Services Act (DSA)[90], prescribes the use of out of court dispute resolution when a user is not in agreement with platforms':

- decisions whether or not to remove or disable access to or restrict visibility of the information;
- decisions whether or not to suspend or terminate the provision of the service, in whole or in part, to the recipients;
- decisions whether or not to suspend or terminate the recipients' account;

[86] Reference to all four legislative instruments.

[87] Case C-597/20; Polskie Linie Lotnicze 'LOT' S.A. v Budapest Főváros Kormányhivatala, https://curia.europa.eu/juris/liste.jsf?lgrec=fr&td=%3BALL&language=en&num=C-597/20&jur=C

[88] CJEU considered the objective of Regulation No 261/2004 to prevent "inconvenience" by the passenger, including inconvenience of bringing the procedure before the court, but it also took into account that the amount of compensation is known to the parties beforehand

[89] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020L1828

[90] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act); https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065&qid=1666857835014

- decisions whether or not to suspend, terminate or otherwise restrict the ability to monetise information provided by the recipients.

The scope of this provision is narrowly restricted to decisions made by platforms in relation to their appreciation of whether a content is illegal or in breach of the platforms' terms and conditions. In practice, this consists mainly in the case of consumers when they post content that is illegal, such as racist or they sell products prohibited when acting outside of their professional activity (otherwise they would not be considered as consumers and therefore their relationship with the platform would be of a B2B natures).

While there is thus no conflict between this DSA article and the ADR directive the duplication of dispute resolution entities that may be created by the two legal frameworks is likely to raise questions on the national level, e.g. to what extent existing Consumer ADR bodies could be certified also as dispute resolution bodies under Article 21 DSA. The quality requirements established by the Consumer ADR Directive are sufficiently general to allow for the design of Consumer ADR bodies that at the same time comply with the characteristics and conditions established by Article 21 DSA.

However, it should be noted that Article 21 DSA appears to prescribe a very wide personal scope for disputes submitted to a dispute resolution entity certified under that article: According to Article 21(1) DSA, recipients of the platform provider's service can submit their dispute to any dispute settlement body certified under that article. As the provision appears not to establish any territorial limitation to the residence of the recipient or the establishment of the platform provider or the dispute settlement body, it would appear that a dispute resolution body, once certified under Article 21 DSA, would have to accept disputes from any recipient of any online platform covered by Article 21 DSA.

4.3.5. Conclusions

The evaluation showed that the ADR Directive is not coherent with main EU consumer protection laws and sector specific legislation when it comes to the scope definition. This poses a risk of *de facto* scope limitation of the ADR processes to contractual disputes only. There is also an internal coherence issues in relation to the role of consumer associations in collegial dispute resolution bodies. On the other hand, the ADR Directive is coherent with two very important legislation adopted recently: the RAD and the DSA, while their interplay may however create practical problems and possible confusion on the ground.

4.4. Relevance

This section gives an overview of external factors which occurred since the adoption of the Directive and had unintended impacts or effects with respect to its objectives, whether positive or negative and which put into question the continued relevance of the Directive in view of today's consumer needs.

4.4.1. To what extent are the scope and objectives of the ADR Directive still relevant?

Emergence of online platforms/marketplaces

The Digital Markets Act[91] and the Digital Services Act recognised the need to set new models to regulate the platform economy. Most large online platforms have their own dispute resolution systems which *de facto* are imposed on consumers and traders. Private (non-compliant to the ADR directive) ODR systems are taking up the market of dispute resolution by being cheaper, faster and easily accessible online. Such dispute resolution mechanisms (the new step in complaints-handling mechanisms) are not regulated under EU law and they may not pose issues as to their fairness as assessed in the Impact Assessment to which this evaluation is attached.

The extremely rapid development of online trade – including from non-EU traders, the market dominance of few platforms, the majority of publicity being now digital, the high prevalence of online unfair practices and the imposing of dispute resolution systems by large platforms mean that consumers are exposed to increased unfair practices and at the same time risk from being able to access a quality ADR procedure.

[91] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R1925

Increase of complaints with non-EU traders

The single market stimulates trade, as it makes the EU a more important trading partner at global level. It fuels growth and competition and creates new opportunities for businesses, giving them access to a domestic market of 447 million consumers. The number of complaints received by the ECC relating to non-EU traders fluctuated between 5-7 % between 2019-2021; only representing a small portion of the actual number of complaints relating to non-EU traders, as ECCs are not usually referred to for disputes against non-EU traders. A study[92] by the Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband e.V. – vzbv) and the individual consumer associations of Germany's federal states found that while consumers had a lot of confidence in online marketplaces, and appreciated the convenience on making purchases online, they were often confronted with unlawful practices, and left unable to enforce their rights, particularly as regards purchases from sellers based in non-EU countries. Results from the Market Monitoring survey 2020[93] that was conducted in September and October 2020 highlighted the following issues:

- problems with orders or purchases outside the EU were more frequent than with those purchased within the EU (41% compared with 23%);
- the most frequent complaints were problems with delivery (long delivery times, goods not delivered) and poor-quality goods;
- where problems arose with purchases made outside the EU, most of those affected contacted the merchant or shop directly (80%), but more than a third were unable to resolve the problem in this way.

As participation in ADR is voluntary in most cases for traders, it should not be a barrier for non-EU traders to participate voluntarily in ADR executed by EU ADR entities.

Increase of unfair commercial practices

The 2021 Consumer Conditions Survey shows that unfair commercial practices are prevalent, particularly as concerns consumers feeling pressured by persistent sales calls/messages urging them to buy something or sign a contract (41% reported that they had experienced this). It also noted several problematic online advertising practices[94] / contractual practices, which included hidden adverts placed within search results (77% of consumers reported having experienced this) and consumer reviews that did not appear genuine (66% of consumers reported having experienced this). In terms of the social media use of online markets, Consumer Protection Cooperation (CPC) authorities further noted the following concerns[95]:

- lack of transparency on the use of personal data (e.g. in the context of personalised advertising),
- aggressive practices to impose cookies,
- inefficient age verification mechanisms, putting children at risk;
- challenges by innovative marketing techniques of big market players in the social media and entertainment sector, such as neuro-marketing (using brain imaging to fine-tune advertising) and how this might affect vulnerable consumers, such as children.
- unfair persuasive techniques employed by online markets, such as false messages on scarcity, social proof, automated fake price discounts, and countdown timers urging consumers to rush through a purchase. Negative nudging practices, such as subscription traps or overly burdensome opt-out processes were also prevalent concerns.

In 2022, CPC authorities carried out a sweep on dark patterns.[96] Under the coordination of the Commission, authorities of 23 Member States, Norway and Iceland checked 399 websites and applications

[92] https://www.vzbv.de/sites/default/files/downloads/2017/11/08/17-11-08_brochure-vzbv-beuc-lr3.pdf

[93] https://commission.europa.eu/strategy-and-policy/policies/consumers/consumer-protection-policy/evidence-based-consumer-policy/market-monitoring_en

[94] The European Advertising Standards Alliance (EASA) held that advertising self-regulatory organisations (SROs) in Europe enforce codes of conducts to ensure responsible advertising. The complaint-handling system enables EU consumers to complain to the SROs in their country and in their own language. On average, SROs handled 60,000 complaints per year and almost 62,000 compalints in 2021. The complaint-handling is free of charge to consumers with the vast majority being resolved in one month.

[95] https://ec.europa.eu/info/sites/default/files/swd_2022_108_f1_staff_working_paper_en_v3_p1_1903309.pdf

[96] https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/sweeps_en#ref-2022--sweep-on-dark-patterns

of retail sellers active in the sales of products for their own account. 148 out of 399 webshops screened included at least one dark pattern out of the following:

- 42 websites used fake countdown timers: dynamic indicator of a deadline urging and pressuring clients to purchase a product. The timer is however fake when it resets after the expiry with the same offer still valid or it expires but the offer it claimed remains valid even after expiration;
- 54 websites directed consumers towards certain choices - from subscriptions to more expensive products or delivery options - either through their visual design or choice of language False hierarchy: design of interfaces in a way that directs consumers towards certain choices, either through visual design or language used;
- 70 websites had hidden information on a product or service by using very small fonts, non-contrasting colours or placing information in a less visible place.

Around 4,000 Spanish traders adhere to an ADR scheme[97] which handles disputes stemming from unfair/misleading advertising. Disputes are usually resolved within 15 days and the outcome is binding on traders.

The increased importance of digital markets also in offline transactions (in view of the dominance of digital advertising) means that the ADR Directive scope is drafted in a way which undermines its relevance because of the explicit reference to contractual disputes.

4.4.2. How has the ADR Directive responded to consumer needs in crises situations?

Impact of COVID-19 on ADR

The current ADR Directive stood to the test during the COVID-19. The overall increase of 15% of ADR disputes across the EU was handled well by all ADR entities especially by those entities which had the right infrastructure, despite some difficulties in mail delivery, some teething problems to switch to digital applications for virtual hearings, and skeleton staff workforce in the peak of the pandemic due to more sick leave requests. COVID-19 raised the importance and contributed to the growth of ODR, as the theoretical and practical aspects of ADR were found to work well in the online environment.[98] Importantly, ADR providers could rely on methods that had already been tested, such as virtual and online platforms to conduct ADR sessions (e.g. Zoom, Microsoft Teams, and others).

In the years 2020-2021, FSPO received 875 complaints where the complainant introduced COVID-19 as an element of their complaint and by the end of 2021, 682 of these complaints had been closed.[99]

The main problem was to comply with the 90-day timeframe to decide ADR disputes. In France, 40 % of the disputes handled by the Ombudsman of the Authority for the Regulation of Online Gaming (ARJEL) exceeded the 90-day window; the Ombudsman in the Tourism and Travel (MTV) reported that in over 40% the 90-day window had to be exceeded given the heavy workload. According to a mini survey of the ADR entities conducted by the Commission in the first week of May 2020, it was concluded that there was an increase of 33% travel ADR disputes between January and April 2020 in comparison to the same period in 2019[100].

The European Consumer Centres received a record number of consumer queries (170,000 requests, an increase of 44% compared to the same period in 2019) throughout March and April 2020 with the top 3 sectors being air passenger rights, accommodation services and package travel.[101] Many transport and travel service providers issued vouchers instead of cash reimbursement for cancelled trips due to COVID-

[97] https://www.autocontrol.es/autocontrol-eng/quienes-somos-eng/#:~:text=AUTOCONTROL%20is%20the%20independent%20advertising,%2C%20legal%2C%20honest%20and%20loyal.

[98] https://www.jdsupra.com/legalnews/reflections-about-the-pandemic-adr-and-3910334/

[99] FSPO Annual Report 2021; https://www.fspo.ie/publications/annual-report.asp

[100] 122 ADR entities out of the 460 ADR entities notified to the Commission responded to the survey. Half of the 58 respondent ADR entities which handle travel disputes reported an overall increase of cases across the travel industry (33% more than in 2019).

[101] https://ec.europa.eu/info/live-work-travel-eu/consumers/resolve-your-consumer-complaint/european-consumer-centres-network-ecc-net/ecc-net-and-covid-19_en

19. The Commission preserved the existing consumer rights through Recommendation (EU) 2020/648 on vouchers offered to passengers and travellers an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic.[102] Under the Package Travel Directive, if a package trip is cancelled due to "unavoidable and extraordinary circumstances", travellers have the right to get a full refund of any payments made for the package, without undue delay and in any event within 14 days after termination of the contract. In this context, the organiser may offer reimbursement in the form of a voucher to the traveller. However, this possibility does not deprive the travellers of their right to reimbursement in money. Reimbursement by means of a voucher could only be possible if the passenger agrees. The Commission recommended that the vouchers should be:

- covered by insolvency protection set up at national level;
- refundable at the latest 12 months following the issuance of the voucher upon request of the traveller, and automatically reimbursed after its expiry;
- flexible on the range of services e.g. booking the same route under the same conditions as the original booking or package;
- flexible on the operator with whom the new booking can be done;
- transferable to other passenger without additional cost.

To assist the EU travellers in view of the COVID-19 outbreak, the Commission published useful information, ranging from a Practical Guide for transport operators and travellers[103] to follow during all the stages of the journey, information related to border restrictions and consumer rights including on vouchers and reimbursement options to consumers[104]. On 10 June 2020, DG JUST and DG MOVE had co-organised an online meeting for all travel ADR entities registered on the ODR Platform to give further clarification on the interpretation of the Commission Recommendation on vouchers[105].

An increase in the use of ADR was noted for example in France, Italy and Spain, mainly due to deliberate actions by the Member States to facilitate its application:

in France, Decree No 2019-1333 of 11 December 2019 introduced an obligation to resort to conventional mediation or conciliation prior to launching proceedings before the judicial court that do not exceed an amount of EUR 5 000[106];

in Italy, mandatory mediation was extended to cases concerning failure to comply with contractual terms (or delay in compliance) when the conduct of the defaulting debtor was caused by the duty to abide by the rules laid down with a view to containing the spread of COVID-19[107];

in Spain, the number of complaints submitted increased after the ADR competent authority published an explanatory guide for the online filing of complaints to enable investors to continue exercising their rights, explaining the submission process to investors and how to access the complaint after it has been submitted.

The increase of ADR disputes also emerged due to disruptions in parties being able to perform their contractual obligations, such as late payments, difficulties with the production of goods due to a lack of supply or transport, labour shortages, the impossibility to deliver goods, and closure of facilities.

The impact of COVID-19 on ADR triggered a reflection on whether national ADR contingency plans are necessary for ADR entities to be well-equipped in case of an avalanche of disputes.

[102] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2020.151.01.0010.01.ENG&toc=OJ:L:2020:151:TOC
[103] https://ec.europa.eu/commission/presscorner/detail/en/FS_20_850
[104] https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_870
[105] Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic; https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32020H0648
[106] https://thelawreviews.co.uk/title/the-dispute-resolution-review/france
[107] https://ajee-journal.com/upload/attaches/att_1599503458.pdf

Impact of energy crisis on ADR

The energy crisis led to a signifcant an increase of disputes[108] related to sudden price hike of bills which are putting vulnerable consumers at risk and imposed changes to contractual conditions by energy providers. For instance, in Belgium energy disputes went up from 9,000 disputes in 2021 to over 20,000 disputes in 2022. In an online meeting hosted by the Commission on 19 November 2022 with energy ADR entities, it became evident the need to look into safeguards for vulnerable consumers in addition to the specific legislation which already caters for their needs.

In Austria, the special needs of each consumer are taken into account in each individual case. Netherlands reported that in urgent energy, water, and childcare-related disputes (e.g., impending shutdown of energy/water supply), as well as in childcare-related disputes fast-track procedure is available to consumers. In Czechia, every ADR entity has professional and educated employees who are able to communicate and deal with vulnerable consumers.

Results of a survey published in November 2022[109] by the Commission confirm that almost half of European consumers (48%) have concerns about paying their bills in the following six months. It also shows that a large majority of them (71%) have changed habits to save energy at home. Cooperation at national level is highly recommended in certain circumstances. There is a need for a more systematic approach to vulnerable groups. Minimum requirements for offline support, as well as other accessibility checks (such as a dedicated helpline, training obligations for ADR staff on how to provide ADR to vulnerable consumers, the publication of specific policies for vulnerable consumers, differentiating the types of vulnerability as part of wider institutionalised exchange and the obligation to have specific procedures for vulnerable groups[110]), but also the exchange of best practices could support this. Thresholds making it clear what a 'nominal fee' to ensure that fees charged to consumers do not form a barrier to access. This is for example the case with the Cyprus Center for ADR, which includes six different ranges of purchased goods/services with different fees for mediation and conciliation[111].

The French consumer organisation CLCV has organised joint online workshops with the French Energy Ombudsman to present the services proposed by the Ombudsman to consumers and the public at large in the context of the energy crisis.[112]

In view of the above scenarios which led to signifant increase of ADR cases, one may consider that **collective ADR is insufficiently promoted in the Directive**. Collective ADR is only mentioned in Recital 27; only six Member States (AT, ES, HR, RO, SE, SI) have collective ADR in the national law, although in practice no such claims occurred. Collective ADR can be efficient for all parties:

- for the ADR entity that has economies of scale when dealing with one case or one group of cases, instead of several disparate ones,
- for the trader who has less admin to deal with,
- and for the consumers who may not have all need to provide extensive supporting evidence.

[108] BE registered 9,000 disputes iin 2021 to over 20,000 disputes in 2022

[109] The results of the survey can be found here

[110] As recommended by BEUC, in the statement that the Commission should: "Adopt specific quality requirements to address the needs of vulnerable consumers" BEUC, 2022, Alternative Dispute Resolution for consumers: Time to move up a gear, available at beuc-x-2022-062_adr_position_paper.pdf

[111] See ADR Cyprus Center, Mediation, available at: https://adrcyprus.com/en/mediation/, and Conciliation, available at: https://adrcyprus.com/en/conciliation/

[112] https://www.clcv.org/energies/gaz-electricite-webinaire-avec-le-mediateur-national-de-lenergie

As it is still considered as a novelty, more investment is needed at EU level to increase awareness-raising among consumers and traders and technical knowledge about how it works in practice.[113]

In Sweden, the Consumer Ombudsman may bring a collective action and is based on opt-out approach. Although other Member States may not have included specific provisions on collective ADR, it does not mean that the law prohibits it or that it is not used in practice. In Romania, similar to court litigation, ADR cases cannot be grouped against the applicant's will.

In Malta, the Maltese Office of the Financial Arbiter managed to group 400 complaints through a single submission as their cases involved the same property fund[114].

So-called group claims can be handled by ADR only in eight Member States out of the surveyed 29 (AT, EE, ES, FI, HR, LU, SE, SI). For example, in Spain, there is an administrative practice of ADR entities to gather cases that are based on the same grounds and circumstances and that are solved by one resolution.

In addition, in three Member States, although grouped claims are not explicitly considered in the national law, ADR entities have grouped claims in practice (FR, IS, NL).[115]

In Netherlands, similar cases may be processed on the same day (even though they would not be bundled into one collective claim or be represented by one spokesperson). When processing a mass problem, the ADR board may select 1-3 representative individual cases out of many and render a binding advice in these "test cases," notifying the other parties their case is pending until the test cases have been decided. The outcome of the test cases is then shared as indicative of the pending cases, and these parties are invited to settle their cases accordingly.

Impact of the withdrawal of the United Kingdom from the EU on ADR

As of the end of the transition period i.e. 31 December 2020, the ADR Directive stopped applying to the UK traders and consumers. All listed ADR entities established in the UK were no longer incentivised to participate in ADR procedures launched in other EU countries; hence EU consumers may no longer have the right to ADR to resolve cross-border disputes against UK traders; unless the ADR entities agree to handle their cases. UK-based ADR entity European Car Rental Conciliation Service (ECRS)[116] was established in UK in 2009 to help EU consumers resolve complaints concerning cross-border vehicle rentals. In fact, major car rental companies are registered to this ADR scheme. This entity being based in the UK still resolves disputes for EU consumers however it is no longer required to report to the Commission on the status of its ADR activities; nor does it have to comply with the quality requirements listed in the ADR Directive.

Many EU consumers traditionally have a habit of buying from UK (mostly from Cyprus, Ireland and Malta) due to proximity or historical ties to the UK, UK and EU consumer law are still similar but may differ as respective laws evolve over time; hence the impact is yet to be seen. The Commission published information on the impact of Brexit on consumer protection in a dedicated Preparedness Notice[117] to ensure that EU consumers have clear information on their rights, including the lack of access to ADR.

Conclusion

The development of digital markets has led consumers to be faced with more problems while their capacity to use quality ADR bodies is limited by the existence of platforms dispute resolution systems. Furthermore, the scope description of the ADR Directive may be too restrictive in terms of which disputes are in the scope. The restriction of the scope to traders established in the EU is also depriving many consumers from accessing fair redress systems. In crises situations, e.g. COVID-19 and the recent energy

[113] See discussion paper on collective ADR and report of the cross-border ADR roundtable (June 2022); https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/alternative-dispute-resolution-consumers_en#cross-border-adr-roundtable.

[114] Whilst the financial arbiter found in favour of the complainants, unusually, this was overturned at Court of Appeal.

[115] Information on FR and IS is based on experiences shared by ADR entities during the cross- border ADR event in June 2022.

[116] https://www.ecrcs.com/

[117] https://commission.europa.eu/system/files/2018-09/consumer_protection_and_passenger_rights_en.pdf

crisis, ADR procedures proved to be important mechanisms to deal with the increased number of consumer issues that the crises generated. These crises therefore do not question the relevance of the Directive but the question is whether certain mechanisms should be strengthened notably to allow ADR entities to deal with more cases at the same time.

4.5. EU added value

4.5.1. Could the objectives of the ADR Directive have been achieved sufficiently by the Member States acting alone?

Clearly, had the ADR Directive not been adopted, some Member States would continue not having an ADR framework to resolve consumer disputes or at least not across all market sectors and/or in compliance with the quality requirements. The 2011 Impact Assessment provides a bird's eye view of the EU ADR framework at that time:

ADR Coverage	**Member States**
No ADR	Slovenia, Slovakia
Partial ADR Coverage	Austria, Belgium, Bulgaria, Cyprus, Czechia, France, Germany, Hungary, Ireland, Italy, Luxembourg, Poland, Portugal, Romania, Spain, UK
Full Coverage	Denmark, Estonia, Finland, Greece, Latvia, Lithuania, Malta, Netherlands, Sweden

In total, there were 492 notified ADR entities to the Commission in 2011; across the EU; with Germany alone having notified 203 ADR entities.

The accreditation of ADR entities in line with the quality requirements introduced by the ADR Directive has improved the standards of ADR across the single market. Some pre-existing ADR schemes had to make structural changes to strengthen their autonomy vis-à-vis trader organisations to ensure a high level of trust among consumers and traders. In France, the national competent authority deregistered several ADR entities in the past because of their lack of compliance with the quality requirements. Consumers do not always trust trader-funded ADR entities. Conversely, traders perceive ADR entities as consumer agencies hence it is important that there are EU-wide measures aimed at improving trust of both parties in ADR entities, such as imposing equal representation of traders and consumers within the board of ADR entities and stronger supervisory role of competent public authorities towards ADR entities.

Due to the minimum harmonisation approach, Member States still have the liberty to extend the scope of the ADR Directive i.e. to cover disputes stemming from non-contractual obligations e.g. related to unfair advertising, pre-contractual obligations, civil disputes by consumers (e.g. injury in a shop), B2C disputes to cover disputes related to returned empty parcels, defamatory comments or fake reviews tarnishing the reputation of traders, etc. However as challenges are the same across the EU, only a EU level approach can bring value added in the perspective of a single market where consumers and traders are increasingly active cross border.

Better quality of consumer ADR across the EU

Following the adoption of the ADR Directive, Member States notified over 400 ADR entities to the Commission which are currently listed on the Commission website[118]. Consumers have easy access to the accredited ADR entities in their Member State and have clear information on the competence, costs and procedure of each ADR entity in their native language. Consumers are confident that such ADR entities have been accredited by competent authorities and are in compliance with the quality criteria found in the ADR Directive. This is important in case they have to refer their dispute to an ADR entity established in another Member State and they are not familiar with the ADR culture and procedures implemented there.

[118] https://ec.europa.eu/consumers/odr/main/?event=main.adr.show2

According to the Open Public Consultation, 49% of the respondents claimed that clear quality criteria boosts ADR uptake in cross-border ADR. Stakeholders suggest that some clarifications are needed to ensure even quality e.g. to ensure that a balance is sought between the human element and fairness when using digital tools, to clarify the parallel approach between ADR and court litigation and to guarantee independence for trader-led ADR entities. It is not crystal clear that the information held by ADR competent authorities about the ADR entities is sufficient to enable a proper assessment. Moreover, not in all Member States consumers have recourse to a specific complaint forum to report their concerns about the functioning of the ADR entities in their Member State.

More operational capacity to ADR entities

Since 2018, the Commission has been awarding grants to ADR entities through a call for proposals. It earmarked EUR 1 million per year in 2018, 2019 and 2021 and EUR 500,000 in 2020[119] from the Consumer Programme 2014-2020[120] and EUR 1 million in 2022 from the Single Market Programme[121]. More than 80 ADR entities notified to the Commission have benefitted from these low-value grants (i.e. max EUR 60,000) to:

- raise consumers and traders awareness on ADR systems,
- invest more in digitalisation to improve communication among parties, case-handling and consistency of ADR outcomes,
- facilitate the handling of cross-border ADR disputes, and
- improve access to ADR (e.g. improved effectiveness of national ADR infrastructure and safeguards to vulnerable consumers).

Despite online or physical info-sessions organised by the European Innovation Council and SMEs Executive Agency (EISMEA), the grants are never fully disbursed. Although the application has been simplified to a limited extent as there are some parts which cannot be adapted from a technical perspective, some ADR entities do not have sufficient resources to design and implement the project or the financial resources to cover the 50% co-financing rate. For 2022, the Commission announced a substantially higher co-financing rate of 90%, proving its priority to boost consumer confidence in ADR which is crucial for consumers highly affected by rising inflation and to ensure that even ADR entities with limited financial resources would be able to benefit from this grant. Annex IV.D shows the list of ADR grant awardees. In 2023, the Commission allocated EUR 1 million again for ADR grants and extended the application to grants over EUR 60,000.

Since 2018, the Commission earmarked EUR 5.5 million in grants for ADR entities to improve their infrastructure, awareness-raising, capacity building, etc. Such an amount offered at EU level is clearly an advantage for ADR entities where domestic public funding is limited. ADR grants allow for dynamic and innovative ADR entities to modernise wherever they are located in the EU.

EU-wide networking

Without EU intervention, it is highly unlikely that Member States would have taken an initiative to developing their ADR frameworks fit for cross-border disputes. EU ADR networks like the Travel net, FIN-Net and Energy Mediators Group (EEMG) have contributed to cross-border ADR cooperation and sharing of best practices. The Commission organised 2 ADR Assemblies (in 2018 and 2021[122]) and other

[119] Budget allocation is determined every year in view of all policy priorities of the DG.
[120] https://eur-le x.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0254
[121] https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/single-market-programme/overview_en#:~:text=The%20Single%20Market%20Programme%20(SMP,governance%20of%20the%20single%20market.
[122] One of the sessions at the ADR Assembly 2021 was an ADR Fair in which 6 ADR entities shared their projects which they had financed through an ADR grant: https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/alternative-dispute-resolution-consumers_en#adr-assembly-2021-materials

workshops[123] to facilitate the exchange of best practices among EU qualified ADR entities, big traders and stepped up its communication through the creation of an online platform for the ADR competent authorities to ensure consistent and efficient communication.[124] FIN-Net meetings discuss the approach to applicable law in cross-border ADR, the benefits of digital tools and governance issues, amongst other topics. In February 2023, FISMA contacted the ADR Competent Authorities of 4 Member States (BG, CY, LV, RO) to encourage notified financial ADRs in these Member States to join FIN-Net. The Commission participated in national ADR events to get more insight on the implementation of ADR on the ground.[125]

4.5.1. Was there improved legal certainty?

Uniform interpretation by the Court of Justice of the EU (CJEU) on Consumer ADR

As outlined in Recital 60, the Union adopted the Directive in line with the principles of subsidiarity and proportionality. The minimum harmonisation may not have decreased the pre-existing fragmentation of ADR frameworks in Member States while, after adoption of the directive, certain Members States may have gone beyond the regulated minimum standards. The CJEU has in at least 3 cases given clarifications on the interpretation of the ADR Directive or the previous Commission Recommendation 98/257/EC of 30 March 1998; requiring national courts to interpret the national ADR legislation in the light of the wording and the purpose of the ADR Directive (*effet utile*).

In the *Alassini*[126] case, the CJEU was receptive towards national laws that impose a number of conditions are first met to guarantee a party has effective access to Courts should the ADR process fail to settle the dispute. The Court clarified that national legislation that prescribes recourse to a mediation procedure as a condition for the admissibility of legal proceedings in front of a civil court is compatible with the Directive as long as that ADR procedure does not result in a decision which is binding on the parties, that it does not cause a substantial delay for the purposes of bringing legal proceedings, that it suspends the period for the time-barring of claims and that it does not give rise to costs — or gives rise to very low costs — for the parties, and only if electronic means is not the only means by which the settlement procedure may be accessed and interim measures are possible in exceptional cases where the urgency of the situation so requires.

In Case C-75/16[127], the CJEU confirmed that the voluntary nature of ADR is compatible with any form of compulsory mediation, as long as the parties are not prevented from exercising their right of access to courts.

In Case C-380/19[128], the CJEU ruled on companies' obligations to provide information on ADR; according to Article 13 ADR Directive in light of Article 6(1)(t) of the Consumer Rights Directive. The CJEU concluded that businesses have the obligation to inform consumers about ADR proceedings not only on their websites but also in the general terms and conditions of their contracts. It in particular ruled that the information on the ADR mechanisms need to be shown prior to signing a contract.

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[123] E.g. a workshop at the Consumer Summit 2022 on Digital tools supporting consumers to enforce their rights: https://european-consumer-summit-2022.b2match.io/page-3921 or the cross-border ADR roundtable in June 2022: https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/alternative-dispute-resolution-consumers_en#cross-border-adr-roundtable

[124] The Stakeholder Consultation Annex gives a clear overview of all EU-wide ADR actions (meetings, workshops, consultation, etc) over the past 2-3 years.

[125] See Stakeholders Consultation Annex.

[126] Joined Cases C-317/08, C-318/08, C-319/08 and C-320/08, Rosalba Alassini and Others v. Telecom Italia SpA and Others, 18 March 2010; https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62008CJ0317&from=LV

[127] Case C-75/16, Livio Menini and Maria Antonia Rampanelli v. Banco Popolare Società Cooperativa, 14 June 2017; https://curia.europa.eu/juris/document/document.jsf?text=&docid=191706&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=2097920

[128] Case C-380/19 Bundesverband der Verbraucherzentralen und Verbraucherverbände — Verbraucherzentrale Bundesverband eV v Deutsche Apotheker- und Ärztebank eG, 25 June 2020; https://curia.europa.eu/juris/document/document.jsf?text=&docid=227724&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=8658222.

Relationship between national Courts and ADR processes is divergent across the EU

A 2018 study by the European Law Institute and the European Network of Councils for the Judiciary[129] depicts that there is patchwork on how ADR and Court systems work together; which may undermine the trust and confidence in such mechanisms and their ability to delivery cost-effective, timely and fair dispute resolution across Member States' borders. In Italy, ADR is mandatory before initiating a court procedure. There are other States where the penalties imposed by the courts for failing to participate in an ADR make such participation effectively mandatory.

The study stressed that the lack of links make it difficult for consumers to choose the best solution to resolve a dispute, notably because:

- there is limited availability of user-friendly information (FAQs) to parties of the ADR process and how it relates to the Court litigation; also addressing the principle of confidentiality and the duty to participate in ADR in good faith, how their rights might be affected by the conduct in the ADR process;
- it is difficult to judge from the outset the quality and independence of the ADR process and its suitability to the particular dispute and to the parties e.g. whether a dispute is likely to raise a question of law that might be more appropriate to be determined by a Court;
- low training of judges on ADR, limited sharing of best practices and no mapping of different models.

As ADR has been developing in different models at national level, so has justice systems, there has been no parallel evolution between Court systems and ADR across the EU. The Justice Scoreboard, for example, highlights that Court timeframes and fees also vary to a large extent.[130].

Conclusion

The ADR Directive has left a positive impact on the single market because it ensured access to quality out-of-court dispute resolution to all EU consumers, irrespective of their country of residence. For some Member States without ADR culture, the transposition of the Directive meant a new effective consumer rights to access high quality ADR. The minimum harmonisation approach has been welcomed and it has been strongly recommended by stakeholders to be maintained. ADR entities benefitted from EU-level actions which offered them a platform for exchange of best practices and financial assistance to improve their infrastructure, capacity building and ADR awareness. The Court of Justice gave further clarity on some provisions in the ADR Directive to ensure legal certainty. One issue however which is not regulated in the Directive is the conditions to access judicial proceedings that differ across Member States where having pursued an ADR may be a compulsory requirement.

[129] The Relationship between Formal and Informal Justice: the Courts and Alternative Dispute Resolution; https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ADR_Statement.pdf

[130] See factsheet: https://commission.europa.eu/system/files/2022-05/2022_eu_justice_scoreboard_factsheet.pdf

5. WHAT ARE THE CONCLUSIONS AND LESSONS LEARNED?

5.1. Six main lessons from the evaluation of the ADR legislation

Below are the main lessons which derive from this evaluation report:

1. **The ADR Directive has been generally effectively transposed across the EU, it has brought a clear improvement to the situation of consumers in providing access to all EU consumers to quality ADR bodies in all areas of retail markets.**

2. **The scope of the ADR Directive is too narrowly defined especially when it comes to take into account all disputes arising from digital markets, disputes relating the wider scope of consumer protection legislation and to the increasing role of 3rd country traders.**

3. **The minimum harmonisation approach in the current ADR Directive has proven to be an asset for Member States that could design systems fit to their economic fabric and pre-existing dispute handling systems. However, the main issue with this approach is related to the different requirements across Member States (e.g. making ADR obligatory before accessing judicial proceedings in certain EU countries), which hamper consumers' rights in cross-border cases, along with accessibility barriers.**

4. **The objective of the Directive to ensure access to ADR is however only partially attained due to practical problems such as the lack of awareness of traders and consumers, the complexity of ADR processes which are reflected in the still low uptake of ADR in certain Member States or economic sectors.**

5. **The continued relevance of the ADR Directive is questioned by the rapid and uncontrolled digitalisation of ADR processes and the *de facto* imposition of Private Online Dispute Resolution systems by large online marketplaces.**

6. **Cross-border ADR is nearly non-existent due to complex procedures and costs and needs for clarification on issues such as the applicable consumer law.**

5.2. Conclusion

Overall, the ADR Directive has proven to be a successful redress mechanism for EU consumers to resolve their disputes - an improved situation for consumers compared to pre-ADR directive times. The objectives of the Directive are however only partially achieved for a number of issues related to a narrowly defined scope, the complexity of procedures and some internal definition inconsistencies, the limited feasibility for domestic ADR bodies to act on cross border disputes, etc. In addition, the recent development in digital markets are clearly questioning its continued relevance since many of disputes related to online transaction may either be considered out of scope by ADR bodies, or are never escalated to a quality ADR body due to the growing importance of private Online Dispute Resolution systems provided by market places.

The Commission has committed itself in the Work Programme 2023[131] to propose some legislative amendments to the current legislation to improve the ADR framework to better protect consumers from digital threats. The revised ADR Directive will aim at broadening access to fair, cost-effective and user-friendly tools to solve ADR claims, notably cross-border disputes by providing more assistance and information to consumers on the procedure and ensuring that costs remain proportionate. The revision will also take into account the increasing importance of digital markets which require fast and efficient

[131] https://commission.europa.eu/strategy-documents/commission-work-programme/commission-work-programme-2023_en

mechanisms but also fairness and impartiality and the lessons learned above. The drivers, problems, objectives and options proposed are discussed in the main body of the impact assessment.

ANNEX I: PROCEDURAL INFORMATION

1. LEAD DG, DECIDE PLANNING/CWP REFERENCES

Lead DG: DG JUST
Decide Planning: PLAN/2022/1533

2. ORGANISATION AND TIMING

The evaluation of the ADR Directive and ODR Regulation was coordinated by an Inter-Service Steering Group, which was established to provide feedback on the back-to-back evaluation and impact assessment process, with representatives from:

- DG Communication Networks, Content and Technology (CNECT)
- DG Competition (COMP)
- DG Energy (ENER)
- DG Environment (ENV)
- DG Financial Stability, Financial Services and Capital Markets Union (FISMA)
- DG Internal Market, Industry, Entrepreneurship and SMEs (GROW)
- DG Mobility and Transport (MOVE)
- DG Health and Food Safety (SANTE)
- Secretariat General (SG)
- Service Juridique (SJ)

The Inter-Service Steering Group met 3 times, on 26 August 2022 to discuss the draft Call for Evidence; on 26 January 2023 to discuss the policy options the Commission considered to be included in its proposal to revise the ADR Directive and on 20 March 2023 to receive comments on the evaluation and the impact assessment reports which were circulated before. Between meetings, the members of the Group were invited to submit further input in writing or to call for bilateral meetings with JUST for further clarifications.

The data collection study which supported the evaluation of the ADR Directive and ODR Regulation, executed by Tetra Tech International Development Sp. z o.o. (Tetra Tech, Lead), in association with the Centre for Strategy and Evaluation Services (Europe) Limited (CSES) and Valdani Vicari & Associati Brussels SPRL, took place between January and October 2022. The consultant also participated in 3 meetings with stakeholders: on 8 March and 29 August with the ADR competent authorities and on 21 June 2022 at the cross-border ADR roundtable.

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

The Better Regulation Guidelines and Toolbox were followed without any exceptions.

4. CONSULTATION OF THE RSB (IF APPLICABLE)

5. EVIDENCE, SOURCES AND QUALITY

The evidence findings of the external support study fed into the analysis of this evaluation Staff Working Document. The consultant used the data of the Open Public Consultation which the Commission held in 2022 in its analysis. During the support study, the consultant used a mix of approaches including an evaluation matrix, desk research, interviews, a targeted consultation and case studies.

To support this evaluation, an external contractor carried out a Data Collection Study between January and October 2022. The data was based on:

a) The analysis of the national ADR reports filled in by the ADR Competent Authorities;

b) National research

c) EU level Desk research;

d) ADR behavioural study;

e) Interviews;

f) 2 Open Public Consultations;

National ADR Reports

DG JUST worked on a Questionnaire addressed to the ADR Competent Authorities to facilitate the process of the national ADR report which the authorities are to submit every 4 years in accordance with Article 20(6) ADR Directive. DG JUST held a meeting with ADR Competent Authorities to finalise the questionnaire and to give an update of the process on 8 March 2022. The below questionnaire was distributed on the WIKI platform on 18 March 2022 to be filled in through the EU survey by 15 April 2022 with a final formal deadline of10 July 2022 in English or in another EU language. Throughout this period, the study team monitored the response rates on a regular basis and several reminders were sent to the ADR competent authorities to increase the response rate. By 15 April only 10 survey responses were received (BG, CZ, ES, FR, HR, LT, LV, PL, SE, SK) and until 10 July, 22 Member States had responded to the survey (IE, DK, FI, SI, AT, NL, DE, PL, NO, HU, IT, PT, EL, ES, LT, FR, BG, SK, HR, LV, CZ, SE). DG JUST sent reminders to the 8 Member States for which a survey response was missing[132], and by the 15 July 2022, 26 Member States had responded. 29 national ADR reports were received, all except for: Liechtenstein[133]. The contractor organised follow up interviews to all national ADR reports.

National research

The national research was launched on 11 April 2022 and the team was made of a national researcher from each Member State, Norway and Iceland. After the review by DG JUST of the 1st Interim Report (containing the findings from 10 Member States), the interview guides for the survey follow up interview were adjusted to include several additional questions of interest to DG JUST.

In several countries, national researchers faced lack of cooperation on the side of the national authorities leading to delays in completing the national research reports (e.g. Cyprus, Greece, Luxembourg, Malta). DG JUST followed up with these authorities.

The national research has been completed for all Member States, but the second survey follow up interviews did not take place with all ADR authorities (BE, EL, LI, SI).

National Report on Alternative Dispute Resolution (ADR)

The European Commission is proposing this template to assist the competent authorities in the Member States in drawing up their national application report

[132] BE, EE, CY, IS, LI, LU, MT, RO

[133] The LI competent authority did not fill in the survey questionnaire but provided information through an interview.

pursuant to Article 20(6) of Directive 2013/11/EU on alternative dispute resolution for consumer disputes.

This template is using the tool "EU survey", that will facilitate the collection of national reports in a comparable manner. We kindly ask national authorities to complete their report in EN or in their native language by 15 April 2022.

The EU survey can generate a pdf or excel report that can be used for national purposes. This template is structured in three parts:

Part I: ADR procedure in your Member State

Part II: Activities of ADR entities

Part III: Best practices, shortcomings & recommendations

The template will need to be completed by the ADR competent authority designated as the single point of contact in your Member State. In order to complete Part II, information will need to be collected from all competent authorities in your Member State (if multiple authorities exist in your Member State).

PART I: ADR PROCEDURE IN YOUR MEMBER STATE

Section 1.1: Introduction

1. **Your authority's name**

2.

Member State where your authority is located

3. **Please confirm that your authority is:**

□ the competent authority designated as the single point of contact in your Member State in case of multiple competent authority

□the only competent authority in your country

Section 1.2: Scope & coverage

4. **Are all contractual consumer disputes covered by at least one ADR entity in each of the economic sectors covered by the ADR Directive[134] (please see Part II, Question 7 below) in your Member State?**

□ Yes

□ No

If no, please indicate gaps in coverage:

Is there a residual ADR entity operating in your Member State?

□ Yes

□ No

If yes, what is the name of this residual ADR entity:

134 consumer goods; energy and water; general consumer services, leisure services; postal services and electronic communications; transport services; others. See also the COICOP classification: https://unstats.un.org/unsd/classifications/unsdclassifications/COICOP_2018_-_pre-edited_white_cover_version_-_2018-12-26.pdf.

Section 1.3: Accreditation, quality criteria and monitoring of ADR entities

5. **In the past 4 years, have you received accreditation/assessment requests? If yes, how long does the assessment take and how much resources do you need? What is the feedback from the ADR bodies on the accreditation procedure? Did you modify your accreditation process over the past 4 years and if yes how and why?**

How do you monitor the compliance of ADR bodies with Directive 2013/11/EU and what kind of monitoring mechanism is used:

- □ **Spot-checks,**
- □ **Annual activity reports (Art. 7(2)),**
- □ **Bi-annual reports (Art. 19(3)),**
- □ **Other monitoring mechanisms (please specify in the text box below)?**

Please specify the frequency (if relevant) of such monitoring:

Have you delisted[135] ADR bodies in the last four years? If yes for which reasons?

Are there any other consumer dispute resolution bodies/tools in your country that are not accredited as quality ADR entities in accordance with the ADR directive, but which still resolve consumer disputes out-of-court?

- □ **Yes**

[135] In case of a merge of ADR entities, the merged entity is to be considered delisted.

□ No

□ I don't know

If yes, please explain why those bodies are not accredited:

Section 1.4: Collective ADR

9. Is ADR possible in case of collective claims (opt-in/opt-out procedure, where the claim is brought on behalf of all those who fall within a defined class of claimants unless they take positive steps to opt out – see Recital 27 of the ADR Directive) under your national law?

□ Yes

□ No

11. Is ADR possible for disputes claimed by multiple consumers (so-called grouped claims, which lead to a settlement of a large number of similar small claims instead of having to process each claim individually) as the same procedure?

□ Yes

□ No

Section 1.5: Cross-border ADR

12. Are the ADR procedures for cross-border disputes in your Member State different from the procedure for domestic cases?

□ Yes

□ No

If yes, please explain how these are different:

13. How do you asses the functioning of the ADR Directive in cross-border disputes in your

country? What are the obstacles and/or challenges encountered? What solutions have you implemented?

Section 1.6: Funding model

14. Is the funding model of the ADR procedure in your Member State based on:

□ Public funding

□ Private funding (i.e. costs are borne by traders)

□ Mix of public and private funding

□ Other

Please explain:

Do ADR entities have a profit or not-for-profit character in your Member State?

□ Profit

□ Not for profit

□ Mix of profit and not-for-profit

□ I don't know

Please explain:

Section 1.7 Other Questions

15. Are there customised procedures in place for vulnerable consumers (particularly vulnerable due to their mental or physical infirmity, age or credulity – see Article 5(3) of the Unfair Commercial Practices Directive)? Consumers may also be deemed as vulnerable based on their low socio-economic status, low education level, not being able to speak a particular language, or a minority status or having no IT skills.

□ Yes

□ No

If yes, please explain:

How can consumers complain about the functioning of the ADR entities in your Member State? Are you aware of any complaints over the past 4 years? If so, how were they handled? Which body is in charge of such complaints? Please specify:

Please elaborate further in case your Competent Authority has specific governance structure or internal procedures which are relevant to highlight under PART I:

PART II: ACTIVITIES OF ADR ENTITIES

Please note that to complete Part II, information will need to be collected from all competent authorities (if multiple authorities exist in your Member State). We therefore ask the ADR competent authorities to collect the relevant data from all ADR entities notified to the Commission and consolidate the data. If not all the requested data is available for all the years, we encourage you to add the most recent data and provide more information in the open text boxes, where relevant.

Section 2.1 Statistics

The below statistics should cover all accredited ADR bodies in your country. However, if only partial data is available, please indicate the coverage of the data you are providing

1. **How many complaints (i.e., <u>before</u> the admissibility check as per Article 5(4) ADR Directive was carried out) were received by all ADR entities of your country?**

	2018	2019	2020	2021
Number of complaints received				

2. How many complaints received by the ADR entities were subsequently withdrawn by consumers?

	2018	2019	2020	2021
Number of complaints withdrawn by consumers				

3. **How many complaints were refused by the ADR entities, on the grounds listed in Article 5(4) ADR Directive?**

	2018	2019	2020	2021
Number of complaints rejected by ADR entity				

☐ **The percentage of complaints refused for the following reasons:**

a) ☐ no previous attempts to contact the trader

b) ☐ the complaint has been frivolous/vexatious

c) ☐ the dispute was previously assessed by another ADR entity or a court

d) the value of the claim has not reached an applicable threshold

e) ☐ the complaint was not lodged in due time

f) ☐ the resolution of a complaint would undermine the effective functioning of the ADR entity

g) ☐ any other reason

Please include comments in the text box below, if any:

How many disputes have been accepted for handling per year (i.e., the total number of complaints minus those refused or withdrawn)?

	2018	2019	2020	2021
Number of ADR disputes accepted for handling by ADR entities				

4. ***[If answer to Part 1 Q 5 above is "yes"]*** **How many consumer complaints are submitted to the residual ADR entity? How many are rejected? How many have been accepted?**

	2018	2019	2020	2021
Number of complaints <u>received</u> by residual ADR entity (before admissibility check)				
Number of <u>refused</u> complaints by residual ADR entity (as per Art 5(4) ADR Directive)				
Number of complaints <u>withdrawn</u> by consumer				
Number of disputes handled by residual ADR entity				

5. **Of all the ADR disputes handled by the ADR entities covered by your competent authority, can you elaborate more on the types of disputes handled? (please include numbers and text if appropriate in the table below):**

Number of ADR disputes by:	2018	2019	2020	2021	Open answer if no data available

sector of economic activity					
Consumer goods (e.g., clothing and footwear; detergents, cosmetics and perfumes; household appliances; watches and clocks; furniture; musical instruments; sports goods; toys and tools)					
Energy and water (e.g., water supply, sewage collection, electricity, gas, maintenance)					
Financial services (e.g., financial intermediation; explicit charges by deposit taking corporations; remittances fees)					
General consumer services (e.g., repair, installation and hire of consumer goods)					
Leisure services (e.g., expenditures for amusement parks; games of chance; practicing sports; attendance of sport events)					
Postal services and electronic communications (e.g., courrier and parcel delivery; mobile communication; internet access provision)					
Transport services (e.g., passager transport services)					
Other					

applicable law infringed					
individual vs collective claims					
type of trader involved (e.g. multinational company vs. SME)					

Section 2.2: Outcome of ADR disputes

6. **Of all the ADR disputes handled by the ADR entities covered by your competent authority, how many of the ADR disputes* ended up in a resolution (i.e., where parties reached an agreement or agreed with an outcome proposed by the ADR entity, or a binding outcome was delivered)? Please provide available data to the extent possible.**

(* = complaints that became disputes/ were not rejected or withdrawn)

	2018	2019	2020	2021
Number of ADR disputes resolved				

If you have no data available, please describe your assessment of the success rate:

Of all the ADR disputes handled by the ADR entities covered by your competent authority, what was the number of disputes per year where the trader did not reply to the claim/refused to participate? Please provide available data to the extent possible.

	2018	2019	2020	2021
Number of ADR disputes where trader did not respond/refused to participate				

Please add any comments here on the level of participation of traders in ADR in your country:

Of all the ADR disputes handled by the ADR entities covered by your competent authority, how many days on average ADR entities take to issue a final decision?

11. In this respect, was there any progress made over the last 4 years in terms of time taken to resolve a dispute?

□ **Yes**

□ **No**

□ **I don't know**

Please elaborate, if needed:

12. Of all the ADR disputes, in how many cases was there a judicial review of the ADR outcome (i.e., cases which were tried in court after an ADR procedure had been finalised)? Please provide available data to the extent possible.

	2018	2019	2020	2021
Number of ADR disputes under judicial review				

Please add any comments here on the judicial review of the ADR outcome in your country:

Please use the below box to elaborate on specific definitions in your national ADR law which is of relevance, notably as the ADR directive is of minimal harmonisation and/or give more/other statistical data which could not fit the above boxes:

Section 2.3 Monitoring & compliance

13. Who, if any, monitors or verifies traders' compliance with the outcome of the ADR procedure by the parties? Please provide details in the text box below:

In case there is no automatic enforceability of ADR outcome in your country, to what extent do traders respect the ADR outcome?

□ **Very likely**

□ **Likely**

□ **Neutral**

□ Unlikely

□ Very unlikely

□ I don't know

□ Not applicable

Please include comments in the text box below, if any:

Section 2.4: Resources and costs

14. What fees or charges do consumers have to pay to use the ADR system in your country? Have these increased or decreased since 2018?

15. Has there been any data collection/study (e.g. cost-benefit analysis or impact assessment) on the cost of ADR in your country?

□ Yes

□ No

□ I don't know

If so, what were their key findings? Please provide weblinks to the studies in the text box below:

Section 2.5: ADR Digitalisation

16. Which of the following digital tools do accredited ADR entities in your Member State use?

□ Website
□ Online forms to file a complaint
□ Digital case management tools
□ Video-conferencing facilities for ADR hearings
□ Advanced solutions/legaltech (such as chatbot)
□ Other
□ None of the above

Please specify advanced/legaltech and "other" digital solutions in use and whether the uptake of digital tools by accredited ADR entities is increasing. If not, what are the challenges?

Are there online dispute resolution systems in your Member State which are not maintained by the accredited ADR entities? E.g. ODR systems designed by law offices, private claim companies or traders

□ Yes

□ No

□ I don't know

If relevant, please elaborate on whether you evaluate their relevance and fairness to resolve consumer disputes and whether you are aware of any complaints against these ODR systems:

If relevant, please elaborate on specific challenges and opportunities linked to ADR digitalisation in your Member State:

PART III: BEST PRACTICES, SHORTCOMINGS & RECOMMENDATIONS

This part requires information on best practices, shortcomings and recommendations regarding the period 2018-2021

Section 3.1 Best practices & cooperation

What measures have been taken in your Member State to promote/incentivise the participation of traders in ADR and how do you assess the success of these measures? (please provide data supporting your assessment)

What measures have been taken in your Member State to increase the awareness of consumers on ADR and how do you assess the success of these measures? (please provide data supporting your assessment)

(Please elaborate on the formal (e.g. Memorandum of Understanding, other form of agreement) or non-formal cooperation* (e.g. sharing of data related to problematic traders, trainings for staff, co-organisation of public events, etc.) *in Q.3-Q7 below)

If there is more than one ADR competent authority in your Member State, please provide a short description of the cooperation among competent authorities:

Please describe the cooperation between ADR competent authorities and ADR entities and other relevant stakeholders (e.g., law enforcement authorities, regulators, etc.) in your Member State. This can be, for instance, administrative cooperation between ADR entities and competent supervisory authorities or regular inter-institutional consultations:

Please describe the cooperation between ADR entities (Article 16 ADR Directive):

Please describe the cooperation between ADR entities and the national authorities enforcing Union legal acts on consumer protection in your Member State (Article 17 ADR Directive):

What other steps have been taken by your authority to improve the functioning of ADR, including to increase the use of digital tools in ADR?

Do you already foresee other actions throughout 2022/2023 which might improve the functioning of ADR?

Section 3.2 Challenges and shortcomings

4. How has the COVID-19 pandemic impacted the use and success rate of the ADR system in your country? Are there any lessons learnt from the application of the ADR and ODR legislation during the COVID-19 pandemic?

5. In your opinion, to what extent are EU-wide actions (e.g. ADR networks such as FIN-NET, TRAVELNET, and EU specific legislation) successful in resolving cross-border disputes? Do you have other suggestions?

6. Are there any other problems, shortcomings or gaps to the ADR Directive that you would like to mention?

Section 3.3. Recommendations

7. Would you have any recommendations for the improvement of the ADR Directive, if this had to be revised in the near future?

Note: Once you submit your survey, you will be able to download your answers and re-use the form to develop the ADR report. We recommend that you use the same structure as in this survey.

Contact: JUST-ADR@ec.europa.eu

EU level desk review

An external contractor conducted an extensive EU level desk review of sources addressing the legal framework, EU policy documents, reporting from the Commission on the implementation of ADR/ODR, related European Commission studies and reports, Commission materials from meetings, trainings and conferences, publications from consumer and trader organisations, national level reports, relevant data, and other sources (e.g., academic publications). Moreover, the Commission also contracted the services of a legal professor, Prof Stefan Voet to carry out a mini legal study "Recommendations regarding the future needs of ADR" which is accessible here.

ADR Behavioural Study

The study sought to identify potential policy options that could improve the effectiveness and relevance of the ADR framework, with an overarching objective to assess ways of providing ADR information to consumers on the websites of traders and ADR entities in terms of how it affects awareness and take-up of ADR. The study began with a preparatory phase to review existing literature in the fields of behavioural science and ADR generally, as well as relevant EU legislation. The findings of the literature review were used to inform policy options relating to the provision of ADR information by traders and ADR entities, to be tested via subsequent behavioural experiments.

The next phase involved both online and laboratory-based behavioural experiments conducted in several Member States. These were conducted as a sequential study, whereby the results from the online experiment were used to refine the experimental treatments tested in the lab. The online behavioural experiment was conducted in four countries (Austria, Italy, Poland, and Sweden) with a total of 4,050 respondents. The lab experiment was conducted in two countries (Germany and Spain) with a total of 601 respondents. In addition, eye tracking was also conducted with 100 of the lab respondents in Spain.

The experiments simulated the process of browsing traders' websites to find information on ways the consumer could resolve a dispute that they had with the trader. Experiment treatments changed the structure, salience, and content of ADR information, to test the effects of these changes on intention to use and understanding of ADR. In the second part of the experiment respondents were placed on an ADR entity website where, again, information provision was varied to test the effect on their propensity to choose ADR to resolve their dispute.

Table 1 Treatments tested on the trader websites – online

Treatment	Description
TO1: Baseline	ADR information was given on the pages where traders usually do so in reality, i.e., the 'Refunds and Complaints' and 'Terms and Conditions' pages.

TO2: ADR information on a separate page	ADR information was separated from other information, by placing it on dedicated page (with no other (non-ADR) information), which was linked from the header of the trader's home page.
TO3: ADR information signposted from top of page	ADR information was 'signposted' from the top of the relevant pages (e.g., the 'Terms and Conditions' page). The signposted stated: "If you have made a complaint with us but we were unable to resolve it for you, you may be able to use Alternative Dispute Resolution (ADR). For more information about ADR, please click here." This was saliently presented in a box at the top of the pages.
TO4: Information divided across separate tabs	Information (including ADR information) was divided across separate tabs within the relevant page, with a dedicated tab for ADR information. For example, on the 'Returns and Complaints' page of the TV retailer, separate tabs covered (i) right to withdrawal, (ii) complaints and (iii) dispute resolution.

Table 2 Treatments tested on the trader websites – laboratory

Treatment	Description
TL1: No ADR information	All mention of Alternative Dispute Resolution or Online Dispute Resolution was removed.
TL2: ADR information	As per TL1, except ADR was mentioned: *"If we [the trader and consumer] cannot resolve the issue together, there is a possibility to use Alternative Dispute Resolution (ADR)"*.
TL3: ADR information & ODR link	As per TL2, except with a clickable link to a mock-up of the ODR platform added. Additional text (vs TL2) stated: *"A list of ADR providers that meet the European quality requirements and monitored by the national authorities is available at https://ec.europa.eu/consumers/odr"*.
TL4: ADR information & ADR entity link	As per TL2, except with clickable link to a mock ADR entity home page. Additional text (vs TL2) stated: "You may refer your complaint directly to The Dispute Resolution Centre, which is a certified Alternative Dispute Resolution body, at https://disputeresolutioncentre.ie".

Table 3 Treatments tested on the ADR entity website – online

Treatment	Description
EO1: Baseline	Resembled existing ADR entity websites as they currently are.
EO2: Information divided across separate tabs	Like TO4 (for the trader websites) information was divided across separate tabs, covering (i) the ADR entity's details (ii) rules and

	procedures and (iii) the cost, speed and effectiveness of the ADR process.
EO3: Highlight benefits of ADR using statistics	The benefits of ADR – the time to resolve disputes and share of cases resulting in agreement – were saliently presented towards the top of the home page, as was the number of people using ADR, which was shown to be increasing over time via a chart.
EO4: Highlight benefits of ADR relative to court	The benefits of ADR relative to court – that ADR is easy, quick, fair and low cost – were presented saliently, in box towards the top of the home page, as one-word bullet points ("easy", "quick", etc.) in bold.

Table 4 Treatments tested on the ADR entity website – laboratory

Treatment	Description
EL1: Baseline	Same as the online experiment baseline (EO1).
EL2: Information divided across separate tabs	Same as EO2 in the online experiment except that, instead of the tab with the ADR entity's details, respondents landed on the tab giving the cost, speed and effectiveness of the ADR process.
EL3: Highlight benefits of ADR relative to court – Table of attributes	Added a salient table highlighting the benefits of ADR relative to court by comparing the two route's attributes, namely average time to resolve disputes (40 days for ADR, 100-700 days for court), typical costs (free for the ADR entity shown, "Court costs + lawyer's fees" for court) and agreement rates (65% for both).

For the trader websites, the main outcome measures are the proportion of respondents indicating their next step would be ADR (measured via questions asked after respondents viewed the websites), and respondents' understanding of ADR after seeing the websites. Similarly, for the ADR entity website, the main outcome measures are the share of respondents choosing to go to ADR, and respondents' understanding following the website. For both website types, understanding was measured as respondents' average score on test questions.

Source
Legal framework
• **2013 Directive on consumer ADR**[136] • **2013 Regulation on consumer ODR**[137] • **2015 Implementing Regulation of the Regulation on consumer ODR**[138]

[136] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR), OJ L 165, 18.6.2013, p.63-79.

[137] Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), OJ L 165, 18.6.2013, p.1-12.

[138] Commission Implementing Regulation (EU) 2015/1051 of 1 July 2015 on the modalities for the exercise of the functions of the online dispute resolution platform, on the modalities of the electronic complaint form and on the modalities of the cooperation between

2020 Proposal for a Single Market for Digital Services (Digital Services Act) and amending Directive
EU policy documents
Commission Recommendation 98/257/EC on the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes[139] **Commission Recommendation 2001/310/EC on the principles for out-of-court bodies involved in the consensual resolution of consumer ADR[140]**
2011 Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Single Market Act - Twelve levers to boost growth and strengthen confidence "Working together to create new growth"
2020 Communication from the Commission to the European Parliament and the Council: New Consumer Agenda 2020-2025
Reporting from the Commission on implementation ADR/ODR
2011 Impact Assessment of the current ADR[141]
2019 report on the application of Directive on consumer ADR and Regulation consumer ODR[142]
Annual statistical reports on the functioning of the European ODR platform (since 2017)[143]
Related European Commission studies and research outputs
ToR for the "behavioural study"
ToR for the "mini legal study"
European Commission, 2017 online dispute resolution webscraping report[144]
European Commission, 2015 ex-ante evaluation for a communication campaign on ADR and ODR[145]
Midterm evaluation of the Consumer Programme 2014-2020[146] **Consumer Programme statement[147]**
2018 Report of the European Law Institute and of the European Network of Councils for the Judiciary the Relationship between Formal and Informal Justice: The Courts and ADR
2019 Consumer Conditions Scoreboard[148]
2021 Consumer conditions survey[149]

contact points provided for in Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes, OJ L 171, 2.7.2015, p.1-4.

139 OJ L 115, 17.04.1998.

140 OJ L 109, 19.4.2001.

141 EUR-Lex - 52011SC1408 - EN - EUR-Lex (europa.eu)

142 https://ec.europa.eu/info/sites/default/files/com_2019_425_f1_report_from_commission_en_v3_p1_1045545_0.pdf

143 https://ec.europa.eu/info/sites/default/files/2021-report-final.pdf

144 European Commission, Online dispute resolution: Webscraping of EU traders' websites, JUST/2016/CONS/FW/CO03/0104 28.3.2018.

145 European Commission, Ex-ante evaluation for a communication campaign on Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) – Final report, 14 December 2015.

146 European Commission, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions On the mid-term evaluation of the Consumer Programme 2014-2020, COM(2019) 490 final, Brussels, 7.11.2019.

147 DG JUST, Programme Statements – Consumer Programme, Heading 3: Security and citizenship, DB2021.

148 European Commission, Consumer Conditions Scoreboard – Consumers at home in the Single Market – 2019 edition, Luxembourg, 2019.

149 Market monitoring | European Commission (europa.eu)

2023 Consumer conditions scoreboard[150]
Market Monitoring Survey 2019-2020[151]
Annual justice Scoreboard (since 2013)[152]
Report on ADR in travel sector (2012 and then updated in 2019)[153]
ODR Platform: Applying the design thinking and behavioural economics principles to the user interfaces **2021 E2E Usability test report**[154] **2020 Imagine Phase Report**[155]
Exploratory Study on information technology for use in online dispute resolution of consumer disputes[156]
Evaluation study of national procedural laws and practices in terms of their impact on the free circulation of judgments and on the equivalence and effectiveness of the procedural protection of consumers under EU consumer law[157]
Recommendations from academic research regarding future needs of the EU framework of the consumer Alternative Dispute Resolution (ADR), (JUST/2020/CONS/FW/CO03/0196)[158]
Commission materials from meetings, trainings and conferences
Outcome report of the DG JUST-DG MOVE meeting with travel ADRs during COVID, *[date unknown]*
Collective redress in the EU: The new Directive on Representative Actions for the Protection of Collective Interests of Consumers, June 2021
Consumer Summit 2021, discussion paper Workshop 2: Challenges and opportunities for digital markets
Consumer Policy Network Meeting, Jan 2022 **PROPOSED ACTIONS ALTERNATIVE DISPUTE RESOLUTION**
Online Dispute Resolution – 4 steps to better business[159]
2018 Consumer Law Ready: an EU-wide consumer law training programme for SMEs

[150] https://commission.europa.eu/document/89ea35fe-728f-4749-b95d-88544687583c_en
[151] Key consumer data | European Commission (europa.eu)
[152] THE 2021 EU JUSTICE SCOREBOARD (europa.eu)
[153] Alternative Dispute Resolution in the Air Passenger Rights sector (europe-consommateurs.eu)
[154] DG JUST – Unit E3, E2E Usability test report – ODR Platform: Applying the design thinking and behavioral economics principles to the user interfaces, 01.2021.
[155] Deloitte, Imagine Phase Report – ODR Platform: Applying the design thinking and behavioral economics principles to the user interfaces, 07.2020.
[156] European Commission, Functional Analysis (Expanded Form) – Specific Contract n° ABCIV – SC-221 under Framework Contract n° DI/07625 Lot 3 – in response to the request for offer ABC IV – 000221: "Exploratory Study on information technology for use in online dispute resolution of consumer disputes", 28.5.2020.
[157] European Commission, An evaluation study of national procedural laws and practices in terms of their impact on the free circulation of judgments and on the equivalence and effectiveness of the procedural protection of consumers under EU consumer law, Strand 2 – Procedural Protection of Consumers, Luxembourg, 2017.
[158] Prof. Voet et al., Recommendations from academic research regarding future needs of the EU framework of the consumer Alternative Dispute Resolution (ADR), (JUST/2020/CONS/FW/CO03/0196), June 2022
[159] European Commission, Online Dispute Resolution – 4 steps to better business

New project led by ECC Net on cross border disputes, 2022– *documents tbc*
New project led by eCommerce Europe, 2022 – *documents tbc*
ADR assembly 2021 materials[160]
Cross-border ADR roundtable - 21 June 2022 (Brussels)
Consumer and trade organisation publications
2020 BEUC report – Stepping up the enforcement of Consumer Protection Rules
2022 BEUC Paper: BEUC' preliminary list of issues to consider when revising the regulatory framework for consumer ADR/ODR in Europe
2022 BEUC Paper: Alternative Dispute Resolution for Consumers: Time to move up a gear
2021 European e-commerce report[161]
National level reports
2018 national reports on the development and functioning of ADR entities
ODR contact points activity reports
Data
ECC-Net data on ADR
Eurostat data on consumer purchases in different sectors
ODR platform statistics **Statistics on all direct talks (since mid 2019) DT_Stats 20220311**
ODR exit survey of traders and consumers[162]
Marketing performance overview (Jan – Dec 2021)
Statistical tables on complaint data **ODR statistics 1-3**
Data collected for upcoming Justice scoreboard
Other
2013 policy brief on implementing the Directive on consumer ADR[163]
UK government, 2021, Mandatory ADR Impact Assessment[164]
Academic Literature

[160] 2nd Alternative Dispute Resolution (ADR) Assembly 2021 - About the event (b2match.io)
[161] Lone, S., Harboul, N. & Weltevreden, J.W.J., 2021 European E-commerce Report, Amsterdam/Brussels: Amsterdam University of Applied Sciences & Ecommerce Europe, 2021.
[162] Raw survey data shared by DG JUST downloaded on 15.3.2022.
[163] The Foundation for Law, Justice and Society, Implementing the EU Consumer ADR Directive
[164] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1051030/mandatory-alternative-dispute-resolution-impact-assessment.pdf

EU level interviews

To collect EU-level feedback on the relevance and shortcomings of the ADR / ODR framework, as well as on specific issues of efficiency, we conducted seven interviews. These include the EU level scoping interviews conducted in the inception phase.

Table 1: List of EU-level interviews

Type of organisation	Organisation	Status
European Commission	DG JUST E.3. Information Systems Officer - Management of the ODR platform	completed
ADR competent authorities	Portugal	completed
EU mediator organisation	European Energy Mediators Group	completed
EU trade organisation and association	Business Europe	completed
	Eurochambers	declined
	Ecommerce Europe	completed
EU consumer organisation	BEUC	completed
EU ADR networks	NEON	no response
	Network of telecom ADRs	completed

Case studies

To gain a richer understanding of the specific context, dynamics, and cross-cutting issues of the ADR/ODR Framework, five case studies were selected; three sectoral case studies covering the travel sector, e-commerce and financial services sector and two horizontal case studies on the use of Artificial Intelligence in ODR and accreditation. The 5 case studies are accessible here.

The sample of Member States covered by the case studies was agreed by DG JUST after the submission of the inception report. The rationale for the country selection considered criteria such as population and market size, a geographic balance between western, central, eastern, southern and northern Europe, and the diversity in the situation regarding the number and types of ADR entities. On the latter, for the sectoral case studies, Member States with a specific sectoral ADR entity were prioritised.

Each case study covers a sample of three Member States. However, in some case studies, the contractor interviewed stakeholders from other Member States outside the original sample due to the client's interest in an additional Member State after the agreed sample or to fill stakeholder gaps. Therefore, the table below shows the selected Member States covered under each case study (in green) and the additional Member States partially or entirely covered in some case studies due to additional interviews with stakeholders outside the country sample (in yellow).

Table 2: Country sample used for case studies

	AT	BE	CZ	DE	DK	EE	ES	EL	FI	FR	HU	IE	IT	LT	LV	MT	NL	PL	PT	SE	Summary
Travel				X			X	X													**DE, ES and EL**
Fin retail									x	X		x	X			X					**FR, IT and MT**
E-commerce	x	X					x													X	**BE, ES and SE**

Accreditation	x		x						X	X					x	x					**FI, FR and LV**
AI in ODR				X									X				X				**DE, IT and NL**

The case studies are based on desk research and insights from different types of stakeholders representing the sample of Member States. The table below shows the number of interviews conducted per stakeholder group for each case study. It is important to note that some interviews were used for more than one case study e.g. the AI in ODR, accreditation and e-commerce case studies used feedback from other case studies. In addition, in some case studies specific questions were asked as part of the national level interviews with ADR authorities and ODR contact points.

Overall, across the sectoral and horizontal case studies, 43 interviews were conducted and have been used for the case studies and analysis for this report.

Table 3: Overview of stakeholders consulted for the case studies

Case Study	ADR authorities	ODR contact point	ADR entity	Trader / Trade org.	Consumer org.	Other	TOTAL
Travel			3	4		4[165]	11
E-commerce			3	1	1	2	7
Fin retail	1		4		1	1	7
Accreditation *	2		4		1		6
AI in ODR	3	3	2	1		2	11
TOTAL	**6**	**3**	**16**	**6**	**3**	**9**	**43**

Open Public Consultations

i. Backward-looking consultation

Running in parallel with other information gathering exercises, a public consultation was set up through the online survey tool, EU survey, to collect views on the functioning of ADR and ODR and the consumer enforcement mechanism from the general public, and relevant stakeholders, including consumer organisations, trader organisations, and ADR entities.

The questionnaire was developed by DG JUST, with the support of the study team. Besides standard profiling questions, the OPC comprised 14 technical questions focussed on the following topics:

Respondents' experience of online retail as consumers and traders in 2021;

Respondents' overall awareness of dispute resolution mechanisms available to consumers and traders;

Respondents' views on ADR systems; and

Respondents' opinions on the role of public authorities in the context of cross-border disputes.

[165] These interviews were with the European Commission (DG GROW and DG MOVE), one claims agency, and one NEB.

The backward-looking open public consultation ran from 4 April 2022 to 27 June 2022. By this date, 121 complete responses were received and analysed for the purposes of the study. The summary report and full analysis of the OPC is found here.

ii. Forward-looking consultation and Call for Evidence

The summary report of the Public Consultation is found here. The outcome of the Call for Evidence is found in the Stakeholders Consultation Annex to the Impact Assessment accompanying the Commission legislative proposal amending the current ADR Directive.

ANNEX III: QUESTIONS MATRIX FOR THE ADR DATA COLLECTION STUDY

RQM Application and results

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
1. What type of ADR landscape did application/implementation of the ADR Directive result in?	**a. Transposition** - How has the ADR Directive been implementated across the Member States (e.g. primary law, regulation, administrative acts, etc.)? **A1.** - Were there any amendments made to the implementing legislation? **A2** - Does the implementing legislation go beyond minimum harmonisation, i.e., are there any gold-plating measures)? **A3** **b. ADR Scope/coverage:** - Does the ADR procedure have partial or full coverage of businesses, including SMEs? **B1** - To what extent, does subscription-based coverage of businesses (i.e., when ADR entity is facilitated by a trader's organization), exist across the Member States? Is so, in which economic sectors? **B2** - Do ADR bodies handle consumer disputes in all retail sectors (generic ADR bodies) or only in specific sectors (specific ADR	Mapping of ADR landscape at national level Comparative analysis of the ADR bodies and procedures across the EEA/EU countries Stakeholder opinion	National level: desk research Online survey questionnaire for the ADR competent authorities (as noted) National level interviews: ADR competent authority

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	bodies)? Are there any residual ADR bodies? **Qu. 4** - Are the ADR entities in your MS only handling consumer disputes or also other disputes which might fall under civil responsibility? **C2** **c. Quality criteria & accreditation/certification:** - What are the accreditation methods adopted by the national authorities to certify the ADR bodies? **C1**What **quality criteria** (transparency, independence, availability/cost and expertise in dispute resolution, or other criteria) can be found in the applicable national law? **C3** - How are the quality criteria verified (transparency, independence, availability/cost and expertise in dispute resolution, or other criteria)? **C4** - Do Member States use a open or closed list of entities (i.e. where no		

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	further entities can be added in the MS)? **C5** - Is there a separate process (or fee) for multi-sector accreditation?) **C6** - To what extent do the Competent Authorities monitor that the ADRs are in compliance with the ADR Directive and what kind of monitoring mechanism are used (e.g., spot-checks, annual reports, etc.)? **Qu. 7. + C7** **d. ADR models:** - Which types of ADR models are in place across the EEA countries (e.g., arbitration, conciliation, mediation, ombudsman, industry-led ADR, etc.) and to what extent have they been used? **D1 and D2** - Mandatory or Voluntary trader participation in ADR procedures **E1** - Is the funding model of the ADR procedure public, private, mixed? (public funding vs. costs to be borne by traders for the running of the ADR) **Qu.14 + follow up H6** - Have ADR bodies a profit or not-for-profit character? **Qu.15**		

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	e. ADR procedures - Is ADR a compulsory preliminary step before going to court? E2 - Is ADR a possibility in case of collective claims (opt-in/opt-out)? Qu.10+ E3 - Can ADR treat identical or almost identical claims by multiple consumers (so-called grouped claims) as the same procedure? Qu.11 - To what extent are the ADR procedures or practices for cross-border disputes different from the domestic procedures and practices across the Member State, for example in terms of the language of the procedure and collection of evidence? Qu.12 + E4+E5 - Do Member States have customised procedures in place for vulnerable consumers e.g. ADRs offer to assist consumers over the phone, etc? Qu.16+E6 **f. Legal effect of ADR procedure:** - Are the outcomes of an ADR procedure binding or non-binding? **F1**		

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	- In case the outcomes are binding, how are they monitored (F3) and how are they enforced? **F4**		
2.To what extent has ADR been used in practice? (i.e. what were the outputs of the ADR Directive?)	**g. ADR in practice** - How many ADR national competent authorities have been appointed in each country? **G3** - How many ADR bodies have been accredited in each country? **G1** - Is the ADR/ODR landscape fragmented or concentrated? (deduce) - Are there any other dispute resolution bodies/tools that are not certified as ADR entities, but which resolve disputes? Why are those bodies not certified? Qu.9 + D3 + M4 Stakeholder views on - the certification process and in particular whether the quality criteria including for cross border ADR are fit for purpose - the related EU sector specific legislation and the extent to which it includes ADR provisions (e.g. the EU energy legislation and the mortgage credit directive provide for out-of-court dispute resolution) - cooperation between ADR authorities and entities and other relevant stakeholders (e.g. law enforcement), for example in terms of sharing data Part III Qu 3-7 - practical application of ADR in cross-border	Mapping and comparative analysis of ADR landscape / complemented by stakeholder opinion	-National level desk research -National level interviews: ADR competent authority -Online survey with ADR competent authorities as noted

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	disputes, for example in terms of language of the procedure, use of an interpreter, evidence produced abroad, challenges faced by ADR networks (i.e., FIN-NET, TRAVELNET, etc.). Part II Qu 13		
	- How many complaints were received by each ADR entity a year in the period 2019-2021? How does this compare to the overall number of ADR disputes across Member State and in comparison to the situation in 2018? Part II Qu 1 - How many complaints received were refused by the ADR entity a year (by country and sector) in the period 2019-2021? If available: what were the reasons for such a refusal? Part II Qu 3 - How many disputes were launched a year (i.e. total complaints minus those refused) in the period 2019-2021? Part II Qu 5 - What were the most common types of disputes (e.g. number by sector or applicable law infringed, domestic vs cross border, trader or consumer infringement, share of collective ADR cases) Part II Qu 7 - What was the success rate of the complaints that became disputes (not refused) in the period	Quantitative analysis of data on number of ADR complaints and disputes, where possible by country, sector, and type Complemented by direct stakeholder consultation	

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	2019-2021? Part II Qu 8 + G9 - For how many disputes a year did the trader not reply/refuse to participate? Part II Qu 9 + G7 - What was the average length of time for a dispute to be resolved? Part II Qu 10 + G8 - In how many cases was there a judicial review of the completed ADR? Part II Qu 12 - What has been the level of compliance with the outcome of the ADR? (If data available: In how many ADR cases have the parties complied with the outcome of the ADR procedure?) - How many unsuccessful ADR cases were then addressed through the court system (i.e. number of court cases)?		
3.How is the ODR legislation *applied* in practice?	**h. ODR application** - How has the ODR been implemented at national level? J1 - What type of organisations are the ODR contact points in your country? J2 - Whar is the role of the ODR contact points in your country (J3) - Does the ODR national legislation in your country allow for B2C disputes? J4 **i. ODR in practice** - To what extent have online traders that offer goods/	Review of sample of trader websites for sample of sectors (through case studies) Stakeholder feedback	National level desk research (as noted) National level interviews: ODR contact points and ECC member

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	services to consumers via a website or other electronic means included an easily accessible electronic link to the EU's ODR website on their sales platform and a specific / designated email contact? **J5** - To what extent is this obligation monitored and enforced by national authorities? **C10** - What is the role of the ODR contact Points (e..g To what extent do national contact points (or other bodies) help consumers in filling their complaints on the ODR platform, and/or provide any other information on the other means of redress when their dispute cannot be resolved through the ODR platform?)		EU level interview: DG JUST (Margarita Tuch) and ODR exit survey results / contact point reports Case studies (desk review and interviews - all stakeholder types)
	- How do stakeholders assess its functioning (also in comparison with other national or private ODR), the improved explanations given on the platform and the user-friendliness of the complaint form? **(K10)**	Stakeholder feedback DG JUST ODR exit survey results and ODR contact point reports	
4. To what extent has the ODR platform been *used* in practice? (i.e. what were the outputs of the ODR Regulation?)	How many disputes were launched on the ODR platform per year (direct resolution with traders and through ADR entity)? (K1, K2, K3)	Quantitative analysis of data on number of ODR	National research (based on ODR Stats report)

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	How many reached ADR stage? How many complaints received were refused? What were the reasons for refusal? (K4 and K5)	complaints and disputes, where possible by country, sector, and type	ODR Statistical Reports (and expanded background data) EU level interview with DG JUST National interview with ODR contact points
	How many cases were resolved inside / outside the platform? (K7)		
	How many cases subsequently addressed through the court system (K9)		
5.What were the results and impacts of the ADR/ODR legislation?	What has the take up of ADR and ODR been cf. alternatives over time and by group (and why)? (deductive + ADR: G4+G5+G6, ODR: K4 and K5	Analysis of data on take-up of ADR and ODR cf. alternatives: solution directly with trader, no action despite having legitimate reason to complain (and why), take-up of ADR/ODR, contact public authority,	EU level desk review (Statistics from Consumer Markets Scorecard on recourse[166] , Statistics from Market Monitoring Survey on problems experienced segmented

[166] Consumer Markets Scoreboard: making markets work for consumers - 2018 edition | European Commission (europa.eu)

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
		escalation – courts. Including – where possible -how this has changed over time and how this varies for 'vulnerable' consumers (i.e., segmented by age, by ability to manage financially, by education level).	by consumer group[167]) Case studies
	To what extent have the ADR networks (i.e., FIN-NET, TRAVELNET, etc.) been successful in resolving **cross-border disputes** comparing to situations where ADR networks do not exist? What is the impact of such networks on domestic disputes? **Part III Qu. 10**	Analysis of the costs, and duration of the dispute resolution through ADR networks compared to disputes not involving such networks Stakeholder views on the benefits of ADR	Online survey with ADR competent authorities (to collect data on number of cross border disputes as per RQ2) and Qu.10

[167] mms-overview-report-19-20_en.pdf (europa.eu)

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
		networks issues comparing to situations where ADR networks do not exist	-OPC (Qu.13) -Case studies
	To what extent has the application of ADR/ODR legislation **increased awareness** of the ADR/ODR procedure among consumers and traders between 2019-2021? **Part III Qu. 2** (about measures taken to increase awareness) and OPC (q4)	Analysis of number of ADR complaints launched over time Stakeholder feedback of level of awareness	-National level interviews G9-G12 -EU level interviews -Case studies -OPC (Qu. 4)
	To what extent has the application of ADR/ODR legislation encouraged **trader participation and compliance with the information requirements**? If not, what were the reasons for this lack of action/participation of businesses between 2019-2021? (K6)	Analysis of number of complaints launched where trader did not respond Stakeholder feedback on incentives for trader participation	

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	To what extent has the application of ADR/ODR legislation ensured ADR entities offer a consistent level of high quality ADR (i.e **independent, impartial, transparent** ADR procedures)? interview **C9**	Analysis of application of quality criteria Stakeholder feedback on independence, impartiality and transparency and overall quality of certified ADR entities Analysis of number of court cases following ADR outcomes (RQ2) Analysis of extent to which ADR outcomes were upheld and enforced (RQ2) Number of judicial review of ADR outcomes	
	To what extent has the application of ADR/ODR legislation ensured ADR entities offer **fast** alternative dispute resolution procedures	Analysis of the duration of average ADR procedure (e.g.	

APPLICATION: How the ADR/ODR legislation is applied in practice, who is using its tools, and what are their opinions?			
Research question	**Sub-questions**	**Methods**	**Data sources**
	between 2019-2021? **(ODR: K8)**	compared to in court resolution) Stakeholder feedback on speed of ADR procedure	

RQM Efficiency

Research question	Sub-questions	Methods	Data sources
a) **COST STRUCTURE OF ADR/ODR**			
6.What is the cost structure (from an ADR and ODR perspective)?	What are the types of costs (staff salaries, training, infrastructure (IT tools, publications, etc) borne by -the European Commission - ODR contact points -ADR competent authorities -ADR entities, -traders - consumers	Development of cost models for each actor in the system Calculation of the one-off and ongoing costs for actors in the system	National level research on costing models used (see RQ1) EU level interview with DG JUST (Margarita Tuch) on ODR costs National level interviews: ADR competent authority and ODR contact point **ADR: H1, H2, H3, H6,H7, H8, H9,**

Research question	Sub-questions	Methods	Data sources
	in applying the ADR/ODR legislation?		**H10, H11, H11; ODR: L1-L4)** Case studies: desk review on cost in sample of countries & interviews with competent authorities, ADR entities, traders and consumer organizations
	To what extent do these costs vary by model or country?	Quantitative analysis of costs variance between countries and public versus private model Qualitative feedback on costs for a sample of different models used	
7.What is the cost-effectiveness of ADR for Member States (ADR competent authorities and ADR entities)?	What is the minimum volume of disputes to make ADR cost-efficient?	Calculation and monetisation of benefits (where possible) generated by ADR for national authorities Calculation of cost per resolved dispute Calculation of minimum number of disputes	
8.To what extent can the ADR/ODR be considered as cost effective for the EU as a whole?	What are the wider economic benefits of ADR and ODR for the European economy and how do these compare to the costs borne at EU level?	Calculation and monetisation of benefits (where possible) generated by ADR and ODR at EU level Qualitative feedback on benefits at EU level	Review of EC documentation and Eurostat data Stakeholder consultations with EU officials and EU level organisations
b) **COST OF COMPLIANCE FOR TRADERS IN PARTICIPATING IN ADR/ODR**			
9.What is the balance of costs for traders: What is the cost burden for individual	What are the costs incurred by traders? For example, what are the information requirements for traders of participating in and	Calculation of costs (where possible by sector) Qualitative feedback from traders on main administrative burden/costs in the application of the ADR and ODR legislation	National research (H4) EU level interviews with trade organisations Case studies: desk review on cost in

Research question	Sub-questions	Methods	Data sources
traders of ADR and ODR versus the benefits generated?	providing ADR/ODR?		sample of countries & interviews with trade organisations
	What are the benefits for traders in participating in ADR/ODR?	Qualitative feedback from traders on main benefits in the application of the ADR and ODR legislation Where possible: Monetisation of benefits for traders (e.g. cost savings if conflict was resolved in court)	
10.How does the cost of ADR/ODR to traders compare with the costs of using other methods to resolve the dispute (courts, vouchers etc) ?	What are the costs of settling disputes without ADR/ODR in court by sector	Calculation of costs and monetisation of benefits (to the extent possible) for traders by resolving disputes in court	Consultations with expert panel + potential interview with EU scoreboard
	What are the costs of settling disputes without ADR/ODR out of court by sector (e.g using vouchers or gifts)	Qualitative feedback from traders on main administrative burden/costs in not using ADR/ODR or courts to settle disputes Calculation of costs and monetisation of benefits (where possible) for traders by sector	EU level interviews with trade organisations Consultations with expert advisors
	What is the impact on the volume of disputes if ADR/ODR is not in place	Determine the volume of dispute resolution applications prior to ADR/ODR or in contexts without consumer access to ADR/ODR	Desk based research Consultations with expert advisors
c) **Costs incurred by consumers as well as barriers faced by consumers in participating in ADR/ ODR**			
11. What is the balance of costs for	What are the costs for individual participation (fees,	Monetise the time and activities required for	

Research question	Sub-questions	Methods	Data sources
consumers: What is the cost burden for individual traders of ADR and ODR versus the benefits generated?	time, information gathering, appeal)	consumers to take part in ADR/ODR	Online survey, section 2.4, Question 16 National research (H5) EU level interviews: consumer organisations Case studies: desk review on cost in sample of countries, interviews consumer organisations
	What are the benefits for consumers in participating in ADR/ODR?	Qualitative feedback from consumer organisations on main benefits in the application of the ADR and ODR legislation Where possible: Monetisation of benefits for traders (e.g. money recovered, cost savings if conflict was resolved in court)	

RQM Relevance

Research question	Sub-questions	Methods	Indicative data sources
12.To what extent did the scope and objectives of the ADR/ODR Directives remain relevant over the implementation period particularly in light of trends in	What trends can be identified in online shopping since 2013? What are the implications for the scope and objectives of the ADR /ODR legislation?	Analysis of the main trends in online shopping since 2013 (in particular the consolidation of major /main market players, online purchasing patterns and shopping online from third countries' marketplaces[168]) Analysis of consumer / trader preferences for ADR / ODR (e.g. growth / dominance of	EU level desk review: *Statistical data on e-commerce for individuals (including types of goods, shopping between EU countries, problems, main factors affecting online*

[168] e.g. Alibaba's Tmall.

online shopping (incl increase of non-EEA purchases)?		in-house customer management systems of the main online marketplaces) Analysis of number of ADR and ODR disputes for non-EEA purchases	*purchases, by age group and country)*[169] *Statistical data on E-business integration 'Customer relationship management' and how this varies by country*[170] *Quantitative research into consumer behaviour and e-commerce trends*[171] Case studies
13.How well adapted are the ADR/ODR legislation to the main technological advances since 2013?	Do other private ODR systems exist at national level and what has been their take up?	Analysis of workings and scale of use of new legal tech companies providing ODR services, fees charged, promising a certain success rate, Analysis of advantages (e.g. cheap, fast) of new online solutions to ODR and any associated risks (e.g. lack of regulation / quality / access for certain 'vulnerable groups') Review of sample of private ODRs website in specific case study sectors	National research (I3 and M2) EU level desk review (Relevant sections of EU Consumer / trader association reports[172], Justice Scorecard[173] and general trends in digitization by country , Academic research / studies[174] and Assembly 21 presentations[175]) OPC (Qu.9, possibly 10)

[169] See E-commerce statistics for individuals - Statistics Explained (europa.eu)

[170] Enhancements include: "providing user-friendly mechanisms for receiving complaints, identifying potential problems before they occur, in general, by facilitating communication with the customer and by anticipating customer preferences. These technology-enabled improvements lead to long-term customer satisfaction and can ensure increased customer loyalty, decreasing marketing costs and increasing sales. The share of EU enterprises using CRM stood at 33 % and recorded a slight decline by 1 percentage point in 2019 compared to 2017" see E-business integration - Statistics Explained (europa.eu)

[171] Ipsos study on the "evolution of shopper behaviour in 2020" evolution-shopper-behaviour-january2020.pdf (ipsos.com) and UNCTAD Report COVID-19 and e-commerce: a global review | UNCTAD

[172] e.g. BEUC report – section 3.6 on 'exploring the relevance and added value of new technologies for stepping up consumer protection' beuc-x-2020-083_enforcement_mapping_report.pdf

[173] (data on use of technologies (artificial intelligence applications, chatbots) to facilitate submission and resolution of the disputes in court cases, see https://ec.europa.eu/info/sites/default/files/eu_justice_scoreboard_quantitative_factsheet_2021_en.pdf (figure 27)

[174] such as The Law of Consumer Redress in an Evolving Digital Market, by Pablo Cortés (on our Advisory Panel) The Law of Consumer Redress in an Evolving Digital Market - The Law of Consumer Redress in an Evolving Digital Market (cambridge.org)

[175] e.g. Breakout session 2: Is the ADR Directive fit for Digital markets? AND presentations from ADR FAIR, e.g. ConciliaWeb: Resolving electronic communications disputes Presentazione standard di PowerPoint (assets-cdn.io) from the 2021 Assembly

			EU level interviews with consumer and trader organisations Case studies
14.To what extent did external "disruptive" events (Covid) change the circumstances / need for ODR / ADR?	How has the Covid-19 pandemic affected the ADR / ODR landscape, and what are the main lessons learnt?	Analysis of caseloads during pandemic (Q3 and 4) and factors driving trends (i.e. greater online shopping, scams/cases, issues with specific sectors – e.g. groceries, health, travel) Analysis of speed and experiences of moving ADR online (successes / costs / issues) during pandemic and implications for consumers / traders Analysis of whether traders were more interested to resolve their disputes through ADR or bilaterally in view COVID Analysis of main lessons learnt / specific issues / new questions raised[176]	National research (I1 and I2, M1) EU level desk review (Relevant 2nd Alternative Dispute Resolution (ADR) Assembly 2021 presentations[177], Consumer Summit 2021[178] , Reports / data on link between Covid and acceleration of digitisation of ADR[179]) Online survey with ADR competent authorities (to collect data on case load as per EQ1) EU level interviews with consumer and trader organisations Case studies
	To what extent have Commission actions helped mitigate the negative effects of these	Analysis of Commission responses / actions / notices	EU level desk review (Commission communications /notices on impact of Covid on consumer rights, enforcement issues / actions, etc. [180],

[176] e.g. Who pays for governmental "evacuation flights" if re-routing by the air carrier was impossible?
[177] e.g., Facing pandemic challenges as an ADR in the travel sector, Christof Berlin (DE), Director, Folie 1 (assets-cdn.io)
[178] European Consumer Summit 2021 - Workshops (b2match.io)
[179] e.g. The Centre for Effective Dispute Resolution (CEDR) published its ninth Mediation Audit in May 2021. This report, which is based on a biennial survey of commercial (ie no consumer) mediators in the UK, noted that while only a very small number of mediations were held online prior to the pandemic (2%), the number of online mediations grew exponentially to 89%. The move to the online medium is also happening to courts and consumer ADR processes (e.g., in the Netherlands and elsewhere) in particular for holding preliminary meetings and hearings.
[180] e.g. European Commission Actions of the Consumer Protection Network on rogue traders during the COVID-19 outbreak Scams related to COVID-19 | European Commission (europa.eu)

	disruptive events?		minutes of meeting on Voucher Recommendation for travel ADRs with DG MOVE)) EU level interviews with DG JUST, trade and consumer organisations
15.To what extent have consumer expectations changed in the past few years, and how has this impacted on their level of satisfaction with ADR/ODR?	How have consumer expectations changed in the past few years (for example regarding speed and cost of treatment of complaints and disputes)?	Analysis of opinions of consumer representatives and other experts	National research (I4, M3) EU level desk review (Consumer scoreboard) EU level interviews with consumer organisations OPC (responses from consumers and consumer organisations)

RQM Shortcomings and lessons learnt

Research question	Sub-questions	Methods	Indicative data sources
16. What are the gaps or shortcomings that can be identified in the application of the ADR and ODR legislation?	*specific problem areas will include barriers to accessibility/use, efficiency and relevance, including the Directive's scope (B3), challenges faced in the accreditation procedure of ADR entities (i.e. quality requirements)(C8), challenges in increasing consumer and trader awareness, non binding/non*	Analysis of answers to RQs 1-15, and all stakeholder consultations, drawing out gaps and challenges.	*National research (B3, C8, F2 and F5, I5)* *Online survey, Part III*

	enforceability (F2 and F5), lack of trader incentives to participate (K6), low success rate (K7), sustainability of the ADR system in light of high administrative burden and cost, functionality ODR (K10 and M5) shortcomings of ADR/ODR in digital era.		
17. What are the lessons learnt from the application of the ADR and ODR legislation and what best practices and potential ways forward can be identified?	*Best practices and recommendations will include potential ways to improve accessibility/use, efficiency, and relevance of the ADR and ODR legislation*	Analysis of answers to RQs 1-15, and all stakeholder consultations, drawing out best practices and recommendations on ways to improve shortcomings identified.	*National research (I6 and M6)* *Online survey, Part III*

ANNEX IV.A: AMENDMENTS TO THE NATIONAL LEGAL FRAMEWORKS IMPLEMENTING THE ADR DIRECTIVE[181]

MS	Amendments
AT	The Alternative Dispute Resolution Act (Alternative-Streitbeilegung-Gesetz - AStG) of 2015 was amended in 2018. The amendment was very limited in scope (only about Article 8 (2) and Article 31) and imposed limits on personal data processing by ADR and deleting of personal data after the procedure.
BE	An amendment to the implementing legislation (Act of 4 April 2014 on the Out-of-Court Resolution of Consumer Disputes) was made in 2015 specifying the conditions that the qualified ADR entities must meet (Arrêté royal du 16 fevrier 2015 précisant les conditions auxquelles doit répondre l'entité qualifiée visée au livre XVI du Code de droit économique).
CZ	Some amendments to the legislation implementing the ADR Directive, (Act No 634/1992 Coll., on Consumer Protection, Act No 64/1986 Coll., on the Czech Trade Inspection, and Act No 229/2002 Coll., on the Financial Arbiter), but none in the areas covered by the ADR Directive.
DE	In 2019 the following changes were made to the Consumer Dispute Resolution Act (VSBG): requirements added to the operation of the conciliation body (e.g. separate entrance and premises from the association that runs ADR); added that the conciliation body can be specialised; more precise requirements added to the legal status of conciliation bodies (consumer association, business association); amendment of the competence and procedure of the Federal Universal Arbitration Board and relevant fees; amendment on the withdrawal of recognition of a conciliation body if it does not fulfil requirements.
EE	The Consumer Protection Act was amended to improve the procedure of the Consumer Disputes Commission to enable faster, easier, and more efficient resolution of disputes. The division of competencies between the various supervisory authorities regarding food supervision was clarified. The rates of penalties provided for in the Consumer Protection Act were also harmonized with penalties for misdemeanours of a similar nature provided for in the Advertising Act.
FI	Acts no. 441/2002 and 441/2002 were amended to meet the requirements set in the ADR Directive concerning for example processing times. Act no. 38/1978 was amended to fulfil the obligation of the trader to provide information to consumers about ADR entities.
FR	The Consumer Code was amended on the legislative part in 2016 by the Order No. 2016-301. The Order was adopted based on Article 161(I) of the Consumer Act of 17 March 2014, in order, according to the Government, to improve the intelligibility and

[181] Data provided by the ADR Competent Authorities to the external contractor conducting the ADR data collection study in 2022.

accessibility of the law for various users (Article 1 of the bill). The main aim was to organise and restore consistency to all the provisions of the Consumer Code, to improve understanding of and access to the law for its various users.

HR The Law on Alternative Resolution of Consumer Disputes was amended in 2019, but the small amendments have not substantially changed the text of the Law.

HU There were two major amendments:
In 2015, the compulsory cooperation for traders in the ADR procedure was introduced. The trader is required to respond to the letter of the ADR body, which invites it into the procedure to represent its interest or do the same via a representative. Additionally, if an official procedure initiated against the trader by the Consumer Protection Authority and the trader does not participate, fines are imposed, and the name of trader will be publicized as a bad reputation (blacklist).
In 2019, the accreditation of the members of the ADR bodies was changed to improve transparency of the selection procedure (open application).

IE There was an amendment to S.I. Nos 368/2015 regarding the steps for cooperation between ADR entities and National Authorities.

IS Act No. 19/2021, on amendments to various laws, including the ADR Act. The purpose of the amendments in question was to make certain procedural matters stemming from the ADR Act clearer on dismissal of cases by ADR entities.

LI Act of 4 October 2018 on the Amendment of the Alternative Dispute Resolution Act, amended AStG (implementing legislation), to bring it in compliance with the GDPR.

LT Amendments were made to the implementing laws. Since 2015, in accordance with the CPL, if this and/or other laws implementing a legal act of the European Union on ADR contradict each other, the norms of the CPL shall apply, unless the specific law does not provide otherwise. Before 2015 the CPL did not establish a relationship with other laws implementing EU Law. Since 2015 the provision on the application of the CPL to international consumer disputes has been established (Article 19 (1) of the CPL) and the peculiarities of resolving international consumer disputes (Article 293 of the CPL)

MT Amendments were made stating that ADR officers in charge of ADR shall be appointed by the Minister and cannot be appointed unless they hold a warrant and have practiced for a period of at least five years. This was introduced to ensure independence.

NL In 2018, one amendment was made to the Implementation Act clarifying that additional national accreditation requirements can be imposed by governmental decree (art. 17 (4) Implementation Act). Hence, no legislative amendments to the implementation legislation are required to set additional accreditation requirements.

NO Minor amendments concerning the accreditation of ADR bodies and the role of the Consumer Authority (Forbrukertilsynet), the residual ADR body were made in accordance with the updated Law on the processing of consumer complaints in the

Norwegian Consumer Agency and the Consumer Complaints Committee (Consumer Complaints Act).

PT Small changes were made to the legislation approved in 2015. Amendments introduced were related to the (i) competences of the regulatory authorities in the field of essential public services (water and electricity); (ii) clarification of the powers of the Portuguese contact point (Direção-Geral do Consumidor); (iii) financial support given to ADR and ADR's created by local authorities; (iv) supervision.

RO GO 38/2015 was amended in 2017, by the Emergency Government Ordinance no. 75/2017 regarding the amendment of GO 38/2015. The amendment of GO 38/2015 concerned the modification of the competent authority under the ADR Directive. The competent authority was modified from the Ministry of Energy, Small and Medium Enterprises and Business Environment to the Ministry of Economy. Even though the updated version of the Go 38/2015 still refers to the Ministry of Economy, today, the Ministry of Energy is the ADR competent authority in Romania.

SE Changes to the ARN, an administrative authority and board for alternative dispute resolution whose activities are regulated by the ordinance (2007: 1041), in order for such authority to be able to live up to all the requirements of the Directive were made. Specifically, certain subject areas were added to ARN's competence and a provision on the aspect that disputes shall, as a general rule, be settled within 90 days from the time a case is ready for decision and that certain existing rules be clarified.

SK Act of 5 December 2018 amending Act No. 371/2014 Coll. on Resolving Crisis Situations in the Financial Market and on Amendments to Certain Acts, and Act 177/2018 Coll. of 15 May 2018 led to the amendments of the ADR Act. The changes relate to the definition of a consumer; types of documents to be submitted with a request to be included in the list of ADR entities; proof of integrity of natural persons leading ADR; and rights and obligations of the subjects of ADR (i.e., ADR entities).

ANNEX IV.B: STATISTICS ON ADR DISPUTES (2018-2021)

ADR complaints and disputes received by ADR entities (before the admissibility check in line with Article 5(4) ADR directive) between 2018 and 2021, as reported by Member States, Norway and Iceland

	2018	2019	2020	2021	Total (2018-2021)
Austria	8 428	8 748	9 723	7 699	**34 598**
Belgium	46 682	47 195	49 637	No data	**143 514**
Bulgaria	310	286	293	374	**1 263**
Croatia	35	321	75	223	**654**
Cyprus	310	310	1 010	1 010	**2 640**
Czechia	5 531	5 278	5 650	6 198	**22 657**
Denmark	5 700	7 229	9 526	7 268	**29 723**
Estonia	3 715	2 667	3 055	3 087	**12 524**
Finland	7 813	8 327	8 197	6 972	**31 309**
France	No data	No data	168 413	No data	**168 413**
Germany	88 196	78 533	100 349	83 997	**351 075**
Greece	11 167	12 461	14 365	13 008	**51 001**
Hungary	16 365	13 896	13 110	12 992	**56 363**
Iceland	0	0	261	287	**548**
Ireland	6 034	5 648	5 680	4 968	**22 330**
Italy	72 911	73 064	75 999	65 878	**287 852**
Latvia	416	526	577	558	**2 077**
Lithuania	6 147	6 360	8 595	9 215	**30 317**
Luxembourg	1 279	1 677	2 335	527	**5 818**
Malta	No data	No data	No data	No data	No data
Norway	26 401	27 470	29 031	23 055	**105 957**
Poland	18 123	19 924	15 688	28 448	**82 183**
Portugal	11 140	9 757	11 780	11 011	**43 688**
Romania	232	522	584	No data	**1 338**
Slovakia	584	515	532	494	**2 125**
Slovenia	295	270	275	256	**1 096**
Spain	47 554	56 781	66 869	57 670	**228 874**
Sweden	19 225	22 740	29 857	21 525	**93 347**

Number of complaints refused by ADR entities (considered outside of admissibility criteria)

	2018	2019	2020	2021	Total (2018-2021)
Austria	2 074	2 373	2 483	1 845	**8 775**
Belgium	15 950	17 953	20 486	No data	**54 389**
Bulgaria	19	42	38	60	**159**
Croatia	No data	118	25	22	**165**
Cyprus	250	250	520	520	**1 540**
Czechia	1 460	1 508	1 825	1 624	**6 417**
Denmark	524	629	618	833	**2 604**
Estonia	482	446	149	251	**1 328**
Finland	738	572	487	615	**2 412**
France	No data	77 919	89 021	No data	**166 940**
Germany	17 618	17 240	14 391	16 512	**65 761**
Greece	2 157	2 650	3 719	2 943	**11 469**
Hungary	2 771	2 460	2 646	2 540	**10 417**
Iceland	0	0	No data	No data	**0**
Ireland	129	262	505	189	**1 085**
Italy	3 688	3 790	3 500	3 669	**14 647**
Latvia	8	6	17	7	**38**
Lithuania	1 193	1 314	2 301	3 165	**7 973**
Luxembourg	164	202	275	15	**656**
Malta	No data	No data	No data	No data	**No data**
Netherlands	4 073	4 553	4 404	3 294	**16 324**
Norway	1 057	1 037	1 355	1 407	**4 856**
Poland	436	774	1 861	7 327	**10 398**
Portugal	1 320	851	862	637	**3 670**
Romania	No data	No data	No data	No data	**No data**
Slovakia	196	168	137	143	**644**
Slovenia	8	4	5	4	**21**
Spain	1 879	1 789	3 584	2 442	**9 694**
Sweden	4 930	6 096	7 050	6 176	**24 252**

Proportion of ADR complaints refused by ADR entity

Percentage of complaints refused based on Article5(4) ADR Directive (ie, inadmissible), per year per Member State				Average refusal rate for the period of 2019-2021 (based on Article5(4) ADR Directive), per Member State
	2019	**2020**	**2021**	
Austria	30%	27%	26%	28%
Belgium	38%	42%	No data	40%
Bulgaria	15%	13%	16%	15%
Croatia	37%	34%	No data	35%
Cyprus	81%	51%	51%	61%
Czechia	40%	43%	37%	40%
Denmark	9%	7%	13%	10%
Estonia	19%	5%	10%	11%
Finland	7%	6%	10%	8%
France	No data	No data	No data	No data
Germany	23%	15%	21%	20%
Greece	22%	27%	23%	24%
Hungary	20%	23%	22%	22%
Iceland	0%[182]	No data	No data	No data
Ireland	5%	10%	4%	6%
Italy	5%	5%	6%	5%
Latvia	1%	3%	1%	2%
Lithuania	21%	28%	36%	28%
Netherlands	24%	23%	18%	22%
Norway	4%	5%	7%	6%
Poland	4%	12%	26%	14%
Portugal	10%	8%	6%	8%
Romania	No data	No data	No data	No data

[182] Zero cases were submitted/launched in Iceland in 2019.

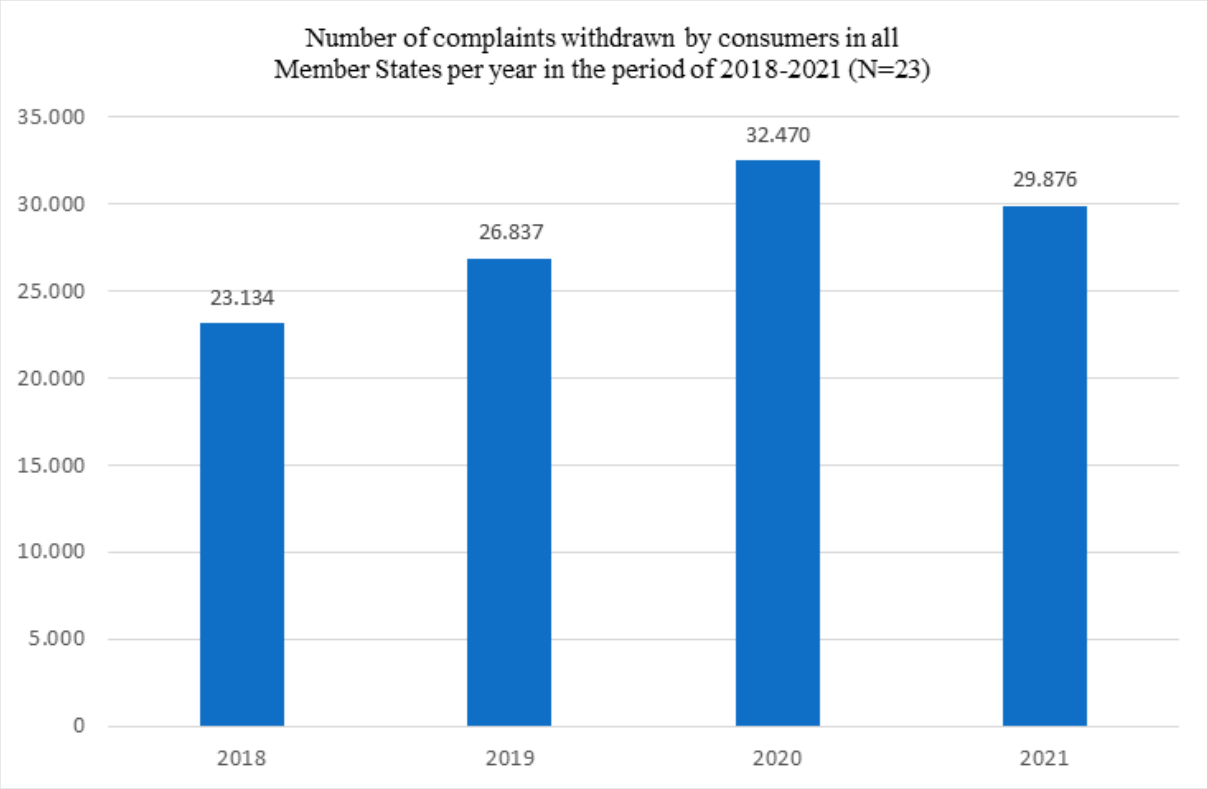
Slovakia	34%	27%	31%	31%
Slovenia	2%	2%	2%	2%
Spain	3%	6%	4%	5%
Sweden	34%	30%	37%	34%
Luxembourg	12%	12%	3%	9%
Malta	No data	No data	No data	No data

Number of disputes launched (accepted for handling by ADR entities)

	2018	**2019**	**2020**	**2021**	**Total (2018-2021)**
Austria	6 354	6 375	7 240	5 854	**25 823**
Belgium	25 663	24 875	24 157	No data	**74 695**
Bulgaria	291	244	254	314	**1 103**
Croatia	35	202	49	201	**487**
Cyprus	60	60	525	525	**1 170**
Czechia	4 945	4 255	3 959	4 548	**17 707**
Denmark	4 628	6 024	8 096	5 696	**24 444**
Estonia	3 024	1 917	2 634	2 365	**9 940**
Finland	7 014	7 691	7 653	6 323	**28 681**
France	No data	62 441	67 291	No data	**129 732**
Germany	66 122	56 435	80 593	60 806	**263 956**
Greece	8 790	9 532	10 220	9 615	**38 157**
Hungary	9 819	7 685	9 986	9 766	**37 256**
Iceland	0	0	No data	No data	**0**
Ireland	5 651	5 180	4 741	4 506	**20 078**
Italy	66 765	66 341	69 382	60 710	**263 198**
Latvia	No data	No data	No data	No data	**No data**
Lithuania	4 937	5 043	6 277	5 998	**22 255**
Luxembourg	1 043	1 263	1 846	432	**4 584**
Malta	No data	No data	No data	5	**5**
Netherlands	16 464	16 955	18 869	17 844	**70 132**
Norway	19 153	19 792	20 042	18 167	**77 154**
Poland	17 687	19 150	13 827	21 121	**71 785**
Portugal	8 934	8 213	9 968	9 259	**36 374**
Romania[183]	232	522	584	No data	**1 338**
Slovakia	374	327	365	320	**1 386**
Slovenia	225	226	231	214	**896**
Spain	35 871	38 509	47 746	41 270	**163 396**
Sweden	10 000	12 000	16 000	10 000	**48 000**

183 Data for Romania for 2020 only includes the first semester.

Number of complaints withdrawn by consumers, per year



The Member States with the highest number of complaints withdrawn by consumers were Germany and Sweden. Germany was also the highest in terms of the number of complaints received (before the admissibility check). Latvia, Romania,[184] Bulgaria, Croatia and Iceland had very few complaints withdrawn by consumers throughout 2018-2021.

Success rate (%)[185], rounded

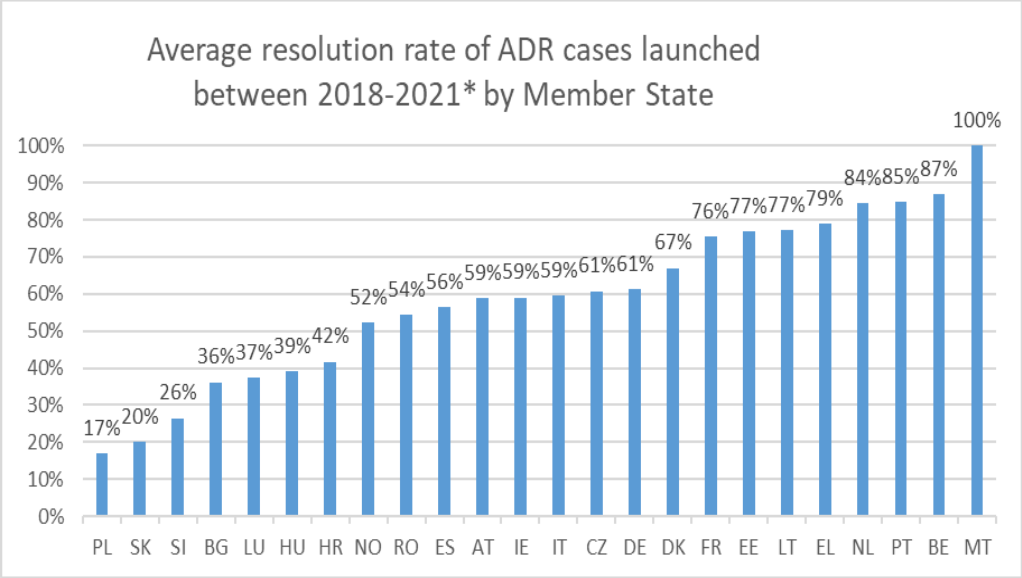
	2018	2019	2020	2021	2018-2021
Austria	53.48%	59.15%	63.33%	Incorrect data	**58.86.%**
Belgium	91.02%	84.47%	85.05%	No data	**86.91%**
Bulgaria	28.18%	45.49%	30.71%	40.76%	**36.17%**
Croatia	2.86%	36.14%	44.90%	53.23%	**41.68%**
Cyprus[186]	No data	No data	No data	No data	**No data**
Czechia	58.24%	64.37%	65.04%	56.31%	**60.74%**
Denmark	79.17%	63.00%	48.68%	89.22%	**67.43%**
Estonia	63.36%	99.01%	67.84%	86.51%	**76.93%**

[184] However, that data for Romania was provided only for the year 2020.

[185] Data from three Member States (AT, FI, NL) for 2021 will need to be clarified, as the number of resolved cases was reported as higher than the number of cases handled for some of the years. In addition the very low success rate for PL needs to be verified as well.

[186] While data is available for Cyprus for the number of launched disputes between 2018-2021, the numbers are the exact same for 2018-2019 and for 2020-2021, therefore, perhaps, not very reliable. In any case, the success rate could not be calculated as no data is available for the number of resolved disputes.

Finland	97.50%	96.83%	Incorrect data	Incorrect data	**Incorrect data**
France	No data	76.06%	75.04%	No data	**75.53%**
Germany	52.25%	77.74%	56.75%	62.00%	**61.32%**
Greece	82.58%	80.53%	82.51%	70.61%	**79.03%**
Hungary	36.50%	40.79%	38.80%	40.64%	**39.09%**
Iceland	0.00%[187]	0.00%[188]	No data[189]	No data	**No data**
Ireland	47.32%	52.24%	78.68%	60.70%	**58.99%**
Italy	62.38%	65.06%	52.59%	57.87%	**59.43%**
Latvia[190]	No data	No data	No data	No data	**No data**
Lithuania	82.32%	75.03%	74.88%	77.06%	**77.15%**
Luxembourg	61.55%	14.96%	33.48%	60.65%	**37.33%**
Malta	No data	No data	No data	100.00%	**No data**
Netherlands	79.66%	96.67%	77.69%	Incorrect data	**84.47%**
Norway	57.07%	53.03%	49.95%	49.47%	**52.39%**
Poland	58.83%	2.15%	3.12%	3.93%	**16.82%**
Portugal	88.92%	84.44%	80.70%	85.35%	**84.75%**
Romania	75.43%	60.34%	40.58%[191]	No data	**54.33%**
Slovakia	25.40%	21.41%	17.53%	15.00%	**19.99%**
Slovenia	32.00%	29.20%	21.65%	22.90%	**26.45%**
Spain	58.24%	58.42%	54.23%	55.34%	**56.38%**
Sweden[192]	No data	No data	No data	No data	**No data**



[187] In 2018, zero cases were launched in Iceland.
[188] In 2019, zero cases were launched in Iceland.
[189] While data is available for Iceland on the number of resolved disputes in 2019, no data is available for the number of launched disputes.
[190] While data is available for Latvia on the number of resolved disputes in 2018-2021, no data is available for the number of launched disputes.
[191] Data provided for Romania for 2020 includes only the first semester of the year.
[192] While data is available for Sweden on the number of launched disputes in 2018-2021, no data is available for the number of resolved disputes.

Note: Data for 3 Member States only covered some of the years: BE (based on data 2018-2021), FR (based on data 2019 and 2020), and RO (based on data 2018-2020).

ADR disputes that were subjected to judicial review (per Member State that provided data)

	2019	**2020**	**2021**	**Total**
Bulgaria	0	0	0	0
Czechia	266	128	67	461
Ireland	10	17	19	46
Lithuania	57	62	61	180
Netherlands				380
Romania	43	23	No data	66
Spain	6	9	21	36

ADR funding models (as self-reported by ADR competent authorities)

Country	Comments
Austria	Telecommunication and postal services: ADR entities are financed partly by the public authorities and partly by the participants in the market. Energy: partly financed by a budget it is entitled to by law for the fulfilment of regulatory tasks, which is partly funded by the public authorities and partly by all electricity and gas consumers. Transport: funded partly by the public authority, partly by the transport companies involved. e-commerce: financially supported partly by the ministry responsible for Consumer Protection and partly by the Chamber of Labour. Residual ADR entity: partly funded by membership fees and the Federal Ministry of Labour, Social Affairs and Consumer Protection supports it financially. Two ADR entities are financed by traders (banking ADR entity by the banking associations, and ADR entity dealing with complaints concerning prefabricated houses by the manufacturers). No ADR entity has a profit character. In the case of ADR entities with private funding, the financing serves exclusively to maintain its operation.
Belgium	Most ADR entities are funded by professional federations of traders. Two ADR entities receive a subsidy from the government.
Bulgaria	15 are financed from the state budget. The other two are privately funded, they charge a symbolic fee to traders when dealing with consumer disputes, but companies can also join as members, which gives them access to more services.
Croatia	Consumers need to pay a fee, which varies from one ADR entity to the other. It is not specified whether all ADR entities charge a fee. However, considering that the competent authority reports private funding as the only means of funding and the ADR entities are for-profit only, it can be assumed that all charge a fee.
Cyprus	Public ADR entities are publicly funded while private ADR entities are privately funded.
Czechia	The four ADR entities established by law have a public funding model. The other three are professional chambers with compulsory membership.
Denmark	The trade associations behind the individual ADR entities pay for the dispute. If the consumer is successful, however, the ADR entities may have statutory provisions where they can charge fees to the trader. The residual entity is largely financed by the public sector. The private ADR entities must not operate for profit, which is why there are rules for how high fees they can charge. The ADR entities may not impose a higher fee on the trader than their average cost per dispute.

Estonia	The expenses of the Consumer Appeal Board are fully covered by the state budget. It is established based on law, which operates as a sub-agency of the Ministry of Economic Affairs and Communications, the Consumer Protection and Technical Regulatory Authority. The expenses of the two insurance entities involved in insurance are covered by the budget of the Estonian Motor Insurance Fund and the Association of Estonian Insurance Companies, and the expenses of the Court of Honour of the Estonian Bar Association are covered by the budget of the Bar Association, respectively. Thus, traders contribute indirectly to the financing of dispute resolution through membership fees of the respective organisations. ADR entities operate as non-profit organisations.
Finland	Two ADR entities are based on public funding, and one is on private funding.
France	The three public ADR entities are financed by public funds, and the other ADR entities are financed by professionals or federations of professionals – traders bear the costs. Some ADR entities are non-profit (public mediators, associations of mediators), and others have a commercial vocation.
Germany	Two entities are financed exclusively by lump sums. Nine of the ADR entities organised under private law are financed exclusively by membership fees. Nine of the ADE entities organised under private law opted for mixed financing between membership fees on the one hand and the collection of lump sums on the other. One ADR entity has been receiving a loan from the Federal Office of Justice since 1 January 2020. An ADR entity organised under private law must be supported by a registered association. It may also be financed by an association representing the interests of traders or consumers or by one or more traders. In this case, the ADR entity must have its own earmarked and sufficient budget, which is separate from the budget of the institution.
Greece	One ADR entity receives public funding whereas the remaining three ADR entities are private funding. Moreover, ADR entities may apply for grants from the European Commission's Consumer Programme to improve their operational capacity in resolving consumer disputes, develop the networking of national ADR, and promote monitoring activities on the functioning and the effectiveness of dispute resolution.
Hungary	All operate entirely using public resources.
Iceland	Public ADR entities, established by law, are publicly funded. Private ADR entities, established by consumer and trade associations, are most often privately funded. Some private ADR entities have partial public funding.
Ireland	The CRU is financed by means of a levy on regulated entities and the FSPO is funded by levies on financial services providers and by a government

	grant. The other two listed entities are primarily funded through private financing. Both the FSPO and CRU are independent statutory bodies run on a not-for-profit basis. NetNeutrals is a private entity with a profit character.
Italy	In some joint negotiations, there is a small financial contribution to be paid by the companies. The purpose of the procedure is not to enrich the ADR entity, but to bring the dispute that has arisen between the trader and the consumer to a quick conclusion.
Latvia	No information
Lithuania	All ADR entities are public authorities, and the state budget covers their costs.
Luxembourg	The residual ADR entity is financed by public funding while the others function through private funding.
Malta	The majority are private, but the residual ADR is public-funded. Only one ADR entity has a profit.
Netherlands	SGC: Traders bear the costs of the substantive handling of disputes. SGC receives a subsidy from the Ministry of Justice and Security for part of the overhead costs. HC: It is partly financed by the Ministry of the Interior and Kingdom Relations, a sector contribution and partly by administrative costs paid by the losing party. Kifid: The affiliated financial service providers bear the costs. SKGZ: The (statutory) affiliated health insurers bear the costs. They pay according to market share. The total amount to be paid is determined annually by the Minister of Finance. SGC, Kifid and SKGZ have the legal form of a foundation, with profit not intended. HC is an independent administrative body, so profit is not intended either.
Norway	Two ADR entities are publicly funded, while the rest is privately funded.
Poland	ADR entities established by public institutions are financed from the state budget and have a not-for-profit character. Private ADR entities set up by trader associations are funded by membership fees and have a profit character.
Portugal	The funding is mostly public: Ministry of Justice budget, four regulatory entities, local associated Municipalities, a regional Government budget (in one case). Other sources: Funding through a Consumer Fund under the responsibility of the Consumer Directorate-General (annual application – projects from the ADR entities are presented to a technical commission); a small minority of business associations and one consumer association help funding.

Romania	No information
Slovakia	Some ADR entities are state authorities (including the residual ADR entity), financed from the state budget. Others are consumer and interest associations of legal entities, financed with their own resources. The Ministry of Economy annually allocates funds to support ADR in the form of subventions.
Slovenia	Traders bear the costs. Lawyers are for profit (at the bar rate). For non-profit organisations financed by grants, state funds, part of income tax, profits may not be shared or paid out, but can only be used to develop or expand activities.
Spain	Some public ADR entities are financed with public funds and not for profit, others are private and financed with private funds (traders bear the costs) and can be for-profit.
Sweden	One ADR entity is a public authority and thus state-funded, while the other six consist of industry boards that are privately funded. None of the ADR entities conducts for-profit activities.

ADR fees or charges to consumers, per Member State

Member State	Fees/charges to consumers
Austria	For consumers, free of charge. For ADR procedures before the ADR body dealing with complaints in the travelling sector, participating companies have to pay a fee of € 78,- per opened procedure. This fee has not increased since 2015.
Belgium	Only 4 of the 15 entities ask the consumer to pay a fee, but there is a wide variation in the sum to be paid by the consumer, going from EUR 40 over EUR 80 and up to even EUR 332.
Bulgaria	Free of charge for consumers
Croatia	It is the same from 2018. and it is 500 HRK/66 EUR
Cyprus	EUR 20 - 640. No increase through the years.
Czechia	Out-of-court dispute resolution is not charged in the Czech Republic. Only at the commencement of a dispute with ČTÚ the consumer will pay an administrative fee (approximately CZK 250).
Denmark	Consumers must pay a symbolic amount to complain. The amount is between 75 and 400 kr. For some Appeals Boards, there has been an increase in the fee, as the Appeals Boards have wanted the complaint fee to be aligned with the residual body (Consumer Complaints Board), as well as the general price increases in society.
Estonia	Procedures are free of charge for consumers
Finland	No fees

France	Free of charge for the consumer. However, the consumer shall be responsible for: - Representation costs if the consumer wishes to be represented by a lawyer or a third party who would ask him for remuneration in that capacity; the consumer may also be assisted by a consumer association —Expert fees if the consumer wishes, during the mediation process, to use an expert's expertise; the expert's costs may be shared with the trader if both parties have agreed to use an expert.
Germany	The ADR procedures are in principle free of charge for consumers. Only in cases of misuse of the AS steles will a small fee of EUR 30 be charged.
Greece	For consumers is free of charge in Greece.
Hungary	The use of alternative dispute resolution in Hungary has been and is free of charge in the past and in the present day.
Iceland	Small case handling fee for most ADR bodies. Fees have not increased since 2020.
Ireland	Both the CRU and the FSPO provide their services to consumers free of charge. Net Neutrals also provide free services to consumers but charge traders EUR 100 for an ecommerce case and apply other charges for timeshare and domain name disputes. Their charges have not changed since 2018. RIAI charge consumers a EUR 50 fee for their services.
Italy	MISE: Avellino's chamber of commerce EUR 30 (for disputes up to EUR 50.000) or EUR 60 (for disputes above EUR 50.000); no variation Bari's Chamber of commerce EUR 30, no variation Bolzano's Chamber of commerce EUR 30, no variation Cagliari-Oristano's chamber of commerce EUR 30, no variation Cosenza's Chamber of commerce EUR 30, no variation Piacenza's Chamber of commerce EUR 30 (for disputes up to EUR 50.000) or EUR 60 (for disputes above EUR 50.000); no variation Trenitalia Free Trenord Free Poste / AGCOM: / ARERA: The ARERA Conciliation Service and the procedures known as "paritetiche" are completely free for consumers; the other ADR entities listed by ARERA apply indemnities for consumers in line with those established by the Ministry of Economic Development (single point of contact or ADR) coordination table (a maximum of EUR 30.00 for disputes up to EUR 50,000.00; a maximum of EUR 60.00 for disputes over EUR 50,000.00).

	CONSOB: The ACF is free for consumers BANCA D'ITALIA: Filing a complaint with the ABF has a very low cost: a fee of only 20 euros is required, which is refunded by the intermediary if the decision is upheld, even if only in part. The contribution to the costs of the procedure of 20 euros has remained stable since 2009, the year in which the ABF was set up.
Latvia	In general, out of court dispute resolution is free of charge. Two ADR bodies request to pay security deposit, which is refunded, if claim is justified. The procedure has not changed since 2018.
Lithuania	ADR is free of charge for consumers.
Luxembourg	All the ADR bodies in Luxemburg offer their service for free.
Malta	No answer provided
Netherlands	SGC: the amount of complaint to the 50 dispute resolution boards varies, but is generally a low financial threshold (between EUR 21,50 and EUR 127,50). If the complaint is upheld in part or in full by the committee, it is regulated that the trader should reimburse the consumer for the amount of the complaint. In the case of an unfounded complaint, the consumer loses the paid complaint fee. HC: tenants pay an advance of EUR 25, which is (partially) reimbursed in the event of a (partly) well-founded claim. There is a possibility to apply for exemption on the basis of a low income for the payment of the advance. These costs have remained unchanged since 2018. KIFID: The complaint to the Dispute Settlement Committee is free of charge for consumers. If a consumer appeals against a decision to the Appeals Board, he must pay a fee of EUR 500 for the appeal procedure; if the appeal is well founded, the Appeals Board may decide that the consumer's contribution must be reimbursed by the financial service provider. SKGZ; Mediation by the Ombudsman Zorgverzekeringen is free of charge. An entry fee of EUR 37,00 applies to proceedings before the Dispute Settlement Committee. That amount has not changed since 2018.
Norway	A minority of the ADR entities require a small fee from the consumers.
Poland	No answer provided.
Portugal	No fees or just moderate file taxes are charged during the complaint procedure.

	Only 4 entities have fees. In 2 of them 10 euros per mediation. In the two other entities depends on the value of the damage.
Romania	The procedure is free for consumers.
Slovakia	ADR entities which are eligible legal persons (consumer associations and business associations of legal persons) may request from the consumer a fee for the commencement of ADR of an amount which may not exceed EUR 5, inclusive of VAT, if the authorised legal persons referred to in their ADR rules. Currently, there is only one ADR entity in the Slovak Republic, which is covered by its rules. Other ADR entities shall conduct ADR free of charge. ADR entities which are state bodies shall always conduct ADR free of charge. There have been no changes in the Slovak legislation since 2018.
Slovenia	The costs of the ADR procedure shall be borne by the trader/provider. The procedure shall be free of charge for the consumer, with the exception of a fee which may be fixed by the IRPS provider/ADR entity and shall not exceed EUR 20. The consumer shall bear the costs of his delegate or third party, if any, and the costs of the expert opinion requested by the consumer if the IRPS provider/ADR entity considers that the dispute can be settled without it. These costs are the same from 2018.
Spain	Free for consumers.
Sweden	Only one (the Swedish Bar Association's Consumer Dispute Board) of the seven approved boards in Sweden charges a fee for dealing with a dispute. That fee is SEK 100 and has not been increased or reduced since 2018.

MS	Type of monitoring
AT	**Annual activity reports** The contact point at the Federal Ministry for Social Affairs, Health, Care and Consumer Protection is responsible for monitoring the compliance of the ADR entitieswith the ADR Directive. The monitoring is conducted annually via the control of the annual reports from the ADR bodies. Under Article 9 AStG, the ADR bodies must submit and publish an annual activity report containing certain minimum information listed in the same Article. They also contain evidence (i.e. documents and proof of qualifications).
BE	**Other monitoring mechanisms** The Economic Inspection monitors the ADR entities through audits, assessing whether the entities are complying with the legal requirements in practice. The Economic Inspection holds two types of audits per year: mini-audits (reduced audits of all qualified entities) and at least two thorough audits of qualified entities each year. Detailed audits are based on four checklists: (1) website, (2) Rules of Procedure, (3) Annual Report and Persons responsible for the handling of out-of-court settlement questions and (4) budget. In addition, there is another checklist to identify how complaints are handled and whether the parties concerned are correctly and timely informed about the progress and content of the file. Full audits evaluate ADR entities' compliance with all quality requirements, mini audits assess compliance with the accessibility and transparency requirements by vetting ADR entities' websites, annual reports and the training followed by staff. After the audits, each entity receives the result of the findings of the auditors. They then have two months to submit their comments and/or make the necessary adjustments. Once this deadline has passed, the auditors verify which actions the entities have undertaken and make a final state of play of their work on the audits carried out. Working with checklists has proved to be a best practice in terms of both accreditation and control.
BG	**Biannual reports** The monitoring of compliance is done by the ADR competent authority through bi-annual reports (pursuant Art. 19(3) of the ADR Directive). **Other monitoring mechanisms** ADR entities have an obligation to immediately notify the competent authority in case a change happens in the circumstances which certified that they meet the requirements for accreditation. This notification is followed by a re-examination to confirm whether the given ADR entity continues to meet the criteria for being accredited.

Annual activity reports

CY The monitoring of ADR entities is carried out by the Consumer Protection Service through annual activity reports (as per Article 7(2) of the ADR Directive).

Spot checks

A random check was carried out in 2018 on two ADR entities by the competent authority.

Biannual reports

Biannual reports pursuant to Art. 19(3) of the ADR Directive are sent by the ADR entities every year on 30 June and 31 December.

Annual activity reports

CZ Annual activity reports (as per Article 7(2) of the ADR Directive) shall be sent by ADR entities based on a mutual agreement every year.

Other monitoring mechanisms

Another monitoring mechanism is the so-called platform of ADR entities. This platform is a joint meeting of ADR entities that takes place at least twice a year at the Ministry of Industry and Trade (the competent authority). During this meeting, consultations take place, and the ADR entities evaluate their activities. Besides, the ADR entities share information and their experience, examples of good practice, resolve any arising issues.

Biannual reports and Annual activity reports

The monitoring of the ADR entities is carried out by the Federal Office for Justice through bi-annual reports (Art. 19(3)) and annual activity reports (Art. 7(2)).

DE **Other monitoring mechanisms**

Third persons can indicate to the Federal Office for Justice (competent authority) if there are any problematic issues regarding any ADR entities. Such indications are checked by the competent authority to establish whether there is a reason to withdraw the accreditation. Such indications are always case or issue based.

Annual activity reports

Monitoring occurs through annual activity reports that the ADR entities send to the Danish Appeals Boards Authority (as per Article 7(2) of the ADR Directive).

Other monitoring mechanisms

DK The competent authority receives ongoing complaints from citizens, after which the authority assesses whether the complaint is generally applicable to the Appeals Board and whether the Complaints Board complies with their statutes. This is usually a citizen who is dissatisfied with the decision, after which the authority states that they cannot intervene in specific decisions, as the appeals boards are independent.

Annual activity reports

EE The monitoring of the ADR entities is carried out by the Consumer Protection and Technical Regulatory Authority of the Ministry of Economic Affairs and Communications through annual activity reports (Art. 7(2)).

Biannual reports

DG Consumers that is the main ADR authority in Spain carries out bi-annual reports according to Art. 19(3) of the ADR Directive.

Other monitoring mechanisms

DG Consumers monitors ADR entities also through information on the activity provided by ADR entities, resolution of queries or doubts, data on the procedures attended.

ES Regarding the claims of the Stocks Market National Commission that is the ADR entity on consumers' disputes related to entities subject to the supervision of the Stocks Market National Commission, compliance monitoring is carried out through the obligation of the ADR entity to address an annual report of its ADR activity to the Council of the Stocks Market National Commission.

Regarding the claims service of the Bank of Spain that is the ADR entity (not notified to the Commission as an ADR entity) on consumers' disputes related to entities subject to the supervision of the Bank of Spain, compliance monitoring is carried out through the obligation of the ADR entity to address an annual report of its ADR activity to the Executive Committee and Governing Council of the Bank of Spain.

Annual activity reports

FI The Ministry of Justice (ADR competent authority) carries out the monitoring through annual activity reports (Art. 7(2)).

Spot checks

The monitoring of the ADR entities by CECMC is done via spot-checks.

Biannual and annual activity reports

The monitoring of the ADR entities by CECMC is done through bi-annual reports (Art. 19(3)) and annual activity reports (Art. 7(2)).

FR **Other monitoring mechanisms**

The CECMC has established a multiannual programme for the evaluation and monitoring of consumer mediation based on the principle of an evaluation of each mediation entity at least once every three years. In addition, the CECMC carries out closer monitoring in the event of numerous reporting or when vigilance is required once the entity is registered. Between March 2019 and July 2021, the CECMC has checked 23 mediators.

EL

Biannual reports

The General Directorate for Market and Consumer Protection is the competent authority for the monitoring of the ADR bodies' compliance with the ADR Directive. The monitoring of the ADR bodies' compliance with the Directive 2013/11/EU is carried through biannual activity reports (Art. 19(3)).

HR

Annual activity reports

Once a year the ADR competent authority asks the ADR entities to submit their annual report (as per the ADR Directive).

HU

Annual activity reports

The minister for consumer protection is responsible for monitoring the ADR entities (Art. 7(2)). There is an obligation for the ADR entities to provide a report every 6 months in each reporting period. The types of those decisions are predetermined by the Ministry.

IE

Biannual reports and annual activity reports

The CPCC is primarily responsible for monitoring the compliance of ADR entities with the requirements of the ADR Regulations through the reports that the ADR entities submit to the CPCC. The frequency is determined by the Regulation primarily (i.e. Annual activity reports and bi-annual reports cf. Art 7(2) and Art 19(3)).

Other monitoring mechanisms

There is also ongoing monitoring of complaints to ensure no issues are occurring. The CPCC also monitor any complaints or queries received in relation to the ADR entities to identify any issues. This monitoring - and the decision to act - would be based on evidence gathered through market intelligence, contacts to our consumer helpline or ADR inbox, research and investigation and international good practice.

IS

Annual activity reports

The Ministry of Culture and Business Affairs monitors the ADR entities every year in line with Art. 7(2) of the ADR Directive.

Other monitoring mechanisms

Letters of inquiry, if necessary.

IT

Annual activity reports

Normally, the monitoring activities are carried out on an yearly basis as each ADR entity is required to issue a report as provided by Articles 141 quater(2) and 141 nonies(4) of the Consumers code.

LI

Biannual reports

The Office for National Economy, the competent authority, is responsible for monitoring compliance with ADR entities. Lichtenstein law does not set out a specific procedure for monitoring. However, the ADR entities have the obligation, under Art. 25 AStG to provide every two years, the last two annual activity reports to the competent authority.

LT

Bi-annual reports and Annual activity reports

Monitoring occurs through annual activity reports (Art. 7(2)) and bi-annual reports 19(3)) carried out by the Ministry of Justice.

LU

Annual activity reports and biannual reports

Monitoring occurs through annual activity reports (Art. 7(2)) and bi-annual reports 19(3)) carried out by the Ministry for Consumer Protection

LV

Annual activity reports

The monitoring of the ADR entities is carried out by Consumer Rights Protection Centre through annual activity reports (Art. 7(2)).

MT

Annual activity reports

Monitoring shall occur through annual activity reports (Art. 7(2)). However, monitoring is not being carried out by the competent authority due to lack of resources.

NL

Bi-annual reports and Annual activity reports

The monitoring is carried out by the respective designated Minister in whose policy area the ADR is operating (Article 16 (1) Implementation Act). One exception was made concerning the monitoring of the SGC. To prevent fragmented reporting obligations, the Ministry of Justice & Security is the sole designated competent authority for the multi-sectoral SGC system (Article 16 (2) Implementation Act). The monitoring mechanism consists of reviewing annual activity reports Art. 7(2)) and bi-annual reports Art 19(3)) of their respective ADR entities. The competent authority and its ADR meet at least once a year to connect and discuss best practices and/or recommendations. If necessary, additional meetings are initiated throughout the year.

Other monitoring mechanisms

The Rent Commission and the SGC should be evaluated once every 5 years based on the rules in the General Administrative Law Act on subsidies. KIFID and SKGZ are to be evaluated under the Financial Supervision Act and the Decree on the supervision of financial undertakings once every 4 years.

NO

Annual activity reports

The Ministry of Children and Families has the overall responsibility for monitoring. The main monitoring takes place through annual activity reports (Art. 7(2) of the ADR Directive). In cases where the annual reports or the complaints show inconsistencies, the Ministry will investigate whether the issue is wider. They do not engage in individual cases.

Other monitoring mechanisms

Contact and dialog with ADR entities in case of information/concern from consumers, organisations, etc.

PL

Annual activity reports

The President of the Office of Competition and Consumer Protection shall be responsible for monitoring the activities of ADR entities.

The President's obligation to monitor ADR entities is performed by checking annual reports of ADR entities according to Art. 7(2) of the ADR Directive

PT

Spot checks

DG Consumer (the ADR competent authority) used to monitor compliance of ADR entities also through spot-checks.

Annual activity reports

After authorizing the ADR entity, DG Consumer carries out an annual of the entity and visit its website, according to Art. 7(2) of the ADR Directive.

Other monitoring mechanisms

The monitoring includes DG Consumer (the ADR competent authority) analysing complaints against ADR entities from consumers or traders made in the "complaints book". In addition, an analysis of ADR entities' applications to a fund managed by DG Consumer ("Consumer Rights Promotion Fund") is carried out. In the framework of these applications, ADR entities have to submit financial/budget documents, Activity Reports and Activity Plans.

RO

Other monitoring mechanisms

The Ministry of Energy is the authority appointed to carry out the monitoring of all ADR entities in all sectors. The actual monitoring methodology is currently being elaborated as part of the Project “Consolidation of the capacity of regulation, implementation, evaluation and conduct of alternative dispute resolution activities performed by entities coordinated by the Ministry of Energy and the National Authority for Consumer Protection”, code SIPOCA/SMIS 720/129982, financing contract no. 561/14.10.2020, co-financed from the Social European Fund, through the Operational Programme Administrative Capacity 2014-2020 (OPAC), seeking to cover all the gaps in the GO 38/2015. As per GO 38/2015 the ADR entities are under an obligation to report to the authority once every two years.

Biannual reports

Monitoring is carried out through biannual reports pursuant to Art. 19(3) of the ADR Directive.

SE

Other monitoring mechanisms

When a consumer complaint against an accredited ADR entity, they are received by the Legal, Financial and Administrative Services Agency (competent authority), the competent authority assesses whether a supervisory case should be opened, and further examination should be carried out. Such a case could lead to the withdrawal of the accreditation in case the ADR entity no longer complies with their obligations.

SI

Biannual reports and annual activity reports

Monitoring occurs through annual activity reports (Art. 7(2)) and bi-annual reports Art. 19(3) carried out by the Ministry of Economic Development and Technology

Spot checks

The Ministry of Economy carries out spot checks for monitoring compliance of ADR entities.

SK

Biannual reports and Annual activity reports

Monitoring occurs through annual activity reports (Art. 7(2)) and bi-annual reports Art. 19(3) carried out by the Ministry of Economy.

Overview of monitoring mechanisms

	Spot-checks	Biannual reports	Annual activity reports	Other monitoring mechanisms
Austria			✓	
Belgium	✓		✓	✓
Bulgaria		✓		✓
Croatia			✓	
Cyprus			✓	
Czech Republic	✓	✓	✓	✓
Denmark			✓	✓
Estonia			✓	
Finland			✓	
France	✓	✓	✓	
Germany		✓	✓	✓
Greece		✓		
Hungary			✓	
Iceland			✓	✓
Ireland		✓	✓	✓
Italy			✓	
Latvia			✓	
Liechtenstein		✓		
Lithuania		✓	✓	
Luxembourg		✓	✓	
Malta[193]			✓	
Netherlands		✓	✓	✓
Norway			✓	✓
Poland			✓	
Portugal	✓		✓	✓
Romania				✓
Slovakia	✓	✓	✓	
Slovenia	✓	✓	✓	✓
Spain		✓		✓
Sweden		✓		✓

[193] The findings of our research show that monitoring activities are not being carried out by the competent authority due to lack of resources.

ANNEX IV.D: LIST OF ADR GRANT AWARDEES

Project Title	Coordinator	Country of Coordinator
System Upgrade, Consumer Communication, Expansion and Sustainable Solutions	SDRUZHENIE NATSIONALNA ASOTSIATSIAZA IZVANSADEBNI SPOGODBI	BG
Improving Effectiveness and Efficiency of the Office of the Arbiter for Financial Services in Malta	OFFICE OF THE ARBITER FOR FINANCIAL SERVICES	MT
Explanation videos to facilitate access to ADR proceedings and direct advertising for two ADR entities	RUNDFUNK UND TELEKOM REGULIERUNGS GMBH	AT
Improving Consumer Awareness	PROFI TEST D.O.O.	HR
Internet Ombudsmann Update	OSTERREICHISCHES INSTITUT FUR ANGEWANDTE TELEKOMMUNIKATION	AT
Providing Consumers with Instant Access to ADR Technology, Promoting Consumer - Trader Awareness and Quality Dispute Resolution and Changing Companies Mindset towards ADR.	ADRPOINT P.C.-ALTERNATIVE DISPUTE RESOLUTION CENTER	EL
Simple Access to ADR for Consumers	RESOLUTIA S.R.L.	IT
National Alternative Dispute Resolution Convention 2019	STICHTING KLACHTEN EN GESCHILLEN ZORGVERZEKERINGEN	NL
Conciliazione Telematica Territoriale	CAMERA DI COMMERCIO DI COSENZA	IT
Trans-borders tourism ADRs development	ASSOCIATION DE MEDIATION TOURISME VOYAGE	FR
Development of a flexible ICT platform to accommodate current and future requests for ODR in different industry sectors	NETNEUTRALS EU LTD	IE
ADR Roadshow. Explaining the benefits of ADR to businesses and encouraging them to use it	PRO MEDIATE (UK) LIMITED	UK
Consumers and Traders Joint Achievement Compromise	AGENCIA CATALANA DEL CONSUM	ES
Acciones de sensibilización de la Junta Arbital de Euskadi	INSTITUTO VASCO DE CONSUMO KONTSUMOBIDE	ES

Raising consumers access to efficient dispute resolution	OMBUDSMAN DU COMMERCE	BE
DIGITALIZATION	ASOCIACION PARA LA AUTORREGULACIONDE LA COMUNICACION COMERCIAL	ES
CONSUMER INFORMATION CAMPAIGN	ASOCIACION PARA LA AUTORREGULACIONDE LA COMUNICACION COMERCIAL	ES
Campaign for the Promotion of Consumer ADR	A.D.R. CYPRUS CENTER LTD	CY
Improvement of the Lithuanian ADR system for more active involvement of social partners (consumer and business associations).	VALSTYBINE VARTOTOJU TEISIU APSAUGOS TARNYBA VI	LT
An Internal Electronic Complaints Management System for the Hellenic Financial Ombudsman	ELLINIKOS HRIMATOOIKONOMIKOS MESOLAVITIS ASTIKI MI KERDOSKOPIKI ETAIREIA ENALLAKTIKIS EPILISIS DIAFORON	EL
Effective Redress through Alternative Dispute Resolution	MALTA COMPETITION AND CONSUMER AFFAIRS AUTHORITHY	MT
CAPACITY BUILDING OF THE ALTERNATIVE DISPUTE RESOLUTION (ADR) BODY FOR CONSUMER DISPUTES IN ESTONIA	TARBIJAKAITSE JA TEHNILISE JARELEVALVE AMET	EE
Developing Alternative Dispute Services for the Maltese Online Gaming Industry	RGOAL LIMITED	MT
Replacement of ADR processing system	BUS USERS UK CHARITABLE TRUST LTD	UK
Develop and promote ADR technology for domestic and cross-border consumer disputes in travel and tourism sector and increase the operational capacity of ADR entities through eADR learning and training	ADRPOINT P.C.-ALTERNATIVE DISPUTE RESOLUTION CENTER	EL
Do Not Gamble Your Consumer Rights	EADR LTD	MT
Increase of mediation for consumers through CM2C	CENTRE DE LA MEDIATION DE LA CONSOMMATION DES CONCILIATEURS DE JUSTICE	FR

UTILITIES DISPUTES SOLUTION	ACCADEMIADR SRL	IT
The action which is the subject of this application is the creation and publication of a series of training modules for consumers on advertising and data protection, to be developed during the first m	ASOCIACION PARA LA AUTORREGULACIONDE LA COMUNICACION COMERCIAL	ES
THE ARBITRAL CONSUMPTION SYSTEM IN THE BASQUE COUNTRY: INNOVATION AND DISSEMINATION	INSTITUTO VASCO DE CONSUMO KONTSUMOBIDE	ES
Internet Ombudsmann Case Management System	OSTERREICHISCHES INSTITUT FUR ANGEWANDTE TELEKOMMUNIKATION	AT
Consumer Mediation Training and Awareness	ATLANTIQUE MEDIATION	FR
Purchase of a new apf ADR processing tool to increase efficiency in case processing.	SCHIENEN CONTROL OSTERREICHISCHE GESELLSCHAFT FUR SCHIENENVERKEHRSMARKTREGULIERUNG MIT BESCHRANKTER HAFTUNG	AT
TRAVELNET NETWORK	ASSOCIATION DE MEDIATION TOURISME VOYAGE	FR
Promotion of awareness regarding ADR/ODR for Consumers in the Tourism Sector	CENTRO TUTELA CONSUMATORI UTENTI	IT
Door to Door Consumer Arbitrarion Board in Región de Murcia	REGION DE MURCIA	ES
Low threshold communication SKGZ	STICHTING KLACHTEN EN GESCHILLEN ZORGVERZEKERINGEN	NL
Improvement of Arbitration Case Management System	OMBUDSSTELLE FUR SACHWERTE UND INVESTMENTVERMOGEN EV	DE
Online Dispute Resolution in e-Commerce Disputes	INSTITOUTO ENALLAKTIKIS EPILISIS DIAFORON	EL
Building sustainable and digital friendly cross-border alternative dispute resolution scheme for consumers	CZECH TRADE INSPECTION	CZ
National Alternative Dispute Resolution Convention 2021	STICHTING KLACHTEN EN GESCHILLEN ZORGVERZEKERINGEN	NL

A project to raise awareness and increase capacity building of consumers, consumer organisations, traders and trader organisations, lawyers, and generally EU nationals, on Consumer Law and Consumer AD	A.D.R. CYPRUS CENTER LTD	CY
Resolving consumer disputes by mediation- strengthens the trust of consumers and traders	PROFI TEST D.O.O.	HR
Internal training Legal Advisors and Advertising Jury of AUTOCONTROL	ASOCIACION PARA LA AUTORREGULACIONDE LA COMUNICACION COMERCIAL	ES
Mediation awareness in social media	ADR CENTER SRL	IT
The Alternative Dispute Resolution in Accord (ADRIA) with You	SDRUZENI CESKYCH SPOTREBITELU ZU	CZ
ODR Center 3.0	ADR CENTER SRL	IT
ADR as the effective system of consumer protection in Slovakia	SPOLOCNOST OCHRANY SPOTREBITEL'OV (S.O.S.) POPRAD ZDRUZENIE	SK
CAPACITY BUILDING OF THE ALTERNATIVE DISPUTE RESOLUTION (ADR) BODY FOR CONSUMER DISPUTES IN ESTONIA	TARBIJAKAITSE JA TEHNILISE JARELEVALVE AMET	EE
Improving the ADR pre-trial procedure and increasing consumer awareness of ADR procedures, especially those seeking legal advice from lawyers	PETROVIC ALEKSANDER	SI
Smart ODR Tool, based on game theory algorithms and A.I. routines implemented in an evolved ODR platform, to support the decisions of the parties and the resolution proposals of mediators/conciliators	WORKS IN PROGRESS SRL	IT
FOUR CLICK FOR CONSUMERS	ACCADEMIADR SRL	IT
Improving efficiency of local ADR Body with agile development and promotion of services	VESZPREM MEGYEI KERESKEDELMI ES IPARKAMARA	HU

Alternative resolution of consumer disputes in the sectors Energy and Water, Postal services and electronic communications, through mediation	PROFI TEST D.O.O.	HR
Internet Ombudsstelle SEO	OSTERREICHISCHES INSTITUT FUR ANGEWANDTE TELEKOMMUNIKATION	AT
Favoring AlternatIve dispute ResolutioN mEchaniSmS	COMUNIDAD FORAL DE NAVARRA - GOBIERNO DE NAVARRA	ES
CONSUMMER ADR SOFTWARE	ASSOCIATION DE MEDIATION TOURISME VOYAGE	FR
Improve Management and Participation in ADR, Consumer Communication and Teaching Traders about ADR	SDRUZHENIE NATSIONALNA ASOTSIATSIAZA IZVANSADEBNI SPOGODBI	BG
Shining CMS	SERVICE DE MEDIATION POUR LE CONSOMMATEUR	BE
An action to inform students of Universities about ADR, train existing mediators and create the European/EU ADR Consortium	A.D.R. CYPRUS CENTER LTD	CY
ODR ecosystem for consumers and traders	ADRPOINT P.C.-ALTERNATIVE DISPUTE RESOLUTION CENTER	EL
ADR for Traders	ADR CENTER SRL	IT
Capacity Building for Austrian Residual ADR	SCHLICHTUNG FUR VERBRAUCHERGESCHAFT	AT
Technological solutions applied to the management of an alternative dispute resolution system for consumer disputes	CONSEJERIA DE DESARROLLO SOSTENIBLE DE CASTILLA LA MANCHA	ES
ADR - an effective tool for out-of-court dispute resolution	ZDRUZENIE NA OCHRANU PRAV OBCANA - AVES	SK
Alternative Dispute Resolution Convention 2024	STICHTING KLACHTEN EN GESCHILLEN ZORGVERZEKERINGEN	NL
YesSsi II- Simple Access to complaints and other ADR for consumers	RESOLUTIA S.R.L.	IT
Awareness raising and trust to ADR	EVROPSKI CENTER ZA RESEVANJE SPOROV, LJUBLJANA	SI
Online Dispute Resolution for Travel Disputes	INSTITOUTO ENALLAKTIKIS EPILISIS DIAFORON	EL
Alternative Dispute Resolution innovation in the Tuscany water service	AUTORITA IDRICA TOSCANA	IT

TRANSFORMATION DU SITE INTERNET ET DE LA PLATEFORME DE LA COMMISSION MEDIATION FRANCHISE CONSOMMATEURS ET COMMUNICATION ET COMMUNICATION AU PUBLIC	FEDERATION FRANCAISE DE LA FRANCHISE	FR
"Consensus Network for Efficiency, Transformation and Sustainability"	TSENTAR ZA ALTERNATIVNO RESHAVANE NA SPOROVE KONSENSUS	BG

ANNEX V: OVERVIEW OF COSTS AND BENEFITS

	Consumers	Businesses	ADR Competent Authorities	ADR entities
Cost Description				
Compliance Costs		Traders incur costs to comply with the information obligations i.e. putting ADR information on their website, in the general terms and conditions, the link to the ODR platform. These are considered marginal costs, what is most costly for a business is keeping abreast of all the relevant EU retail market legislation; especially for SMEs to be compliant but also to be able to answer consumer claims.	ADR Competent authorities incur costs to accredit (i.e. checking the conditions, evaluating the application, issuing the decision, registering the entity in the national list of quality ADR entities and notifying the Commission) and regularly monitor the process of ADR entities. This is particularly burdensome where there are many ADR entities so mainly in FR, IT and ES. About 1/3 MS have less than 1 full-time equivalent (FTE) carrying out competent authorities' work. Seven have between one and three, and with 5.5 FTEs France is the exception, and this relates to the very high number of ADR entities and a complex verification processes. Authorities have to submit a report to the Commission every 4 years.	ADR entities' main costs are the human resources to manage them and provide the ADR procedures. Costs include: - providing information for the accreditation process, - training of ADR staff, - infrastructure costs (e.g. digital tools to process disputes), - providing information to consumers and traders notably through their website, - preparing and publishing annual activity reports and communication to ADR competent authorities every 2 years - cooperating in the resolution of cross-border disputes and sharing of best practices with other ADR entities,

				- overhead costs, including IT and compliance to GDPR costs, and translation costs, where relevant. Costs per ADR entity varies significantly depending on the number of disputes resolved. No data is available on the minimum number of disputes to cover the operations of ADR entities. The rate of rejected cases by ADR entities is high in some Member States (up to 60% between 2019-2022); hence resulting in a waste of resources.
Indirect Costs	Consumers bear consumer fees and time needed for dealing with a dispute i..e to understand the ADR procedure and the time to launch and follow the dispute itself. MS ensure that the ADR procedures are either free of charge or provided at a nominal fee.	The overall costs that traders incur depend on the funding model of ADR (whether it is publicly funded, privately funded or mixed). In MS where traders bear the costs of ADR entities, the model can vary e.g. a fixed cost to resolve x number of disputes, a fee for each dispute (or both). Where	MS had to designate ADR competent authority/ies i.e. costs related to the setting up of the authority if it was not already existent (human resources, infrastructure costs, etc).	Where ADR was still a novelty or not widely known, new ADR entities were set up to ensure coverage of all the market sectors. Hence, costs were borne (rental of

		traders pay participation fee to a trader organisation, this can range from EUR 10 (CZ) to EUR 100 (IE) and even within a country it depends on the sector. Traders bear the costs of dispute resolution itself, in the form of the financial and human resources needed for dealing with a dispute i.e. time spent on each dispute for submitting information and evidence, legal advice and translation.		premises, staff, etc.)
Direct Benefits	Where ADR is efficient and effective, consumers use it to resolve low-value disputes in a rapid and affordable manner; hence increasing consumer trust in the single market.	Traders benefit from ADR i.e. by resolving disputes in an affordable and cheaper way than going to court litigation and good reputation.		Some ADR entities were awarded ADR grants to improve their case-handling, governance structures or for the sake of awareness raising. Sharing of best practices actions has been beneficial for the functioning of ADR.