EUROPEAN
COMMISSION

Brussels, 17.10.2023
COM(2023) 648 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

1. Introduction

Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes[1] ("ADR Directive) provides a legislative framework to ensure consumers' access to high-quality ADR procedures for settling their disputes with traders. Article 26 provides that every four years, *"the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. That report shall consider the development and the use of ADR entities and the impact of this 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 proposals for amendment of this Directive"*.

Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes[2] (ODR Regulation) applies to disputes over online purchases and establishes a digital infrastructure (the European ODR platform) that allows consumers to reach out to online traders and to propose to solve their dispute using a quality ADR entity compliant to the ADR Directive. Article 21(2) of the ODR Regulation provides that every three years "*the Commission shall submit to the European Parliament and the Council a report on the application of this Regulation, including in particular on the user-friendliness of the complaint form and the possible need for adaptation of the information listed in the Annex to this Regulation. That report shall be accompanied, if necessary, by proposals for adaptations to this Regulation".*

Together with the Directive on Representative actions[3], these legal acts provide a comprehensive legal framework that Member States have to implement to ensure efficient access to consumer redress in the EU.

The 2019 implementation report on the ADR/ODR framework[4] concluded that thanks to the ADR Directive, *"EU consumers have access to high-quality ADR procedures across the Union and in virtually all retail sectors, regardless of whether the dispute is domestic or cross-border and whether the purchase was made online or offline"*. With regards to ODR, the report underscored that the European ODR platform became a multilingual hub that attracted 8,5 visitors, with 120 000 disputes submitted.

However, the report also found that consumer ADR was still under-used due to lack of awareness, difficulties navigating the diverse ADR landscape in certain Member States but also due to a general reluctance of traders to participate. When it comes to the ODR platform, the

[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)
[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)
[3] 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
[4] 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, COM(2019) 425 final

report flagged that, despite a high number of visits there was a limited consumer interest in requesting and ADR procedure to the concerned traders, which in the vast majority of cases either remained silent or offered to consumers to settle the case outside of the platform. As a result, about 2% of the requests for an ADR process were sent to an ADR entity.

The present report is submitted in accordance with Article 26 of the ADR Directive and Article 21(2) of the ODR Regulation. It is part of a wider package proposing to amend the ADR Directive, a Commission recommendation to online marketplaces and EU trade associations and the repeal the ODR Regulation. Whilst this report summarises the main findings of the assessment work conducted since 2019, it must be read in conjunction with the extensive impact assessment carried out for the review of the ADR Directive which contains a comprehensive evaluation of the ADR Directive and in Annex 6 of the Impact Assessment a detailed assessment of the functioning of the ODR Regulation.

The sources of information that form the basis for the current report are listed in the Annex.

2. Directive 2013/11/EU

2.1. Scope and objectives

Under the Directive, Member States facilitate EU consumer access to ADR and ensure that consumers can turn to quality-certified ADR entities to resolve their disputes with an EU trader over the purchase of a product or a service. Consumers should have access to ADR in all economic sectors[5], both for online and offline purchases, and for domestic and cross-border disputes alike.

The Directive has a minimum harmonisation approach: while its purpose[6] is to ensure that consumers can submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures, it leaves Member States a wide margin of discretion for designing these systems:

- Member States must ensure full ADR coverage by entities that **comply with the requirements of accessibility, expertise, independence, impartiality, transparency, effectiveness, fairness, liberty and legality** pertaining to the composition, operations and outcomes as binding quality;
- The Directive establishes a **specific mechanism to ensure the quality of ADR process**: Member States designate national competent authorities that establish and maintain national lists of ADR entities whose compliance with the Directive's quality requirements[7] these authorities have certified. The list of quality ADR entities is communicated to the European Commission and is publicly available on the ODR platform. The competent authorities can also remove ADR entities from the list, if these entities no longer comply with the quality requirements.

[5] Exceptions in Article 2(2): non-economic services of general interest, healthcare and public education
[6] Article 1
[7] Chapter II of the ADR Directive: expertise, independence and impartiality; transparency, effectiveness, fairness, liberty and legality

- While the traders are subject to some information requirements on the use of ADR, **Member States are free to decide whether traders' participation is mandatory or voluntary, or whether the outcome is binding[8].**
- Nevertheless, the directive establishes **guarantees for consumers to ensure that ADR remains accessible,** such as restriction on fees (free of charge or nominal fee) or procedural deadlines (15 days to review the admissibility of the complaint, and 90 days to reach an outcome).

2.2 Development of ADR entities

Article 25(1) of the ADR Directive required Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 9 July 2015. Notwithstanding some delays, which had been duly solved, the 2019 report concluded that transposition was complete in the EU Member States, who regularly notify ADR entities to the Commission, which subsequently publishes the list, along with the main data on ADR procedures, on the ODR platform[9]. On 1 July 2017, the ADR Directive became applicable in the EEA countries Iceland[10], Liechtenstein and Norway.

Member States have taken full advantage of the flexibility provided by the Regulation: while some countries prefer sector-specific ADR entities, others favour a generalist approach (mixed approach, with some sectoral entities and a "residual" entity covering other disputes). Some countries have preserved historical ADR entities attached to a specific trader or traders' organisations[11], and some countries maintain a decentralised system with separate ADR entities for different regions and provinces.

Member State	Number of ADR entities	Traders' participation required?
Austria	8	Specific sectors
Belgium	13	Specific circumstances
Bulgaria	17	
Croatia	7	Specific circumstances
Cyprus	4	Specific sectors
Czech Republic	8	
Denmark	26	Yes
Estonia	4	
Finland	3	
France	82	
Germany	28	Specific sectors
Greece	4	Specific sectors
Hungary	21	yes
Iceland	6	Yes

[8] Article 9(2) and 9(3) of the ADR Directive set out additional guarantees of fairness for the outcomes that may become binding, i.e. prior information and reasonable time to reflect, while allowing national legislation that makes outcomes binding upon a trader once a consumer accepted the outcome.
[9] https://ec.europa.eu/consumers/odr/main/?event=main.adr.show2
[10] While transposition in Iceland was delayed, the necessary legislation was adopted and ADR entities communicated to the Commission in 2020.
[11] ADR Directive provides for additional independence safeguards, such as separate budget, for the entities run by traders or their organisations

Ireland	4	
Italy	53	
Latvia	5	Yes
Liechtenstein	2	
Lithuania	4	Yes
Luxembourg	5	
Malta	8	
Netherlands	4	
Norway	12	
Poland	25	
Portugal	12	Specific circumstances
Romania	2	
Slovakia	7	Yes
Slovenia	12	
Spain	37	Specific sectors
Sweden	7	Specific circumstances
TOTAL	**430**	

Source: Data collection study; Annexes + official ODR platform data

As communicated by the national competent authorities, 64% of all notified ADR entities deliver non-binding outcomes, further 20% deliver outcomes that are binding on both parties, while the remaining ADR entities' outcomes are binding only upon traders, or more than one type of outcome can be delivered.[12] Overall, as concluded in the evaluation[13] eight Member States do not allow for binding outcomes, while 17 Member States only make the outcomes binding in certain circumstances/under certain conditions.

Use of the ADR entities by traders

The 2019 Consumer Conditions Scoreboard[14] revealed that only 30% of the EU retailers were willing and able to use ADR, while 43% were unaware of its existence. However, the evaluation[15] shows that, in most Member States, when a consumer approaches an ADR entity with a dispute, the traders are generally willing to engage: 10% or less of traders refuse to participate in the proposed ADR procedures on average.

Use of ADR entities by consumers

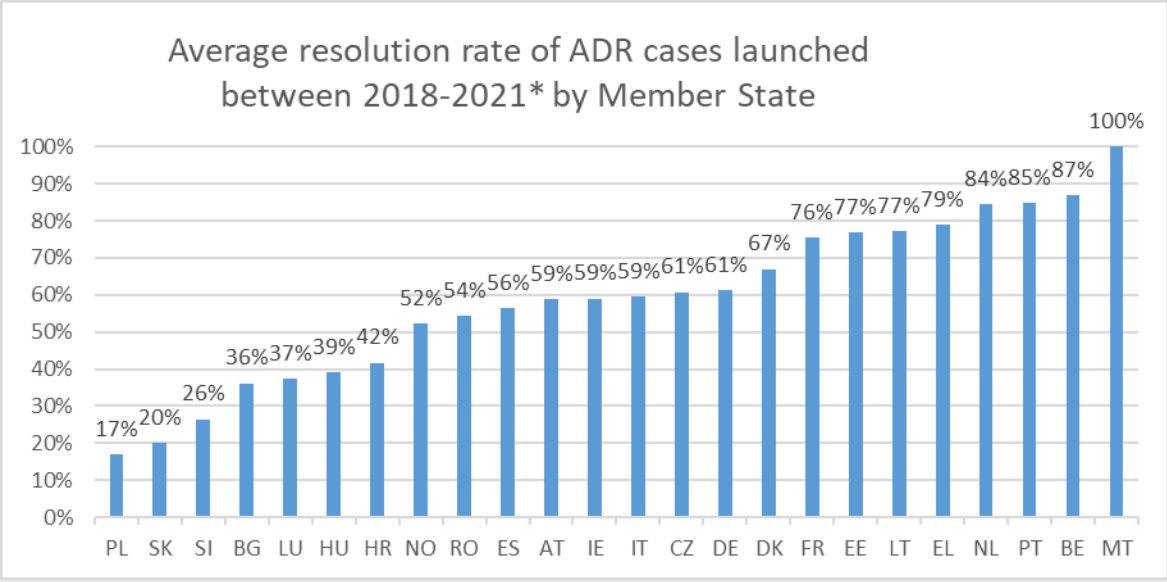
The 2019 report concluded that the practical effect of the ADR directive was limited due to the relatively low consumer awareness. It must be said that almost all Member States already take

[12] Source: official procedural information notified on the ODR platform.
[13] See section 4.1.2 of the Evaluation Report.
[14] Consumer Conditions Scoreboard – Consumers at home in the Single Market, 2019, https://commission.europa.eu/system/files/2020-07/consumers-conditions-scoreboard-2019_pdf_en.pdf
[15] See Section 3 of the Evaluation Report.

measures to promote and incentivise the use of consumer ADR.[16] Nevertheless, only 6% of consumers who experienced a problem with a trader had reported it to an ADR body[17].

When it comes to the actual number of disputes handled by the ADR entities, the data is incomplete. It appears that ADR entities in the 23 Member States which provided data receive around 300 000 eligible disputes per year in total. Two thirds of these cases were handled in Italy, Germany and France, while the lowest amount of disputes was in Croatia. However, when adjusted for the population size, the highest density of ADR cases per capita are found in Norway, Estonia and Lithuania while the lowest are in the South and East of Europe.

The resolution rate (proportion of cases where an ADR entity delivered an outcome compared to the number of cases admitted by ADR entities) varies significantly per member state, although most report a resolution of 50% or higher:



Source: Data collection study: 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).

3. Regulation (EU) No 524/2013

3.1 Scope and objectives

The objective of the ODR Regulation is to establish the European Online Dispute Resolution Platform ("ODR platform") to facilitate access to ADR for disputes stemming from online

[16] 2023 Justice Scoreboard, Figure 26 https://commission.europa.eu/system/files/2023-06/Justice%20Scoreboard%202023_0.pdf
[17] Survey of Consumers' Attitudes Towards Cross-border Trade and Consumer-related Issues 2023, European Commission, https://commission.europa.eu/system/files/2023-03/ccs_2022_executive_summary.pdf. This number shows only a modest increase of 0,7% compared to 2022 data quoted in the Impact Assessment.

purchases. The Implementing Regulation[18] established the technical modalities for the functioning of the platform and the network of ODR contact points.

The Commission is responsible for the development and operation of the ODR platform, including all the translation functions necessary for the purpose of this Regulation, its maintenance, funding, and data protection. The Commission also publishes reports and statistical information and organises the meetings of the National ODR Contact Points.

The Member States are responsible for establishing and maintaining the national ODR contact points with two national ODR advisers. It is up to Member States to decide whom to entrust with this function. Most often it is delegated to a European Consumers Centre (ECC), except for three Member States[19] where this role is performed by a national authority. The role of the contact points, pursuant to Article 7(2) of the ODR Regulation, is to support the parties (consumers, traders, ADR entities) in using the platform and to provide them with general information on applicable consumer rights and redress options.

The ADR entities are obliged to process the disputes arriving via the European ODR platform, provided that the trader and consumer agreed to refer the dispute to this entity.

In addition, the regulation foresees an obligation for online marketplaces and traders offering their goods and services online to provide an easily accessible link to the ODR platform on their website. Traders (but not marketplaces) also have to provide an email address to be used for the ODR process. This obligation only concerns traders established in the EU. It should be noted that these obligations apply irrespective of whether the trader is under any obligation or otherwise committed to use ADR. As the European ODR platform is a voluntary tool, providing a link and contact details does not imply that the trader will engage in the ODR process, and data shows that the majority of contacted traders do not engage.

3.2 Main features of the ODR platform and information list in the Annex of the Regulation

The ODR platform is a multilingual interactive website that allows consumers to request traders the opening of an ADR procedure online. The tool is voluntary for the parties. If traders do not agree within 30 days, the case is automatically closed. ADR entities have the possibility to use the platform case management tool or their own tools.

The Annex to the Regulation provides the list of information that is needed to handle a case. Such information has proven to be sufficient for ADR entities to manage the cases transmitted to them by the platform. The Commission never received complaints about it or requests to change it.

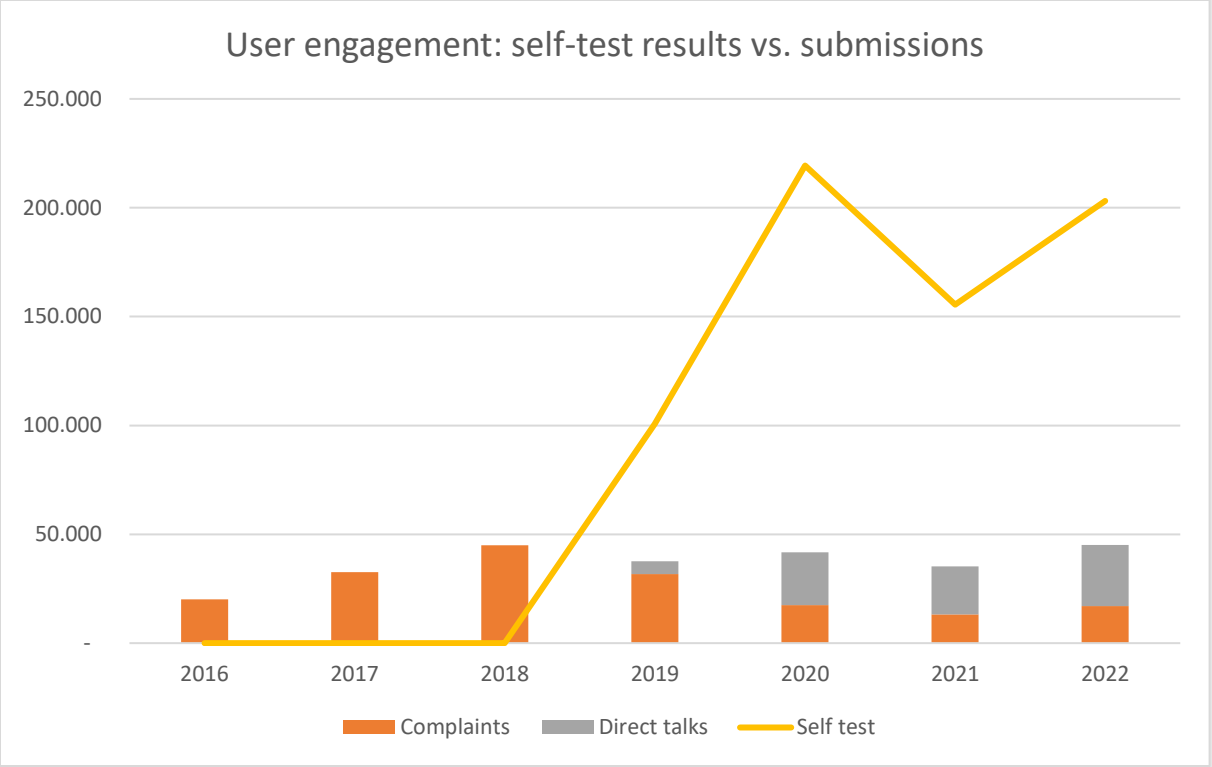
[18] Commission Implementing Regulation (EU) 2015/1051 of 1 July 2015 on the modalities for the exercise of the functions of the online dispute resolution platform, on the modalities of the electronic complaint form and on the modalities of the cooperation between contact points provided for in Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes.
[19] Lithuania, Slovenia, Poland

As of 2019, the Commission added the functionalities described below which are not required by the ODR Regulation in an attempt to improve the user experience and the consumers' understanding of whether or not their case was suited for the platform:

(1) A self-test to identify which redress solution would be the most appropriate for their specific issue: launching a complaint on the ODR platform, contacting the trader bilaterally, seeking help from a European Consumer Centre or submitting a complaint to an ADR entity directly. This became the most successful feature of the ODR platform: over 200 000 visitors have completed the self-test in 2022, compared to 17 000 who submitted a complaint.
(2) An option to share a draft complaint with a trader before submitting it officially, to try to settle the dispute directly (the so-called "direct talks" module). This feature was introduced in response to the data from the user survey, which showed a higher proportion of consumers and traders settling the dispute outside the platform (up to 40%, depending on a year, compared to 2% cases successfully reaching ADR stage depending on a year). However, only around 1% direct talks actually result in a settlement recorded on the ODR platform.

3.3 Uptake and performance of the platform

The ODR platform has been open to the public since February 2016. The platform's public website is one of the most visited sites of the European Commission (2,5 million visits in 2022). However, less than two percent of the visitors actually use the complaint form. The graphic below shows that the self test is used by 200 000 consumers (depending on the year) and that its use has led to less consumers using the complaint form, showing that many consumers arriving on the platform do not understand its purpose and need orientation.



Source: website analytics for the ODR platform

The platform amassed 180 000 complaints since its launch in 2016, as a result 19 000 companies, from large platforms to SMEs, have registered on the platform since that year. Yet, 80 to 85% of complaints, go unanswered on the platform, and only about of 1% of the complaints (i.e less than 200 cases) result in an ADR outcome.

Consequently, the Commission invested in improving the design and technical performance of the platform. In addition to the new features mentioned in the previous section, the platform was completely redesigned in 2017-2018, in line with the Commission corporate guidelines, streamlining the complaint process, rewriting notifications in a clear and specific language, taking measures against the notifications being classified as spam. Further, the Commission undertook a technical analysis of the necessary and desired platform functionalities as well as different technological solutions that could make the platform more performant, and a design thinking exercise to better understand the assistance needs of consumers as well as a behavioural experiment to test whether different messages on the platform could improve the understanding of consumers.

However, the engagement rate of consumers remained low, regardless of the technical and design improvements, or information campaigns run by the Commission.

Year	Website visits	Complaints	Complaints referred to ADR	ADR outcomes completed
2016*	1.715.794	20.176	406	112

2017*	2.743.509	32.559	597	249
2018*	5.246.777	44.979	860	396
2019*	2.765.583	31.694	598	294
2020*	3.315.599	17.461	429	163
2021	2.616.235	13.246	400	169
2022	2.455.677	17.012	318	107
Total 2016-2022	**20.859.174**	**177.127**	**3.608**	**1.490**

* UK consumers, traders and ADR entities were still using the platform between 2016 and 2020. While Brexit affected the number of submissions, it did not have a noticeable change on the proportion of complaints reaching ADR.

The low level of traders' engagement can be explained by various factors detailed in the Annex 6 to the Impact Assessment carried out for the review of the ADR Directive. The main factor is however structural, as e-commerce mostly happened through large marketplaces which rapidly implemented effective dispute resolution systems to keep consumers' trust that if something goes wrong, solutions can easily be provided. The ODR Regulation was proposed in 2011 with the objective to assist SMEs digitalise and sell cross border in the Single Market, at the time the rapid development of marketplaces was not foreseen.

While the user surveys[20] show that the site itself and the complaint form is relatively user-friendly[21], the feedback on the usefulness of the tool showed disappointment, notably for the majority of consumers who receive no feedback from requested traders and whose case is automatically closed. 56% of consumers report they would not use the platform again.

The Commission carried out extensive research to see if this could be rectified by providing clearer information to traders, by improving the design or technology of the platform,[22] this research showed that no design or technical change would guarantee improvements of the response rate of traders.

Therefore, the option to revamp the ODR platform has been discarded in the early stages of reflection on modernising the ADR/ODR framework.[23] As upgrades over seven years of the functioning of the platform brought no significant improvements, further changes are unlikely to bring a different result. In the meantime, maintenance of the ODR platform creates significant costs for the European Commission, for the Member States who have to maintain the network of the ODR advisors, and for the traders who have to maintain the link to the platform and monitor potential consumer complaints that the traders do not wish to resolve on the platform.

[20] Consumers and traders receive a different survey link, with slightly different questions.
[21] When asked if the site was easy to use, 36% consumers answered very easy or easy, while further 34% found the site neither easy nor difficult. 51% consumers found the complaint form very easy or easy to use, while further 30% considered it neither easy nor difficult.
[22] For detailed information, please see Annex 6 to the Impact Assessment.
[23] See Section 5.3 of the Impact Assessment.

3.4 The role of the national contact points

All Member States, Norway and Liechtenstein have designated an ODR contact point. While a few Member States limit their role to cross-border disputes only, the majority of the contact points handle both local and cross-border cases.

The Commission has held network meetings with the ODR contact points since 2016 and maintains a collaborative IT tool where ODR contact points can exchange information and best practice. The network is fully operational and receive up to 500 queries per year. Throughout the reporting period, most consumer queries concern the automatic closure of the case.

The role of the ODR contact points is to assist consumers, traders, and the ADR entities with the use of the platform, but many of them have become de-facto points of contact for the whole ADR framework, as they help consumers whose case has been automatically closed to find an alternative solution to seek redress.

4. Conclusions and the way forward

The ADR Directive has created a base for accessible and quality consumer redress across the Union and in virtually all retail sectors, regardless of whether the dispute is domestic or cross-border and whether the purchase was made online or offline. However, similarly to the conclusions of the 2019 report, its practical uptake remains limited. Meanwhile, the evolution of the consumer markets created new challenges that are putting the current ADR architecture under strain. These challenges are further detailed in a full evaluation of the ADR Directive as well as in an impact assessment which leads the Commission to propose some targeted amendments to the ADR directive as well as a recommendation addressed to online marketplaces and EU trade associations which are providing dispute resolutions systems.

The ODR Regulation and Platform were conceived at a time when digital markets were still developing, and it was unclear whether adequate private or public tools would be implemented to assist online traders and consumers use quality ADR entities. The rapid development of online complaint-handling systems of digital marketplaces, however, became one of the main dispute resolution channels for SMEs selling online, making the ODR platform redundant. The limited use of the platform exposed above therefore warrants that it is discontinued and therefore the Commission is proposing to repeal the ODR Regulation.

Annex: sources of information to this Report

- National legislation implementing the ADR Directive;
- Reports by Member States' national competent authorities for consumer ADR ('national competent authorities') on the development and functioning of ADR entities, submitted in 2022 in accordance with Article 20(6) of the ADR Directive;
- Dedicated studies: ADR data collection study (comprising desk research, surveys and interviews with the authorities, ADR entities and other stakeholderd, the ADR behavioural study and the mini-legal study) found here;
- Meeting with national competent authorities (2022);
- Results of the 2012 ADR Assembly and other stakeholder events hosted by the Commission;
- Statistical data from the ODR platform and the reports on the functioning of the European ODR platform ('ODR Reports'), submitted in accordance with Article 21(1) of the ODR Regulation;
- Activity reports by Member States' ODR contact points, submitted in 2020 and in 2022 in accordance with Article 7(2)(b) of the ODR Regulation;
- Meetings with the ODR contact points network;
- Evaluation of the ADR Directive and Impact Assessment.