Online dispute resolution for consumer disputes (Regulation on consumer ODR)

2011/0374(COD) - 12/03/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 622 votes to 24 with 32 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on Consumer ODR).

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council. They amend the Commission proposal as follows:

Scope: the new regulation will ensure a high level of consumer protection, and shall apply to the out-of-court resolution of disputes initiated by traders against consumers where the relevant ADR procedures are offered by ADR entities listed in the Directive on alternative dispute resolution (ADR Directive). Since, in particular, consumers and traders carrying out cross-border online transactions will benefit from the ODR platform, this Regulation should also apply to domestic online transactions in order to allow for a true level playing field in the area of online commerce.

The platform for online dispute resolution (ODR): this should take the form of an interactive user-friendly website offering a single point of entry to consumers in all the official languages of the institutions of the Union free of charge. The Commission shall develop the ODR platform (and be responsible for its operation, including all the translation functions, maintenance, funding and data security. The development, of the ODR platform shall ensure that the privacy of its users is respected from the design stage (privacy by design) and that the ODR platform is accessible and usable by all, including vulnerable users (design for all), as far as possible.

The Commission shall make the ODR platform accessible, as appropriate, through its websites that provide information to citizens and businesses in the Union and, in particular, through the Your Europe portal.

Functions of the ODR platform: the platforms functions shall be, amongst other things;

- to inform the respondent party about the complaint;
- to identify the competent ADR entity or entities and transmit the complaint to the ADR entity, which the parties have agreed to use,
- to offer an electronic case management tool free of charge, which enables the parties and the ADR entity to conduct the dispute resolution procedure online through the ODR platform;
- to provide the parties and ADR entity with the translation of information which is necessary for the resolution of the dispute and is exchanged through the ODR platform;
- to provide in an accurate, up to date and clear, understandable and easily accessible way certain information, for example: (i) general information regarding ODR; (ii) the competent ADR entity or entities; (iii) an online guide about how to submit complaints through the ODR platform; (iv) information, including contact details, on ODR contact points designated by the Member States; (v) statistical data on the outcome of the disputes which were transmitted to ADR entities through the ODR platform.

Testing of the ODR platform: at the latest 18 months after entry into force of the regulation, the Commission will test the technical functionality and user-friendliness of the ODR platform and of the complaint form, including with regard to translation.

Network of ODR contact points: each ODR contact point shall host at least two ODR advisors. The ODR contact points shall provide support by fulfilling the following functions:

- facilitating communication between the parties and the competent ADR entity, which may include, in particular: (i) assisting with the submission of the complaint and, where appropriate, relevant documentation; (ii) providing the parties and ADR entities with general information on consumer rights and explanations on the procedural rules applied by the ADR entities identified;
- submitting, based on the practical experience gained from the performance of their functions, every two years an activity report to the Commission and to the Member States.

Submission of a complaint: the complaint form shall be user-friendly and easily accessible on the ODR platform. If the complaint form has not been fully completed, the complainant party shall be informed that the complaint cannot be processed further, unless the missing information is provided.

Upon receipt of a fully completed complaint form, the ODR platform shall, in an easily understandable way and without delay, transmit to the respondent party, in one of the official languages of the institutions of the Union chosen by that party, the complaint together with certain data, for example:

- information that the parties have to agree on an ADR entity in order for the complaint to be transmitted to it, and that, if no agreement is reached by the parties or no competent ADR entity is identified, the complaint will not be processed further;
- information about the ADR entity or entities which are competent to deal with the complaint, if any are referred to in the electronic complaint form.

Before submitting their complaint to an ADR entity through the ODR platform, consumers should be encouraged by Member States to contact the trader by any appropriate means, with the aim of resolving the dispute amicably.

An ADR entity that has agreed to deal with a dispute shall not require the physical presence of the parties or their representatives, unless its procedural rules provide for that possibility and the parties agree.

Consumer information: traders established within the Union engaging in online sales or service contracts, and online marketplaces established within the Union, shall provide on their websites an electronic link to the ODR platform. That link shall be easily accessible for

consumers. Traders established within the Union engaging in online sales or service contracts shall also state their e-mail addresses.

Member States shall encourage consumer associations and business associations to provide an electronic link to the ODR platform.