

ADR and ODR for (Cross-Border) Consumer Contracts

On 22 April 2013 Council of the European Union adopted a Directive on Alternative Dispute Resolution (ADR) and a Regulation on Online Dispute Resolution (ODR) for (cross-border) consumer contracts. Building on two proposals of the European Commission of November 2011 the two instruments are meant to improve the cross-border enforcement of consumer rights. The official press release reads as follows (footnotes omitted):

The Council today adopted a directive on Alternative Dispute Resolution (ADR) and a regulation on Online Dispute Resolution (ODR) (PE-CO/S 79/12 and PE-CO/S 80/12). The new system, which is part of the “Single Market Act” package, will provide for simple, fast and low-cost out-of-court settlement procedures designed to resolve disputes between consumers and traders arising from the sales of goods and services. It will ensure the establishment of ADR schemes where none exist today. These will fill current gaps in coverage and ensure that consumers are able to take their disputes to an ADR. In addition, it establishes a common framework for ADR in the EU member states by setting out common minimum quality principles in order to ensure that all ADR entities are impartial, transparent and efficient. Existing national ADR schemes should be able to continue to operate within the new framework. The ADR system will be supplemented by an ODR mechanism involving the setting up of a European online dispute resolution platform (this will be an interactive website free of charge in all languages of the Union²).

As a general rule, the outcome of an ADR procedure should be made available within a period of three months from the date on which the ADR entity has received the complaint file. ADR schemes, also known as “out-of-court mechanisms”, already exist in many countries to help consumers involved in disputes which they have been unable to resolve directly with the trader. They have been developed differently across the EU and the status of the decisions adopted by these bodies differs greatly. The new directive will apply to domestic and cross-border disputes submitted by consumers against traders in almost all areas of commercial activity across the EU, including to online transactions, which is particularly important when consumers shop across

borders. Member states will have two years to incorporate the new provisions into their national legislation.