

Ensuring quality of ODR platforms: a new (voluntary) certification scheme in France

By Alexandre Biard, Erasmus University Rotterdam (ERC project - Building EU Civil Justice)

In a previous post published in November 2018, we presented policy discussions that were (at that time) going on in France, and aimed at introducing a new regulatory framework for ODR platforms. As also explained in an article published in September 2019 (in French), ODR tends to become a new market in France with a multiplication of players offering services of diverging qualities. Today this market is in need of regulation to ensure the quality of the services provided, and to foster trust among its users.

The Act in question was finally passed on 23 March 2019. Rules on ODR certification were recently detailed in a decree published on 27 October 2019. They establish a new voluntary certification scheme for ODR platforms (after discussions, the scheme was kept non-compulsory). ODR platforms wishing to obtain certification must bring evidence that (among other things) they comply with data protection rules and confidentiality, that they operate in an independent and impartial manner, or that the procedures they used are fair and efficient. ODR platforms will be certified by one of the COFRAC-accredited bodies (*Comité français d'accréditation*). In practice, this means that contrary to what currently exists for the certification of consumer ADR bodies in France for which a single authority is competent (Commission d'Evaluation et de Contrôle de la Médiation de la Consommation) several certification bodies will operate in parallel for ODR platforms (however a certification request can only be directed at one certification body, and not to multiple). Together, certification bodies will be in charge of certifying ODR platforms and will supervise their activities on an on-going basis. Certification is given for three years (renewable). Certified platforms are allowed to display a logo on their websites (practicalities still need to be further detailed by the Ministry of Justice).

Accredited bodies will have to submit annual reports to the Ministry of Justice in

which they will have to specify the number of certifications granted (or withdrew), their surveillance activities, and the systemic problems they faced or identified. The updated list of ODR platforms complying with the certification criteria will be available on the website www.justice.fr.

The future will tell whether ODR platforms are incentivized to seek certification (as it is expected today) or whether they will prefer to keep their regulatory freedom instead. More generally, one will see whether this step can indeed foster trust and ensure high-quality services within the emerging ODR market.